

No. 24-2027

**In the United States Court of Appeals
for the Third Circuit**

UNITED STATES OF AMERICA,

v.

SAFEHOUSE, a Pennsylvania nonprofit corporation; and JOSÉ BENITEZ, as
President and Treasurer of Safehouse, *Appellants*.

SAFEHOUSE, a Pennsylvania nonprofit corporation, *Appellant*,

v.

U.S. DEPARTMENT OF JUSTICE; MERRICK B. GARLAND, in his official
capacity as Attorney General of the United States; and JACQUELINE C.
ROMERO, in her official capacity as U.S. Attorney for the Eastern District of
Pennsylvania.

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
No. 19-cv-519
District Judge Gerald A. McHugh

**JOINT APPENDIX VOLUME II OF II
(APPX11–APPX296)**

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September 4, 2024

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CLOSED, APPEAL, STANDARD

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:19-cv-00519-GAM**

UNITED STATES OF AMERICA v. SAFEHOUSE et al
Assigned to: DISTRICT JUDGE GERALD A. MCHUGH
Case in other court: USCA, 20-01422
Third Circuit, 24-02027
Cause: 28:2201 Declaratory Judgement

Date Filed: 02/05/2019
Date Terminated: 04/03/2024
Jury Demand: None
Nature of Suit: 890 Other Statutes: Other
Statutory Actions
Jurisdiction: U.S. Government Plaintiff

Plaintiff

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TERMINATED: 04/11/2023
LEAD ATTORNEY

ADRIAN M. LOWE
(See above for address)
ATTORNEY TO BE NOTICED

JACOB M. EDEN
(See above for address)
ATTORNEY TO BE NOTICED

PETER GOLDBERGER
(See above for address)
ATTORNEY TO BE NOTICED

RONDA GOLDFEIN
(See above for address)
ATTORNEY TO BE NOTICED

YOLANDA FRENCH LOLLIS
(See above for address)
ATTORNEY TO BE NOTICED

ILANA H. EISENSTEIN
(See above for address)
ATTORNEY TO BE NOTICED

V.

ThirdParty Defendant

U.S. DEPARTMENT OF JUSTICE

represented by **GREGORY B. DAVID**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ERIC D. GILL
(See above for address)
ATTORNEY TO BE NOTICED

ERIN E. LINDGREN
(See above for address)
ATTORNEY TO BE NOTICED

GREGORY BYRON IN DEN BERKEN
(See above for address)
ATTORNEY TO BE NOTICED

ThirdParty Defendant

WILLIAM P. BARR
IN HIS OFFICIAL CAPACITY AS U.S.
ATTORNEY GENERAL

represented by **GREGORY B. DAVID**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ERIC D. GILL
(See above for address)
ATTORNEY TO BE NOTICED

ThirdParty Defendant

WILLIAM M. MCSWAIN
IN HIS OFFICIAL CAPACITY AS U.S.
ATTORNEY FOR THE EASTERN
DISTRICT OF PENNSYLVANIA
(COLLECTIVELY, THE "DOJ")

represented by **GREGORY B. DAVID**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ERIC D. GILL
(See above for address)
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ERIN E. LINDGREN
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ATTORNEY TO BE NOTICED

GREGORY BYRON IN DEN BERKEN
(See above for address)
ATTORNEY TO BE NOTICED

ThirdParty Plaintiff

JOSE BENITEZ
AS PRESIDENT AND TREASURER OF
SAFEHOUSE

represented by **ADRIAN M. LOWE**
(See above for address)
ATTORNEY TO BE NOTICED

BEN C. FABENS-LASSEN
(See above for address)
ATTORNEY TO BE NOTICED

COURTNEY G. SALESKI
(See above for address)
TERMINATED: 04/04/2023

ILANA H. EISENSTEIN
(See above for address)
ATTORNEY TO BE NOTICED

JACOB M. EDEN
(See above for address)
ATTORNEY TO BE NOTICED

MEGAN KREBS
(See above for address)
TERMINATED: 04/11/2023

RONDA GOLDFEIN
(See above for address)
ATTORNEY TO BE NOTICED

YOLANDA FRENCH LOLLIS
(See above for address)
ATTORNEY TO BE NOTICED

ThirdParty Plaintiff

SAFEHOUSE
A PENNSYLVANIA NONPROFIT CORPORATION

represented by **ADAM STEENE**
(See above for address)
TERMINATED: 08/07/2019
LEAD ATTORNEY

THIRU VIGNARAJAH
(See above for address)
TERMINATED: 04/11/2023
LEAD ATTORNEY

ADRIAN M. LOWE
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TERMINATED: 04/04/2023

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V.

ThirdParty Defendant

U.S. DEPARTMENT OF JUSTICE

represented by **GREGORY B. DAVID**
(See above for address)
LEAD ATTORNEY
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ERIC D. GILL
(See above for address)
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ThirdParty Defendant

WILLIAM P. BARR
IN HIS OFFICIAL CAPACITY AS U.S.
ATTORNEY GENERAL

represented by **GREGORY B. DAVID**
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(See above for address)
ATTORNEY TO BE NOTICED

ThirdParty Defendant

WILLIAM M. MCSWAIN
IN HIS OFFICIAL CAPACITY AS U.S.
ATTORNEY FOR THE EASTERN
DISTRICT OF PENNSYLVANIA
(COLLECTIVELY, THE "DOJ")

represented by **GREGORY B. DAVID**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ERIC D. GILL
(See above for address)
ATTORNEY TO BE NOTICED

Counter Claimant

JOSE BENITEZ
AS PRESIDENT AND TREASURER OF
SAFEHOUSE

represented by **ADRIAN M. LOWE**
(See above for address)
ATTORNEY TO BE NOTICED

BEN C. FABENS-LASSEN
(See above for address)
ATTORNEY TO BE NOTICED

COURTNEY G. SALESKI
(See above for address)
TERMINATED: 04/04/2023

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TERMINATED: 04/11/2023

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(See above for address)
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Counter Claimant

SAFEHOUSE
A PENNSYLVANIA NONPROFIT CORPORATION

represented by **ADAM STEENE**
(See above for address)
TERMINATED: 08/07/2019
LEAD ATTORNEY

THIRU VIGNARAJAH
(See above for address)
TERMINATED: 04/11/2023
LEAD ATTORNEY

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(See above for address)
ATTORNEY TO BE NOTICED

ILANA H. EISENSTEIN
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter Defendant

UNITED STATES OF AMERICA

represented by **BRYAN C. HUGHES**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

GREGORY B. DAVID
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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GREGORY BYRON IN DEN BERKEN
(See above for address)
ATTORNEY TO BE NOTICED

Counter Claimant

SAFEHOUSE
A PENNSYLVANIA NONPROFIT
CORPORATION

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TERMINATED: 08/07/2019
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ATTORNEY TO BE NOTICED

V.

Counter Defendant

MERRICK B. GARLAND
*IN HIS OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE
UNITED STATES*

represented by **GREGORY B. DAVID**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

ERIC D. GILL
(See above for address)
ATTORNEY TO BE NOTICED

Counter Defendant

JENNIFER A. WILLIAMS
*IN HER OFFICIAL CAPACITY AS
ACTING U.S. ATTORNEY FOR THE
EASTERN DISTRICT OF
PENNSYLVANIA*

represented by **GREGORY B. DAVID**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

ERIC D. GILL
(See above for address)
ATTORNEY TO BE NOTICED

GREGORY BYRON IN DEN BERKEN
(See above for address)
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Counter Defendant

U.S. DEPARTMENT OF JUSTICE

represented by **GREGORY B. DAVID**
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*LEAD ATTORNEY
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Counter Claimant

SAFEHOUSE
*A PENNSYLVANIA NONPROFIT
CORPORATION*

represented by **ADAM STEENE**
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*TERMINATED: 08/07/2019
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*TERMINATED: 04/11/2023
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ILANA H. EISENSTEIN
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ATTORNEY TO BE NOTICED

Counter Claimant

JOSE BENITEZ
*AS PRESIDENT AND TREASURER OF
SAFEHOUSE*

represented by **ADRIAN M. LOWE**
(See above for address)
ATTORNEY TO BE NOTICED

BEN C. FABENS-LASSEN
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TERMINATED: 04/04/2023

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V.

Counter Defendant

MERRICK B. GARLAND
*IN HIS OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE
UNITED STATES*

represented by **GREGORY B. DAVID**
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ERIC D. GILL
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GREGORY BYRON IN DEN BERKEN
 (See above for address)
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Counter Defendant

U.S. DEPARTMENT OF JUSTICE

represented by **GREGORY B. DAVID**
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ERIN E. LINDGREN
 (See above for address)
ATTORNEY TO BE NOTICED

Counter Defendant

UNITED STATES OF AMERICA

represented by **BRYAN C. HUGHES**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

GREGORY B. DAVID
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WILLIAM M. MCSWAIN
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ERIC D. GILL
 (See above for address)
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ERIN E. LINDGREN
 (See above for address)
ATTORNEY TO BE NOTICED

Counter Defendant

JACQUELINE C. ROMERO

represented by **GREGORY BYRON IN DEN BERKEN**
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/05/2019	<u>1</u>	COMPLAINT against JEANETTE BOWLES, SAFEHOUSE, filed by UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit)(jwl,) (Entered: 02/06/2019)
02/05/2019		Summons Issued as to JEANETTE BOWLES, SAFEHOUSE. Two Forwarded To: Counsel on 2/6/19 (jwl,) (Entered: 02/06/2019)

02/14/2019	<u>2</u>	WAIVER OF SERVICE Returned Executed by UNITED STATES OF AMERICA. All Defendants. (HUGHES, BRYAN) (Entered: 02/14/2019)
04/03/2019	<u>3</u>	ANSWER to <u>1</u> Complaint together with, Affirmative Defenses and Third-Party Complaint against U.S. Department of Justice; William P. Barr, in his official capacity as Attorney General of the United States; William M. McSwain, in his official capacity as U.S. Attorney for the Eastern District of Pennsylvania, COUNTERCLAIM against UNITED STATES OF AMERICA by SAFEHOUSE. (Attachments: # <u>1</u> Certificate of Service)(EISENSTEIN, ILANA) (Entered: 04/03/2019)
04/03/2019		THIRD PARTY COMPLAINT against U.S. DEPARTMENT OF JUSTICE, WILLIAM P. BARR, WILLIAM M. MCSWAIN, filed by SAFEHOUSE. *FOR PDF SEE DOC.# <u>3</u> * (lisad,) (Entered: 04/04/2019)
04/04/2019	<u>4</u>	NOTICE of Appearance by BEN C. FABENS-LASSEN on behalf of SAFEHOUSE with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(FABENS-LASSEN, BEN) (Entered: 04/04/2019)
04/04/2019	<u>5</u>	NOTICE of Appearance by MEGAN LAGRECA on behalf of SAFEHOUSE with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(LAGRECA, MEGAN) (Entered: 04/04/2019)
04/04/2019	<u>6</u>	NOTICE of Appearance by COURTNEY G. SALESKI on behalf of SAFEHOUSE with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(SALESKI, COURTNEY) (Entered: 04/04/2019)
04/04/2019	<u>7</u>	APPLICATION for Admission Pro Hac Vice of Adam Steene by SAFEHOUSE. (Filing fee \$ 40 receipt number 0313-13458926.). (FABENS-LASSEN, BEN) (Entered: 04/04/2019)
04/04/2019	<u>8</u>	APPLICATION for Admission Pro Hac Vice of Thiru Vignarajah by SAFEHOUSE. (Filing fee \$ 40 receipt number 0313-13458980.). (FABENS-LASSEN, BEN) (Entered: 04/04/2019)
04/05/2019	<u>9</u>	NOTICE of Appearance by SETH KREIMER on behalf of SAFEHOUSE (Attachments: # <u>1</u> Certificate of Service)(KREIMER, SETH) (Entered: 04/05/2019)
04/05/2019	<u>10</u>	NOTICE of Appearance by ADRIAN M. LOWE on behalf of SAFEHOUSE (LOWE, ADRIAN) (Entered: 04/05/2019)
04/05/2019	<u>11</u>	NOTICE of Appearance by RONDA GOLDFEIN on behalf of SAFEHOUSE (GOLDFEIN, RONDA) (Entered: 04/05/2019)
04/05/2019	<u>12</u>	NOTICE of Appearance by YOLANDA FRENCH LOLLIS on behalf of SAFEHOUSE (LOLLIS, YOLANDA) (Entered: 04/05/2019)
04/05/2019	<u>13</u>	NOTICE of Appearance by JACOB M. EDEN on behalf of SAFEHOUSE (EDEN, JACOB) (Entered: 04/05/2019)
04/05/2019	<u>14</u>	NOTICE of Appearance by PETER GOLDBERGER on behalf of JEANETTE BOWLES, SAFEHOUSE (GOLDBERGER, PETER) (Entered: 04/05/2019)
04/05/2019	<u>15</u>	ORDER THAT ATTORNEY ADAM STEENE'S APPLICATION FOR PRO HAC VICE FOR SAFEHOUSE IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/5/2019. 4/5/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 04/05/2019)
04/05/2019	<u>16</u>	ORDER THAT ATTORNEY THIRU VIGNARAJAH'S APPLICATION FOR PRO HAC VICE FOR SAFEHOUSE IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/5/2019. 4/5/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 04/05/2019)
04/05/2019	<u>17</u>	NOTICE by SAFEHOUSE re <u>14</u> Notice of Appearance (<i>Corrected Notice of Appearance</i>) (GOLDBERGER, PETER) (Entered: 04/05/2019)
04/08/2019	<u>18</u>	NOTICE of Appearance by ERIN LINDGREN on behalf of UNITED STATES OF AMERICA with Certificate of Service(LINDGREN, ERIN) (Entered: 04/08/2019)
04/08/2019		5 Summons Issued as to WILLIAM P. BARR, WILLIAM M. MCSWAIN, U.S. DEPARTMENT OF JUSTICE, U.S. Attorney and U.S. Attorney General Forwarded

		To: 4 to 3RD PARTY PLAINTIFF COUNSEL 1 to US ATTORNEY on 4/8/2019. (sg,) (Entered: 04/08/2019)
04/09/2019	<u>19</u>	NOTICE of Appearance by JOHN T. CRUTCHLOW on behalf of UNITED STATES OF AMERICA with Certificate of Service(CRUTCHLOW, JOHN) (Entered: 04/09/2019)
04/11/2019	<u>20</u>	NOTICE of Appearance by ERIC D. GILL on behalf of WILLIAM P. BARR, WILLIAM M. MCSWAIN, U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA with Certificate of Service(GILL, ERIC) (Entered: 04/11/2019)
04/11/2019	<u>21</u>	ORDERED THAT A CONFERENCE TO DISCUSS ISSUES OF CASE MANAGEMENT IS SCHEDULED FOR WEDNESDAY, 4/17/2019 AT 2:00 PM. ETC.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/11/2019. 4/12/2019 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 04/12/2019)
04/11/2019	<u>22</u>	Acceptance of Service by U.S. Attorney Re: accepted summons and complaint on behalf of the United States Attorney (only). (sg,) (Entered: 04/12/2019)
04/12/2019	<u>23</u>	NOTICE of Appearance by MAURICE R. MITTS on behalf of JEANETTE BOWLES with Certificate of Service(MITTS, MAURICE) (Entered: 04/12/2019)
04/12/2019	<u>24</u>	NOTICE of Appearance by JENNIFER MARIE ADAMS on behalf of JEANETTE BOWLES with Certificate of Service(ADAMS, JENNIFER) (Entered: 04/12/2019)
04/16/2019	<u>25</u>	STIPULATION AND ORDER THAT THE TIME WITHIN WHICH DEFENDANT JEANETTE BOWLES MAY MOVE, ANSWER OR OTHERWISE RESPOND TO THE COMPLAINT IS HEREBY EXTENDED UP TO AND INCLUDING 4/30/2019. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/15/2019. 4/16/2019 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 04/16/2019)
04/19/2019	<u>26</u>	Minute Entry for proceedings held before HONORABLE GERALD A. MCHUGH Scheduling Conference held on 04/17/2019. (nd,) (Entered: 04/19/2019)
04/26/2019	<u>27</u>	<i>Defendant Jeanette Bowles'</i> ANSWER to <u>1</u> Complaint together with no <i>attachments</i> by JEANETTE BOWLES.(MITTS, MAURICE) (Entered: 04/26/2019)
04/26/2019	<u>28</u>	Praecipe to Attach Exhibit A to Defendant Jeanette Bowles Answer and Affirmative Defenses to Plaintiffs Complaint by JEANETTE BOWLES. (MITTS, MAURICE) (Entered: 04/26/2019)
05/10/2019	<u>29</u>	BRIEF in Support of MOTION for Judgment on the Pleadings <i>Pursuant to Federal Rule of Civil Procedure 12(C)</i> filed by JEANETTE BOWLES. Certificate of Service.(MITTS, MAURICE) Modified on 5/13/2019 (lisad,). (Entered: 05/10/2019)
05/23/2019	<u>30</u>	STIPULATION of Dismissal of <i>Defendant Jeanette Bowles</i> by UNITED STATES OF AMERICA. (DAVID, GREGORY) (Entered: 05/23/2019)
05/24/2019	<u>31</u>	MOTION for Leave to File <i>Amended Complaint (Unopposed)</i> filed by UNITED STATES OF AMERICA.Certificate of Counsel, Certificate of Service. (Attachments: # <u>1</u> Exhibit 1 Amended Complaint, # <u>2</u> Exhibit Exhs. A – C to Amd Complaint)(DAVID, GREGORY) (Entered: 05/24/2019)
05/28/2019	<u>32</u>	ORDER THAT DEFENDANT JEANETTE BOWLESS MOTION FOR JUDGMENT ON THE PLEADINGS (ECF NO. <u>29</u>) IS DENIED AS MOOT BECAUSE DEFENDANT JEANETTE BOWLES HAS BEEN DISMISSED FROM THE LAWSUIT. SIGNED BY HONORABLE GERALD A. MCHUGH ON 5/28/19. 5/29/19 ENTERED AND COPIES MAILED AND E-MAILED. (va,) (Entered: 05/29/2019)
05/28/2019	<u>33</u>	STIPULATED SCHEDULING ORDER THAT SHOULD THE COURT GRANT THE MOTION FOR LEAVE TO AMEND, DEFTS SAFEHOUSE & JOSE BENITEZ SHALL ANSWER PLFF UNITED STATES' AMENDED COMPLAINT BY 6/7/2019. THE UNITED STATES SHALL FILE ANY RULE 12 MOTION BY 6/11/2019. DEFT SAFEHOUSE & JOSE BENITEZ SHALL FILE ANY OPPOSITION THERETO BY 6/28/2019, ETC. SIGNED BY HONORABLE GERALD A. MCHUGH ON 5/28/19. 5/29/19 ENTERED AND COPIES MAILED AND E-MAILED.(kw,) (Entered: 05/29/2019)

05/28/2019	<u>34</u>	ORDER THAT PLFF'S UNOPPOSED MOTION FOR LEAVE TO AMEND ITS COMPLAINT (ECF NO. 31) IS GRANTED. THE CLERK OF COURT IS DIRECTED TO DOCKET THE AMENDED COMPLAINT ATTACHED TO PLFF'S MOTION (EFC NO. 31-1, 2) & AMEND THE CAPTION TO INCLUDE AS A DEFT JOSE BENITEZ, AS PRESIDENT AND TREASURER OF SAFEHOUSE. SIGNED BY HONORABLE GERALD A. MCHUGH ON 5/28/19. 5/29/19 ENTERED AND COPIES MAILED AND E-MAILED.(kw,) (Entered: 05/29/2019)
05/28/2019	<u>35</u>	AMENDED COMPLAINT against SAFEHOUSE, JOSE BENITEZ, filed by PLFF UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Exhibits A - C)(kw,) (Entered: 05/29/2019)
05/28/2019		(1) Summons on Amended Complaint Issued as to JOSE BENITEZ. Forwarded To: counsel on 5/29/19. (kw,) (Entered: 05/29/2019)
05/31/2019	<u>36</u>	NOTICE of Appearance by MEGAN KREBS on behalf of JOSE BENITEZ (Attachments: # <u>1</u> Certificate of Service)(KREBS, MEGAN) (Entered: 05/31/2019)
05/31/2019	<u>37</u>	NOTICE of Appearance by BEN C. FABENS-LASSEN on behalf of JOSE BENITEZ (Attachments: # <u>1</u> Certificate of Service)(FABENS-LASSEN, BEN) (Entered: 05/31/2019)
05/31/2019	<u>38</u>	NOTICE of Appearance by COURTNEY G. SALESKI on behalf of JOSE BENITEZ (Attachments: # <u>1</u> Certificate of Service)(SALESKI, COURTNEY) (Entered: 05/31/2019)
05/31/2019	<u>39</u>	NOTICE of Appearance by ILANA H. EISENSTEIN on behalf of JOSE BENITEZ (Attachments: # <u>1</u> Certificate of Service)(EISENSTEIN, ILANA) (Entered: 05/31/2019)
05/31/2019	<u>40</u>	ACCEPTANCE OF SERVICE as to <u>35</u> Amended Complaint Re: accepted summons and complaint for JOSE BENITEZ on 5/29/2019, answer due 6/19/2019. (Attachments: # <u>1</u> Certificate of Service)(EISENSTEIN, ILANA) (Entered: 05/31/2019)
05/31/2019	<u>41</u>	NOTICE of Appearance by RONDA GOLDFEIN on behalf of JOSE BENITEZ with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(GOLDFEIN, RONDA) (Entered: 05/31/2019)
05/31/2019	<u>42</u>	NOTICE of Appearance by YOLANDA FRENCH LOLLIS on behalf of JOSE BENITEZ with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(LOLLIS, YOLANDA) (Entered: 05/31/2019)
05/31/2019	<u>43</u>	NOTICE of Appearance by ADRIAN M. LOWE on behalf of JOSE BENITEZ with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(LOWE, ADRIAN) (Entered: 05/31/2019)
05/31/2019	<u>44</u>	NOTICE of Appearance by JACOB M. EDEN on behalf of JOSE BENITEZ with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(EDEN, JACOB) (Entered: 05/31/2019)
06/07/2019	<u>45</u>	ANSWER to <u>35</u> Amended Complaint <i>with Affirmative Defenses and</i> , THIRD PARTY COMPLAINT against U.S. DEPARTMENT OF JUSTICE, WILLIAM P. BARR, WILLIAM M. MCSWAIN, COUNTERCLAIM against UNITED STATES OF AMERICA by JOSE BENITEZ, SAFEHOUSE. (Attachments: # <u>1</u> Certificate of Service)(EISENSTEIN, ILANA) (Entered: 06/07/2019)
06/10/2019	<u>46</u>	ANSWER to <u>3</u> Answer to Complaint,, Counterclaim, <i>Third-Party Complaint</i> by WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA (COLLECTIVELY, THE "DOJ")), U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA.(DAVID, GREGORY) (Entered: 06/10/2019)
06/11/2019	<u>47</u>	MOTION for Judgment on the Pleadings filed by WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA (COLLECTIVELY, THE "DOJ")), U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA.Memorandum,

		Certificate of Service.(DAVID, GREGORY) (Entered: 06/11/2019)
06/28/2019	<u>48</u>	MEMORANDUM of Law in Opposition re <u>47</u> MOTION for Judgment on the Pleadings filed by JOSE BENITEZ, SAFEHOUSE. Certificate of Service. (Attachments: # <u>1</u> Text of Proposed Order)(EISENSTEIN, ILANA) Modified on 7/1/2019 (lisad,). (Entered: 06/28/2019)
07/09/2019	<u>49</u>	APPLICATION for Admission Pro Hac Vice of Katherine Franke by LAW PROFESSORS OF RELIGION. (Filing fee \$ 40 receipt number 0313-13654340.). (CAMPOS, JOSE) (Entered: 07/09/2019)
07/09/2019	<u>50</u>	ORDER THAT THE APPLICATION FOR PRO HAC VICE OF ATTORNEY KATHERINE FRANKE FOR LAW PROFESSORS OF RELIGION IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/9/2019. 7/10/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/10/2019)
07/10/2019	<u>51</u>	MOTION to File Amicus Brief filed by CURRENT AND FORMER PROSECUTORS, LAW ENFORCEMENT LEADERS, AND FORMER DEPARTMENT OF JUSTICE OFFICIALS AND LEADERS.Certificate of Service. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Certificate of Service)(SEGAL, DANIEL) (Entered: 07/10/2019)
07/10/2019	<u>52</u>	MOTION for Pro Hac Vice <i>Lucy E. Pittman</i> filed by THE DISTRICT OF COLUMBIA AND THE STATES OF COLORADO, DELAWARE, MICHIGAN, MINNESOTA, NEW MEXICO, OREGON AND VIRGINIA.Certificate of service.(STIEGLER, MATTHEW) FILING FEE PAID, RECEIPT NO. 200446. Modified on 7/17/2019 (sg,). (Entered: 07/10/2019)
07/10/2019	<u>53</u>	MOTION to File Amicus Brief by <i>Philadelphia–Area Community Organizations</i> filed by ACT UP PHILADELPHIA, ACTION WELLNESS, LGBT ELDER INITIATIVE, PENNSYLVANIA HARM REDUCTION COALITION, PHILADELPHIA FIGHT, PREVENTION POINT PHILADELPHIA, SERO PROJECT, SOL COLLECTIVE, WILLIAM WAY LGBT COMMUNITY CENTER.Certificate of Service. (Attachments: # <u>1</u> Certificate of Uncontested Status, # <u>2</u> Exhibit A, # <u>3</u> Certificate of Service)(NATALI, JESSICA) (Additional attachment(s) added with permission from Chambers on 7/10/2019: # <u>4</u> Proposed Order) (lisad,). Modified on 7/10/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>54</u>	NOTICE of Appearance by BRIAN T. FEENEY on behalf of ACT UP PHILADELPHIA, ACTION WELLNESS, LGBT ELDER INITIATIVE, PENNSYLVANIA HARM REDUCTION COALITION, PHILADELPHIA FIGHT, PREVENTION POINT PHILADELPHIA, SERO PROJECT, SOL COLLECTIVE, WILLIAM WAY LGBT COMMUNITY CENTER with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(FEENEY, BRIAN) (Entered: 07/10/2019)
07/10/2019	<u>55</u>	NOTICE of Appearance by BRADLY A. NANKERVILLE on behalf of ACT UP PHILADELPHIA, ACTION WELLNESS, LGBT ELDER INITIATIVE, PENNSYLVANIA HARM REDUCTION COALITION, PHILADELPHIA FIGHT, PREVENTION POINT PHILADELPHIA, SERO PROJECT, SOL COLLECTIVE, WILLIAM WAY LGBT COMMUNITY CENTER with Certificate of Service (Attachments: # <u>1</u> Certificate of Service)(NANKERVILLE, BRADLY) (Entered: 07/10/2019)
07/10/2019	<u>56</u>	Consent MOTION to File Amicus Brief <i>in Support of Defendant/Counterclaim Plaintiff</i> filed by THE DISTRICT OF COLUMBIA AND THE STATES OF COLORADO, DELAWARE, MICHIGAN, MINNESOTA, NEW MEXICO, OREGON AND VIRGINIA.Certificate of service. (Attachments: # <u>1</u> Brief)(STIEGLER, MATTHEW) (Entered: 07/10/2019)
07/10/2019	<u>57</u>	MOTION for Pro Hac Vice of <i>Jillian Schlotter</i> (Filing fee \$ 40 receipt number 0313-13658856.) filed by CURRENT AND FORMER PROSECUTORS, LAW ENFORCEMENT LEADERS, AND FORMER DEPARTMENT OF JUSTICE OFFICIALS AND LEADERS.Certificate of Service.(HAMERMESH, MATTHEW) (Entered: 07/10/2019)

07/10/2019	<u>58</u>	NOTICE of Appearance by ELLEN C. BROTMAN on behalf of DRUG POLICY ALLIANCE with Certificate of Service(BROTMAN, ELLEN) Modified on 7/10/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>59</u>	First MOTION for Pro Hac Vice <i>Entry of Appearance of Lindsay LaSalle, Esq.</i> , MOTION for Pro Hac Vice (Filing fee \$ 40 receipt number 0313-13658921.) filed by AIDS UNITED, ASSOCIATION FOR MULTIDISCIPLINARY EDUCATION AND RESEARCH IN SUBSTANCE USE AND ADDICTION, ASSOCIATION OF SCHOOLS AND PROGRAMS OF PUBLIC HEALTH, CALIFORNIA SOCIETY OF ADDICTION MEDICINE, DRUG POLICY ALLIANCE, HARM REDUCTION COALITION, NATIONAL ASSOCIATION OF STATE AND TERRITORIAL AIDS DIRECTORS, THE FOUNDATION FOR AIDS RESEARCH, POSITIVE WOMEN'S NETWORK, TREATMENT ACTION GROUP, VITAL STRATEGIES. Certificate of Service.(BROTMAN, ELLEN) Modified on 7/10/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>60</u>	NOTICE of Appearance by KEVIN W. RETHORE on behalf of ACT UP PHILADELPHIA, ACTION WELLNESS, LGBT ELDER INITIATIVE, PENNSYLVANIA HARM REDUCTION COALITION, PHILADELPHIA FIGHT, PREVENTION POINT PHILADELPHIA, SERO PROJECT, SOL COLLECTIVE, WILLIAM WAY LGBT COMMUNITY CENTER with Certificate of Service (Attachments: # <u>1</u> Certificate of Service Certificate of Service)(RETHORE, KEVIN) (Entered: 07/10/2019)
07/10/2019	<u>61</u>	MOTION to File Amicus Brief filed by HOMELESS ADVOCACY PROJECT, PATHWAYS TO HOUSING PA, CATHOLIC WORKER FREE CLINIC, BETHESDA PROJECT, ST. FRANCIS INN. Certificate of Service. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Text of Proposed Order)(LIPUMA, MICHAEL) Modified on 7/11/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>62</u>	MOTION for Pro Hac Vice of <i>Mark C. Fleming</i> (Filing fee \$ 40 receipt number 0313-13659244.) filed by CURRENT AND FORMER PROSECUTORS, LAW ENFORCEMENT LEADERS, AND FORMER DEPARTMENT OF JUSTICE OFFICIALS AND LEADERS.Certificate of Service.(HAMERMESH, MATTHEW) (Entered: 07/10/2019)
07/10/2019	<u>63</u>	MOTION for Pro Hac Vice of <i>Nicholas Roger Werle</i> (Filing fee \$ 40 receipt number 0313-13659274.) filed by CURRENT AND FORMER PROSECUTORS, LAW ENFORCEMENT LEADERS, AND FORMER DEPARTMENT OF JUSTICE OFFICIALS AND LEADERS.Certificate of Service.(HAMERMESH, MATTHEW) (Entered: 07/10/2019)
07/10/2019	<u>64</u>	MOTION for Pro Hac Vice of <i>Tasha J. Bahal</i> (Filing fee \$ 40 receipt number 0313-13659291.) filed by CURRENT AND FORMER PROSECUTORS, LAW ENFORCEMENT LEADERS, AND FORMER DEPARTMENT OF JUSTICE OFFICIALS AND LEADERS.Certificate of Service.(HAMERMESH, MATTHEW) (Entered: 07/10/2019)
07/10/2019	<u>65</u>	CERTIFICATE OF SERVICE by CURRENT AND FORMER PROSECUTORS, LAW ENFORCEMENT LEADERS, AND FORMER DEPARTMENT OF JUSTICE OFFICIALS AND LEADERS re <u>57</u> MOTION for Pro Hac Vice of <i>Jillian Schlotter</i> (Filing fee \$ 40 receipt number 0313-13658856.) <i>Amended Certificate of Service</i> (HAMERMESH, MATTHEW) (Entered: 07/10/2019)
07/10/2019	<u>66</u>	ENTRY of Appearance filed by CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT.Certificate of Service.(RECKER, CATHERINE) Modified on 7/11/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>67</u>	ENTRY of Appearance filed by CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT.Certificate of Service.(CARVER, AMY) Modified on 7/11/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>68</u>	APPLICATION for Admission Pro Hac Vice of Nida Vidutis by CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT. (Filing fee \$ 40 receipt number 0313-13659813.). (RECKER, CATHERINE) (Entered: 07/10/2019)

07/10/2019	<u>69</u>	APPLICATION for Admission Pro Hac Vice of Thomas V. Loran III by CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT. (Filing fee \$ 40 receipt number 0313-13659903.). (RECKER, CATHERINE) (Entered: 07/10/2019)
07/10/2019	<u>70</u>	MOTION to File Amicus Brief filed by KATHERINE FRANKE, MICHA SCHWARTZMAN, ELIZABETH SEPPER, NELSON TEBBE. Certificate of Service, Brief.(FRANKE, KATHERINE) Modified on 7/11/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>71</u>	MOTION for Leave to File <i>Amicus Brief</i> filed by FRIENDS AND FAMILY OF VICTIMS OF OPIOID ADDICTION.Amicus Brief. (Attachments: # <u>1</u> Proposed Amicus Brief, # <u>2</u> Text of Proposed Order)(LEONARD, THOMAS) Modified on 7/11/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>72</u>	First MOTION to File Amicus Brief <i>on behalf of Drug Policy Alliance, AIDS United, Association for Multidisciplinary Education and Research in Substance Use and Addiction, Association of Schools and Programs of Public Health, California Society of Addiction Medicine, Drug Policy Alliance, The Foundation for AIDS Research, Harm Reduction Coalition, National Association of State and Territorial AIDS Directors,The Network for Public Health, Positive Womens Network, Treatment Action Group and Vital Strategies.</i> , filed by DRUG POLICY ALLIANCE.Amicus Brief, Certificate of Counsel, Certificate of Service. (Attachments: # <u>1</u> Brief, # <u>2</u> Text of Proposed Order)(BROTMAN, ELLEN) (Entered: 07/10/2019)
07/10/2019	<u>73</u>	NOTICE of Appearance by STEVEN B. FEIRSON on behalf of BRIDESBURG CIVIC ASSOCIATION, FRATERNAL ORDER OF POLICE, LODGE 5, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH PORT RICHMOND CIVIC ASSOCIATION (FEIRSON, STEVEN) (Entered: 07/10/2019)
07/10/2019	<u>74</u>	NOTICE of Appearance by MICHAEL H. MCGINLEY on behalf of BRIDESBURG CIVIC ASSOCIATION, FRATERNAL ORDER OF POLICE, LODGE 5, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH PORT RICHMOND CIVIC ASSOCIATION (MCGINLEY, MICHAEL) (Entered: 07/10/2019)
07/10/2019	<u>75</u>	NOTICE of Appearance by JUSTIN M. ROMEO on behalf of BRIDESBURG CIVIC ASSOCIATION, FRATERNAL ORDER OF POLICE, LODGE 5, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH PORT RICHMOND CIVIC ASSOCIATION (ROMEO, JUSTIN) (Entered: 07/10/2019)
07/10/2019	<u>76</u>	NOTICE of Appearance by JUDAH BELLIN on behalf of BRIDESBURG CIVIC ASSOCIATION, FRATERNAL ORDER OF POLICE, LODGE 5, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH PORT RICHMOND CIVIC ASSOCIATION (BELLIN, JUDAH) (Entered: 07/10/2019)
07/10/2019	<u>77</u>	MOTION to File Amicus Brief filed by RELIGIOUS LEADERS IN THE PHILADELPHIA COMMUNITY AND BEYOND. (Attachments: # <u>1</u> PROPOSED AMICUS BRIEF ON BEHALF OF RELIGIOUS LEADERS IN THE PHILADELPHIA COMMUNITY AND BEYOND)(BAYLSON, MIRA) Modified on 7/11/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>78</u>	MOTION to File Amicus Brief filed by BRIDESBURG CIVIC ASSOCIATION, FRATERNAL ORDER OF POLICE, LODGE 5, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH PORT RICHMOND CIVIC ASSOCIATION.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order, # <u>3</u> Certificate of Service)(MCGINLEY, MICHAEL) (Entered: 07/10/2019)

07/10/2019	<u>79</u>	MOTION to File Amicus Brief filed by CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT. Certificate of Service. (Attachments: # <u>1</u> Exhibit Brief, # <u>2</u> Text of Proposed Order)(CARVER, AMY) (Entered: 07/10/2019)
07/10/2019	<u>80</u>	MOTION to File Amicus Brief filed by KING COUNTY, WA, NEW YORK, NY, PITTSBURGH, PA, SAN FRANCISCO, CA, SEATTLE, WA, SVANTE L. MYRICK. Certificate of Service. (Attachments: # <u>1</u> Exhibit Proposed Brief, # <u>2</u> Text of Proposed Order, # <u>3</u> Certificate of Service)(GIBSON, VIRGINIA) Modified on 7/11/2019 (lisad,). (Entered: 07/10/2019)
07/10/2019	<u>81</u>	Consent MOTION for Leave to Appear Amicus filed by AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION OF PA. brief. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Brief)(ROPER, MARY) (Entered: 07/11/2019)
07/10/2019	<u>82</u>	ORDERED THAT THE APPLICATION OF JILLIAN SCHLOTTER, ESQUIRE, TO PRACTICE IN THIS COURT IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/10/2019.7/11/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/11/2019)
07/10/2019	<u>83</u>	ORDERED THAT THE APPLICATION OF LINDSAY LASALLE, ESQUIRE, TO PRACTICE IN THIS CASE PRO HAC VICE IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/10/2019.7/11/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/11/2019)
07/10/2019	<u>84</u>	ORDERED THAT THE APPLICATION OF LUCY E. PITTMAN, ESQUIRE, TO PRACTICE IN THIS CASE PRO HAC VICE IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/10/2019.7/11/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/11/2019)
07/10/2019	<u>85</u>	MOTION FOR LEAVE TO FILE BRIED AS AMICI CURIAE filed by PHILADELPHIA MAYOR JIM KENNEY, HEALTH COMMISSIONER DR. THOMAS FARLEY..(sg,) (Entered: 07/11/2019)
07/10/2019	<u>86</u>	NOTICE of Appearance by JENNIFER E. MACNAUGHTON on behalf of THOMAS FARLEY, JIM KENNEY (sg,) (Entered: 07/11/2019)
07/10/2019	<u>87</u>	MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE, filed by RELIGIOUS LEADERS IN THE PHILADELPHIA COMMUNITY AND BEYOND..(sg,) (Entered: 07/11/2019)
07/11/2019	<u>88</u>	ORDERED THAT LEAVE TO FILE AMICUS CURIAE BRIEFS IS GENERALLY GRANTED. THE CLERK IS INSTRUCTED TO ACCEPT THIS ORDER AS AUTHORITY TO DOCKET AMICUS BRIEFS AS THEY ARE RECEIVED WITHOUT ANY FURTHER ORDER FROM THE COURT. THIS PROCEDURAL ORDER IS WITHOUT PREJUDICE TO THE RIGHT OF EITHER PARTY TO MOVE LATER TO STRIKE ANY AMICUS BRIEF AS INAPPROPRIATE FOR CONSIDERATION BY THE COURT. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/11/2019.7/11/2019 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 07/11/2019)
07/11/2019	<u>89</u>	BRIEF OF AMICI CURIAE, by CURRENT AND FORMER PROSECUTORS, LAW ENFORCEMENT LEADERS, AND FORMER DEPARTMENT OF JUSTICE OFFICIALS AND LEADERS. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>90</u>	BRIEF OF AMICI CURIAE, by ACT UP PHILADELPHIA, ACTION WELLNESS, LGBT ELDER INITIATIVE, PENNSYLVANIA HARM REDUCTION COALITION, PHILADELPHIA FIGHT, PREVENTION POINT PHILADELPHIA, SERO PROJECT, SOL COLLECTIVE, WILLIAM WAY LGBT COMMUNITY CENTER. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>91</u>	BRIEF OF AMICI CURIAE, by THE DISTRICT OF COLUMBIA AND THE STATES OF COLORADO, DELAWARE, MICHIGAN, MINNESOTA, NEW MEXICO, OREGON AND VIRGINIA. (sg,) (Entered: 07/11/2019)

07/11/2019	<u>92</u>	BRIEF OF AMICI CURIAE, by BETHESDA PROJECT, CATHOLIC WORKER FREE CLINIC, HOMELESS ADVOCACY PROJECT, PATHWAYS TO HOUSING PA, ST. FRANCIS INN. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>93</u>	BRIEF OF AMICI CURIAE, by KATHERINE FRANKE, MICAH SCHWARTZMAN, ELIZABETH SEPPER, NELSON TEBBE. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>94</u>	BRIEF OF AMICI CURIAE by FRIENDS AND FAMILY OF VICTIMS OF OPIOID ADDICTION. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>95</u>	BRIEF OF AMICI CURIAE, by AIDS UNITED, ASSOCIATION FOR MULTIDISCIPLINARY EDUCATION AND RESEARCH IN SUBSTANCE USE AND ADDICTION, ASSOCIATION OF SCHOOLS AND PROGRAMS OF PUBLIC HEALTH, CALIFORNIA SOCIETY OF ADDICTION MEDICINE, DRUG POLICY ALLIANCE, HARM REDUCTION COALITION, NATIONAL ASSOCIATION OF STATE AND TERRITORIAL AIDS DIRECTORS, THE FOUNDATION FOR AIDS RESEARCH, POSITIVE WOMEN'S NETWORK, TREATMENT ACTION GROUP, VITAL. (sg,) Modified on 7/12/2019 (lisad,). (Entered: 07/11/2019)
07/11/2019	<u>96</u>	BRIEF OF AMICI CURIAE, by RELIGIOUS LEADERS IN THE PHILADELPHIA COMMUNITY AND BEYOND. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>97</u>	BRIEF OF AMICI CURIAE, by BRIDESBURG CIVIC ASSOCIATION, FRATERNAL ORDER OF POLICE, LODGE 5, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH PORT RICHMOND CIVIC ASSOCIATION. (sg,) (Main Document 97 replaced on 7/12/2019) (lisad,). (Entered: 07/11/2019)
07/11/2019	<u>98</u>	BRIEF OF AMICI CURIAE, by CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>99</u>	BRIEF OF AMICI CURIAE, by KING COUNTY, WA, SVANTE L. MYRICK, NEW YORK, NY, PITTSBURGH, PA, SAN FRANCISCO, CA, SEATTLE, WA. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>100</u>	BRIEF OF AMICI CURIAE, by AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION OF PA. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>101</u>	BRIEF OF AMICI CURIAE, by THOMAS FARLEY, JIM KENNEY. (sg,) (Entered: 07/11/2019)
07/11/2019	<u>102</u>	NOTICE of Appearance by JONATHAN ISAAC ARONCHICK on behalf of RELIGIOUS LEADERS IN THE PHILADELPHIA COMMUNITY AND BEYOND (sg,) (Entered: 07/11/2019)
07/11/2019	<u>103</u>	APPLICATION FOR ADMISSION PRO HAC VICE OF ANDREW R. SCHLOSSBERG, filed by RELIGIOUS LEADERS IN THE PHILADELPHIA COMMUNITY AND BEYOND. CERTIFICATE OF SERVICE, PROPOSED ORDER. FILING FEE PAID, RECEIPT No.: 200277.(sg,) (Entered: 07/11/2019)
07/11/2019	<u>104</u>	APPLICATION FOR ADMISSION PRO HAC VICE OF DEVIN S. SIKES, filed by RELIGIOUS LEADERS IN THE PHILADELPHIA COMMUNITY AND BEYOND. CERTIFICATE OF SERVICE, PROPOSED ORDER. FILING FEE PAID, RECEIPT No.: 200277.(sg,) (Entered: 07/11/2019)
07/11/2019	<u>105</u>	ORDER THAT ATTORNEY THOMAS V. LORAN, III'S APPLICATION FOR PRO HAC VICE FOR CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/10/2019. 7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/12/2019)
07/11/2019	<u>106</u>	ORDER THAT ATTORNEY NIDA VIDUTIS'S APPLICATION FOR ADMISSION PRO HAC VICE FOR CONSTITUTIONAL LAW SCHOLAR AND COMMERCE CLAUSE EXPERT PROFESSOR RANDY BARNETT IS GRANTED. SIGNED BY

		HONORABLE GERALD A. MCHUGH ON 7/11/2019. 7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/12/2019)
07/11/2019	<u>107</u>	ORDERED THAT THE APPLICATION FOR PRO HAC VICE OF NICHOLAS ROGER WERLE IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/11/2019.7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/12/2019)
07/11/2019	<u>108</u>	ORDERED THAT THE APPLICATION FOR PRO HAC VICE OF TASHA J. BAHAL IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/11/2019.7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/12/2019)
07/11/2019	<u>109</u>	ORDERED THAT THE APPLICATION FOR PRO HAC VICE OF MARK C. FLEMING IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/11/2019.7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/12/2019)
07/12/2019	<u>110</u>	ORDERED THAT AN EVIDENTIARY HEARING WILL BE HELD ON MONDAY, 8/19/2019 TO CONCLUDE NO LATER THAN TUESDAY, 8/20/2019. THE SCOPE OF THIS HEARING SHALL BE LIMITED TO THE ISSUE OF HOW DEFENDANT PROPOSED TO OPERATE THE SITE THAT IS THE SUBJECT OF THIS LITIGATION. THE HEARING WILL COMMENCE EACH DAY AT 9:30 AM IN COURTROOM 9-B. AT THE REQUEST OF THE UNITED STATES, A CONFERENCE CALL TO FURTHER DISCUSS THE SCOPE AND PURPOSE OF THE HEARING IS SCHEDULED FOR MONDAY, 7/15/2019 AT 4:00 PM. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/12/2019. 7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 07/12/2019)
07/12/2019	<u>111</u>	ORDERED THAT THE APPLICATION FOR PRO HAC VICE OF ANDREW R. SCHLOSSBERG IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/12/2019.7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/12/2019)
07/12/2019	<u>112</u>	ORDERED THAT THE APPLICATION FOR PRO HAC VICE OF DEVIN S. SIKES IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/12/2019.7/12/2019 ENTERED AND COPIES MAILED AND E-MAILED. ECF APP MAILED.(sg,) (Entered: 07/12/2019)
07/16/2019	<u>113</u>	Minute Entry for proceedings held before HONORABLE GERALD A. MCHUGH Telephone Conference held on 7/15/2019 (sg,) (Entered: 07/17/2019)
07/16/2019	<u>114</u>	ORDER THAT ORAL ARGUMENT IS SCHEDULED FOR THURSDAY 9/5/2019 01:00 PM BEFORE HONORABLE GERALD A. MCHUGH AS OUTLINED HEREIN. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/16/2019. 7/17/2019 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 07/17/2019)
07/22/2019	<u>115</u>	RESPONSE in Support re <u>47</u> MOTION for Judgment on the Pleadings filed by WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA (COLLECTIVELY, THE "DOJ")), U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA. (Attachments: # <u>1</u> Certificate of Service)(DAVID, GREGORY) (Entered: 07/22/2019)
07/26/2019	<u>116</u>	MOTION to Withdraw by JUDAH BELLIN filed by BRIDESBURG CIVIC ASSOCIATION, FRATERNAL ORDER OF POLICE, LODGE 5, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH PORT RICHMOND CIVIC ASSOCIATION. Certificate of Service. (BELLIN, JUDAH) Modified on 7/29/2019 (lisad,). (Entered: 07/26/2019)
07/30/2019	<u>117</u>	ORDERED THAT JUDAH BELLIN, ESQUIRE'S MOTION TO WITHDRAW (DOC. [116]) ON BEHALF OF AMICI PARTIES IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/30/2019.7/31/2019 ENTERED AND

		COPIES MAILED AND E-MAILED.(sg,) (Entered: 07/31/2019)
08/05/2019	<u>118</u>	Minute Entry for proceedings held before HONORABLE GERALD A. MCHUGH Telephone Conference held on 8/5/2019. Court Reporter: ESR. (sg,) Modified on 8/6/2019 (lisad,). (Entered: 08/06/2019)
08/06/2019	<u>119</u>	MOTION to Withdraw as Attorney <i>Adam I. Steene, Esquire</i> filed by JOSE BENITEZ, SAFEHOUSE.Certificate of Counsel and Certificate of Service.(FABENS-LASSEN, BEN) (Entered: 08/06/2019)
08/07/2019	<u>120</u>	ORDERED THAT ADAM I STEENE, ESQUIRE'S MOTION FOR WITHDRAWAL OF APPEARANCE (DOC. <u>119</u>) IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 8/7/2019.8/8/2019 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 08/08/2019)
08/20/2019	<u>121</u>	Minute Entry for proceedings held before HONORABLE GERALD A. MCHUGH in Courtroom 9-B. Evidentiary Hearing held on 8/19/19. Court Reporter: ESR. (lisad,) Modified on 8/26/2019 (admin1,). (Entered: 08/20/2019)
08/23/2019	<u>122</u>	NOTICE of Appearance by RACHEL A.H. HORTON on behalf of JOSE BENITEZ, SAFEHOUSE (HORTON, RACHEL) Modified on 8/26/2019 (admin1,). (Entered: 08/23/2019)
08/26/2019	<u>123</u>	🔊 Audio File 08/19/2019 9:34 AM, regarding Evidentiary Hearing part 1 held on 08/19/2019, before HONORABLE GERALD A. MCHUGH (emo,) Modified on 8/26/2019 (admin1,). (Entered: 08/26/2019)
08/26/2019	<u>124</u>	🔊 Audio File 8/19/2019 11:29 AM, regarding Evidentiary Hearing Part 2 held on 8/19/2019, before HONORABLE GERALD A. MCHUGH (emo,) Modified on 8/26/2019 (admin1,). (Entered: 08/26/2019)
08/26/2019	<u>125</u>	🔊 Audio File 8/19/2019 2:09 PM, regarding Evidentiary Hearing Part 3 held on 8/19/2019, before HONORABLE GERALD A. MCHUGH (emo,) Modified on 8/26/2019 (admin1,). (Entered: 08/26/2019)
08/26/2019	<u>126</u>	🔊 Audio File 8/19/2019 4:00 PM, regarding Evidentiary Hearing Part 4 held on 8/19/2019, before HONORABLE GERALD A. MCHUGH (emo,) Modified on 8/26/2019 (admin1,). (Entered: 08/26/2019)
08/27/2019	<u>127</u>	TRANSCRIPT of EVIDENTIARY HEARING held on 8/19/2019, before Judge GERALD A. MCHUGH. Court Reporter/Transcriber ASC SERVICES, LLC. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 9/17/2019. Redacted Transcript Deadline set for 9/27/2019. Release of Transcript Restriction set for 11/25/2019. (sg,) (Entered: 08/28/2019)
08/27/2019	<u>128</u>	Notice of Filing of Official Transcript with Certificate of Service re <u>127</u> Transcript – PDF, 8/28/2019 Entered and Copies Emailed and Mailed. (sg,) (Entered: 08/28/2019)
09/05/2019	<u>129</u>	🔊 Audio File 09/05/2019 1:08 PM, regarding ORAL ARGUMENT held on 09/05/2019, before HONORABLE GERALD A. MCHUGH (emo,) (Entered: 09/05/2019)
09/06/2019	<u>130</u>	Minute Entry for proceedings held before HONORABLE GERALD A. MCHUGH in Courtroom 9B ORAL ARGUMENT held on 9/5/2019. Court Reporter: ESR. (sg,) (Entered: 09/06/2019)
09/12/2019	<u>131</u>	TRANSCRIPT of ORAL ARGUMENT held on 9/5/2019, before Judge GERALD A. MCHUGH. Court Reporter/Transcriber ASC SERVICES, LLC. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 10/3/2019. Redacted Transcript Deadline set for 10/15/2019. Release of Transcript Restriction set for 12/11/2019. (sg,) (Entered: 09/13/2019)
09/12/2019	<u>132</u>	Notice of Filing of Official Transcript with Certificate of Service re <u>131</u> Transcript – PDF, 9/13/2019 Entered and Copies Mailed and Emailed. (sg,) (Entered: 09/13/2019)

10/02/2019	<u>133</u>	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE GERALD A. MCHUGH ON 10/02/2019. 10/02/2019 ENTERED AND COPIES E-MAILED.(nd,) (Entered: 10/02/2019)
10/02/2019	<u>134</u>	ORDER THAT UPON CONSIDERATION OF THE GOVERNMENT'S MOTION FOR JUDGMENT ON THE PLEADINGS (ECF NO. <u>47</u>) IT IS ORDERED THAT THE MOTION IS DENIED.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 10/02/2019. 10/02/2019 ENTERED AND COPIES MAILED AND E-MAILED.(nd,) (Entered: 10/02/2019)
10/21/2019	<u>135</u>	ORDER THAT A TELEPHONE CONFERENCE SET FOR 10/25/2019 10:00 AM BEFORE HONORABLE GERALD A. MCHUGH. SIGNED BY HONORABLE GERALD A. MCHUGH ON 10/21/2019. 10/22/2019 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 10/22/2019)
10/24/2019	<u>136</u>	Minute Entry for proceedings held before HONORABLE GERALD A. MCHUGH Telephone Conference held on 10/25/2019 (sg,) (Entered: 10/25/2019)
01/06/2020	<u>137</u>	MOTION for Declaratory Judgment filed by JOSE BENITEZ, SAFEHOUSE.Memorandum. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Text of Proposed Order)(EISENSTEIN, ILANA) (Entered: 01/06/2020)
01/06/2020	<u>138</u>	STIPULATED SCHEDULING ORDER, DISPOSITIVE MOTIONS DUE BY 1/6/2020. ETC.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 1/3/2020. 1/7/2020 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 01/07/2020)
01/17/2020	<u>139</u>	MOTION for Summary Judgment, OPPOSITION to Motion for Declaratory Judgment filed by WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA (COLLECTIVELY, THE "DOJ")), U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA.Memorandum and Certificate of Service. (Attachments: # <u>1</u> Exhibit Exhibit A)(DAVID, GREGORY) Modified on 1/21/2020 (lisad,). (Entered: 01/17/2020)
01/31/2020	<u>140</u>	MEMORANDUM of Law in Opposition re <u>139</u> MOTION for Summary Judgment filed by JOSE BENITEZ, SAFEHOUSE. (EISENSTEIN, ILANA) Modified on 2/3/2020 (lisad,). (Entered: 01/31/2020)
02/25/2020	<u>141</u>	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE GERALD A. MCHUGH ON 2/25/2020. 2/25/2020 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 02/25/2020)
02/25/2020	<u>142</u>	ORDERED THAT DEFENDANTS' MOTION FOR FINAL DECLARATORY JUDGMENT (DOC. <u>137</u>) IS GRANTED AND THE GOVERNMENT'S MOTION FOR SUMMARY JUDGMENT (DOC. <u>139</u>) IS DENIED AS FOLLOWS: DEFENDANTS' MOTION FOR DECLARATORY JUDGMENT IS GRANTED. JUDGMENT IS ENTERED IN FAVOR OF SAFEHOUSE AND JOSE BENITEZ AND AGAINST THE UNITED STATES OF AMERICA, U.S. DEPARTMENT OF JUSTICE, UNITED STATES ATTORNEY GENERAL WILLIAM P. BARR, AND UNITED STATES ATTORNEY FOR THE E.D.P.A. WILLIAM M. MCSWAIN ON ALL OF PLAINTIFF'S CLAIMS AND ON COUNT I OF SAFEHOUSE'S COUNTERCLAIM. COUNT II OF DEFENDANTS' COUNTERCLAIM IS DISMISSED WITHOUT PREJUDICE AS MOOT. IT IS DECLARED THAT THE ESTABLISHMENT AND OPERATION OF DEFENDANTS' OVERDOSE PREVENTION SERVICES MODEL, INCLUDING SUPERVISED CONSUMPTION IN ACCORDANCE WITH THE PARTIES' STIPULATED FACTS DOES NOT VIOLATE 21 U.S.C. 856(a). SIGNED BY HONORABLE GERALD A. MCHUGH ON 2/25/2020. 2/25/2020 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 02/25/2020)
02/26/2020	<u>143</u>	NOTICE OF APPEAL as to <u>141</u> Memorandum and/or Opinion, <u>142</u> Order (Memorandum and/or Opinion),, by WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA (COLLECTIVELY, THE "DOJ")), U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA. No filing fee required. Copies to Judge,

		Clerk USCA, Appeals Clerk. Certificate of Service. (DAVID, GREGORY) Modified on 2/27/2020 (lisad,). (Entered: 02/26/2020)
02/27/2020	<u>144</u>	NOTICE of Docketing Record on Appeal from USCA re <u>143</u> Notice of Appeal,, filed by WILLIAM P. BARR, UNITED STATES OF AMERICA, WILLIAM M. MCSWAIN, U.S. DEPARTMENT OF JUSTICE. USCA Case Number 20–1422 (dmc,) (Entered: 02/27/2020)
02/27/2020	<u>145</u>	MOTION to Stay re <u>141</u> Memorandum and/or Opinion, <u>142</u> Order (Memorandum and/or Opinion),,, filed by WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA (COLLECTIVELY, THE "DOJ")), U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA.Memorandum, Certificate of Service.(DAVID, GREGORY) (Entered: 02/27/2020)
02/28/2020	<u>146</u>	MOTION to File Amicus Brief filed by BRIDESBURG CIVIC ASSOCIATION, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, FRIENDS OF MARCONI PARK, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, LOWER MOYAMENSING CIVIC ASSOCIATION, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PHILADELPHIA COMMUNITIES CIVIC ASSOCIATION (SPCCA), SOUTH PORT RICHMOND CIVIC ASSOCIATION.Brief. (Attachments: # <u>1</u> Exhibit A – Proposed Amici Curiae Brief Supporting USAs Motion for Stay, # <u>2</u> Exhibit B – Prior Amici Curiae Brief Supporting USAs Motion for Jmt on the Pleadings, # <u>3</u> Certificate of Service)(MCGINLEY, MICHAEL) (Entered: 02/28/2020)
03/02/2020	<u>147</u>	ORDERED THAT THE MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE IN SUPPORT OF THE UNITED STATES' EMERGENCY MOTION FOR STAY PENDING APPEAL (DOC. <u>146</u>) IS GRANTED. THE CLERK OF COURT SHALL FILE THE BRIEF ATTACHED TO THE MOTION AS EXHIBIT A. SIGNED BY HONORABLE GERALD A. MCHUGH ON 3/2/2020.3/2/2020 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 03/02/2020)
03/02/2020	<u>148</u>	BRIEF OF 14 CIVIC ASSOCIATIONS AND THE FRATERNAL ORDER OF POLICE LODGE 5, AS AMICI CURIAE IN SUPPORT OF THE UNITED STATES' EMERGENCY MOTION FOR A STAY PENDING APPEAL, filed by BRIDESBURG CIVIC ASSOCIATION, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, FRIENDS OF MARCONI PARK, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, LOWER MOYAMENSING CIVIC ASSOCIATION, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PHILADELPHIA COMMUNITIES CIVIC ASSOCIATION (SPCCA), SOUTH PORT RICHMOND CIVIC ASSOCIATION. (sg,) (Entered: 03/02/2020)
03/10/2020	<u>149</u>	MEMORANDUM of Law in Opposition re <u>145</u> MOTION to Stay re <u>141</u> Memorandum and/or Opinion, <u>142</u> Order (Memorandum and/or Opinion),,, filed by JOSE BENITEZ, SAFEHOUSE. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Text of Proposed Order)(EISENSTEIN, ILANA) Modified on 3/11/2020 (lisad,). (Entered: 03/10/2020)
03/10/2020	<u>150</u>	MOTION for Leave to File <i>Amicus Curiae Brief</i> filed by FRIENDS AND FAMILY OF VICTIMS OF OPIOID ADDICTION.Motion for Leave to File Amicus Curiae Brief. (Attachments: # <u>1</u> Ex. A – Proposed Amicus Brief)(KALDIS, HARYLE) (Entered: 03/10/2020)
03/11/2020	<u>151</u>	MOTION to File Amicus Brief filed by THOMAS FARLEY, JIM KENNEY.. (Attachments: # <u>1</u> Brief of Amici Mayor Kenney and Commissioner Farley)(MACNAUGHTON, JENNIFER) (Entered: 03/11/2020)

03/11/2020	<u>152</u>	ORDER THAT THE MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF OF THE FRIENDS AND FAMILY OF VICTIMS OF OPIOID ADDICTION IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 3/11/2020.3/12/2020 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 03/12/2020)
03/12/2020	<u>153</u>	<i>Amicus Curiae Brief in Support of Safehouse's Opposition to Government's Motion for Stay re 145</i> MOTION to Stay re <u>141</u> Memorandum and/or Opinion, <u>142</u> Order (Memorandum and/or Opinion),,, filed by FRIENDS AND FAMILY OF VICTIMS OF OPIOID ADDICTION. (KALDIS, HARYLE) Modified on 3/13/2020 (lisad,). (Entered: 03/12/2020)
03/12/2020	<u>154</u>	ORDER THAT PHILADELPHIA MAY JIM KENNEY AND HEALTH COMMISSIONER DR THOMAS FARLEY'S MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE(DOC. <u>151</u>) IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 3/12/2020.3/13/2020 ENTERED AND COPIES MAILED AND E-MAILED.(sg,) (Entered: 03/13/2020)
03/27/2020	<u>155</u>	REPLY in Support re <u>145</u> MOTION to Stay re <u>141</u> Memorandum and/or Opinion, <u>142</u> Order (Memorandum and/or Opinion),,, filed by WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNYLVANIA (COLLECTIVELY, THE "DOJ")), U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA. (LINDGREN, ERIN) Modified on 3/30/2020 (lisad,). (Entered: 03/27/2020)
06/24/2020	<u>156</u>	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE GERALD A. MCHUGH ON 6/24/2020. 6/24/2020 ENTERED AND COPIES E-MAILED. COPY NOT MAILED TO ATTORNEYS WITHOUT EMAIL ADDRESS.(sg,) (Entered: 06/24/2020)
06/24/2020	<u>157</u>	ORDERED THAT THE MOTION TO STAY PENDING APPEAL (DOC. <u>145</u>) IS GRANTED. THE EFFECT OF THE COURTS 2/25/2020 ORDER (DOC. <u>142</u>) IS HEREBY STAYED UNTIL THIS COURT OR THE U.S. COURT OF APPEALS ENTERS AN ORDER LIFTING THE STAY OR UNTIL ANY APPEAL IN THIS CASE IS FINALLY RESOLVED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 6/24/2020. 6/24/2020 ENTERED AND COPIES E-MAILED. COPY NOT MAILED TO ATTORNEYS WITHOUT EMAIL ADDRESS.(sg,) (Entered: 06/24/2020)
08/12/2020		DOC. NOS. <u>156</u> AND <u>157</u> MAILED TO COUNSEL ON 8/12/20. (amas,) (Entered: 08/12/2020)
04/01/2021	<u>158</u>	MANDATE of USCA as to <u>143</u> Notice of Appeal,, filed by WILLIAM P. BARR, UNITED STATES OF AMERICA, WILLIAM M. MCSWAIN, U.S. DEPARTMENT OF JUSTICE THAT COURTS JUDGMENT ENTERED ON 2/25/20 IS HEREBY REVERSED AND REMANDED. COSTS TAXED AGAINST APPELLEES. (rf,) (Entered: 04/01/2021)
08/23/2021	<u>159</u>	ORDERED THAT A STATUS CONFERENCE CALL IS SCHEDULED FOR FRIDAY, SEPTEMBER 17, 2021, AT 10:00 A.M.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 8/23/2021. 8/24/2021 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 08/24/2021)
09/17/2021	<u>160</u>	AMENDED COUNTERCLAIM against U.S. DEPARTMENT OF JUSTICE, MERRICK B. GARLAND, JENNIFER A. WILLIAMS, filed by SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION).(EISENSTEIN, ILANA) Modified on 9/20/2021 (lisad,). (Entered: 09/17/2021)
09/17/2021		AMENDED COUNTERCLAIM against U.S. DEPARTMENT OF JUSTICE, MERRICK B. GARLAND, JENNIFER A. WILLIAMS, filed by SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION). *FOR PDF SEE DOC. <u>160</u> (lisad,) (Entered: 09/20/2021)
09/30/2021	<u>161</u>	NOTICE of Withdrawal of Appearance by MARY CATHERINE ROPER on behalf of AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION OF PA(ROPER, MARY) (Entered: 09/30/2021)

10/07/2021	<u>162</u>	STIPULATION AND ORDER, THAT 1. THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FORDECLARATORY AND INJUNCTIVE RELIEF BY NOVEMBER 5, 2021, BY WAY OF ANSWER AND/OR APPROPRIATERULE 12 MOTION.2. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY DECEMBER 3, 2021.3. THE UNITED STATES SHALL FILE ANY REPLY BY DECEMBER 22, 2021.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 10/7/2021. 10/8/2021 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESSES.(sg,) (Entered: 10/08/2021)
10/08/2021		COPY OF DOC. NO. 162 HAS BEEN MAILED TO COUNSEL. (bw,) (Entered: 10/08/2021)
10/21/2021		Copy of Order/Notice dated 10/7/21 (Document # 162) and envelope returned from the U.S. Postal Service addressed to Lindsay LaSalle for the following reason: Return to Sender – Attempted – Not Known, Unable to Forward. (lisad,) (Entered: 10/22/2021)
11/05/2021	<u>163</u>	STIPULATION AND ORDER THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF BY JANUARY 5, 2022, BY WAY OF ANSWER AND/OR APPROPRIATE RULE 12 MOTION. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY FEBRUARY 4, 2022. THE UNITED STATES SHALL FILE ANY REPLY BY FEBRUARY 25, 2022. SIGNED BY HONORABLE GERALD A. MCHUGH ON 11/5/2021. 11/5/2021 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg,) (Entered: 11/05/2021)
11/05/2021		COPY OF DOC. NO. 163 HAS BEEN MAILED TO COUNSEL. (bw,) (Entered: 11/05/2021)
11/26/2021		Copy of Order/Notice dated 11/5/21 (Document # 163) and envelope returned from the U.S. Postal Service addressed to Lindsay LaSalle for the following reason: Return to Sender – Attempted – Not Known, Unable to Forward. (tomg,) (Entered: 11/26/2021)
12/21/2021	<u>164</u>	STIPULATION AND ORDER THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF BY MARCH 7, 2022, BY WAY OF ANSWER AND/OR APPROPRIATE RULE12 MOTION. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY APRIL 7, 2022. THE UNITED STATES SHALL FILE ANY REPLY BY APRIL 22, 2022.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 12/21/2021. 12/21/2021 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg,) (Entered: 12/21/2021)
12/21/2021	<u>165</u>	ORDER THAT A STATUS CONFERENCE SET FOR 1/4/2022 01:00 PM IN Telephone Conference BEFORE HONORABLE GERALD A. MCHUGH. SIGNED BY HONORABLE GERALD A. MCHUGH ON 12/21/2021. 12/21/2021 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg,) (Entered: 12/21/2021)
12/22/2021		DOC. NOS. 164, 165 MAILED TO COUNSEL (ems) (Entered: 12/22/2021)
01/04/2022	<u>166</u>	ORDER THAT A STATUS CONFERENCE SET FOR 2/7/2022 01:00 PM IN Telephone Conference BEFORE HONORABLE GERALD A. MCHUGH. SIGNED BY HONORABLE GERALD A. MCHUGH ON 1/4/2022. 1/4/2022 ENTERED AND COPIES E-MAILED. . NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg,) (Entered: 01/04/2022)
01/06/2022		PAPER #166 MAILED TO COUNSEL (JL) (Entered: 01/06/2022)
03/07/2022	<u>167</u>	STIPULATION AND ORDER THAT THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FORDECLARATORY AND INJUNCTIVE RELIEF BY MAY 9, 2022, BY WAY OF ANSWER AND/OR APPROPRIATE RULE 12MOTION. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY JUNE 9, 2022. THE UNITED STATES SHALL FILE ANY REPLY BY JUNE 23, 2022. SIGNED BY HONORABLE GERALD A. MCHUGH ON 3/7/2022. 3/7/2022 ENTERED AND COPIES E-MAILED.(sg) (Entered: 03/07/2022)

05/10/2022	<u>168</u>	STIPULATION AND ORDER, 1. THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FORDECLARATORY AND INJUNCTIVE RELIEF BY JUNE 23, 2022, BY WAY OF ANSWER AND/OR APPROPRIATE RULE12 MOTION.2. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY JULY 25, 2022.3. THE UNITED STATES SHALL FILE ANY REPLY BY AUGUST 8, 2022. SIGNED BY HONORABLE GERALD A. MCHUGH ON 5/10/2022. 5/10/2022 ENTERED AND COPIES MAILED AND E-MAILED.(sg) (Entered: 05/10/2022)
05/11/2022		Doc. 167 mailed to counsel on 5/11/22. (lisad,) (Entered: 05/11/2022)
06/22/2022	<u>169</u>	STIPULATION AND ORDER, THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FORDECLARATORY AND INJUNCTIVE RELIEF BY AUGUST 8, 2022, BY WAY OF ANSWER AND/OR APPROPRIATE RULE12 MOTION. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY AUGUST 29, 2022. THE UNITED STATES SHALL FILE ANY REPLY BY SEPTEMBER 19, 2022. SIGNED BY HONORABLE GERALD A. MCHUGH ON 6/22/2022. 6/22/2022 ENTERED AND COPIES E-MAILED.NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS. (sg) Modified on 6/22/2022 (sg). (Entered: 06/22/2022)
06/23/2022		DOC 169 MAILED TO COUNSEL (rf,) (Entered: 06/23/2022)
08/08/2022	<u>170</u>	STIPULATION AND ORDER THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF BY SEPTEMBER 22, 2022, BY WAY OF ANSWER AND/OR APPROPRIATE RULE 12 MOTION. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY OCTOBER 21, 2022. THE UNITED STATES SHALL FILE ANY REPLY BY NOVEMBER 11, 2022.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 8/8/2022. 8/8/2022 ENTERED AND COPIES MAILED AND E-MAILED.(sg) Modified on 8/9/2022 (sg). (Entered: 08/08/2022)
08/22/2022	<u>171</u>	NOTICE of Appearance by HAYES A. HUNT on behalf of FRIENDS AND FAMILY OF VICTIMS OF OPIOID ADDICTION with Certificate of Service(HUNT, HAYES) (Entered: 08/22/2022)
09/22/2022	<u>172</u>	STIPULATED SCHEDULING ORDER:1. The parties request a status conference call with the Court the week of November14, 2022.2. The United States shall respond to Safehouses Amended Counterclaims forDeclaratory and Injunctive Relief by December 4, 2022, by way of answer and/or appropriateRule 12 motion.3. Safehouse shall file any brief in opposition by December 22, 2022.4. The United States shall file any reply by January 6, 2023.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 9/22/2022. 9/23/2022 ENTERED AND COPIES E-MAILED.(sg) (Entered: 09/23/2022)
09/22/2022	<u>173</u>	ORDER THAT A STATUS CONFERENCE SET FOR 11/14/2022 03:30 PM IN Telephone Conference BEFORE HONORABLE GERALD A. MCHUGH. SIGNED BY HONORABLE GERALD A. MCHUGH ON 9/22/2022. 9/23/2022 ENTERED AND COPIES E-MAILED.(sg) (Entered: 09/23/2022)
09/26/2022		DOCS. 172 AND 173 MAILED TO COUNSEL WITHOUT EMAIL ADDRESS. (sg) (Entered: 09/26/2022)
12/05/2022	<u>174</u>	MOTION to Modify <i>Scheduling Order</i> filed by UNITED STATES OF AMERICA.Memorandum, Certificate of Service.(HUGHES, BRYAN) (Entered: 12/05/2022)
12/06/2022	<u>175</u>	RESPONSE in Opposition re <u>174</u> MOTION to Modify <i>Scheduling Order</i> filed by SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION). (Attachments: # <u>1</u> Text of Proposed Order)(EISENSTEIN, ILANA) (Entered: 12/06/2022)
12/07/2022	<u>176</u>	ORDERED that Defendants Motion to Modify Scheduling Order, ECF 174, is GRANTED in part as follows:1.The United States shall respond to Safehouses Amended Counterclaims for Declaratoryand Injunctive Relief by January 9, 2023, by way of answer or appropriate Rule 12motion.2.Safehouse shall file any brief in opposition by January 23, 2023.3.The United States shall file any reply by February 6, 2023. SIGNED BY HONORABLE GERALD A. MCHUGH ON 12/7/2022.12/8/2022 ENTERED AND COPIES E-MAILED. MAILED TO COUNSEL.(sg) Modified on

		12/12/2022 (sg). (Entered: 12/08/2022)
01/03/2023	<u>177</u>	ORDERED THAT THIS MATTER IS REFERRED TO HONORABLE RICHARD A. LLORET FOR PURPOSES OF MEDIATION; ETC.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 1/3/23. 1/3/23 ENTERED AND NOT MAILED TO COUNSEL AND E-MAILED.(JL) (Entered: 01/03/2023)
01/03/2023		COPY OF DOC. NO. 177 HAS BEEN MAILED TO COUNSEL. (bw) (Entered: 01/03/2023)
01/06/2023	<u>178</u>	ORDERED that filing deadlines are suspended to allow the parties to continue to pursue mediation.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 1/6/2023. 1/6/2023 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg) (Entered: 01/06/2023)
01/09/2023		DOC. NO. <u>178</u> MAILED TO COUNSEL ON 1/9/23. (amas) (Entered: 01/09/2023)
01/10/2023	<u>179</u>	NOTICE: A ZOOM video call will be held on January 12, 2023 at 2:00 p.m., before the Honorable Richard A. Lloret, United States Magistrate Judge. Please email all participants names and emails to sheila_mccurry@paed.uscourts.gov by January 11, 2023. A ZOOM Settlement Conference will be held on January 30, 2023 at 10:30 a.m. The ZOOM log-on information was emailed to counsel. Please complete the attached summary and e-mail it to Chambers at sheila_mccurry@paed.uscourts.gov on or before January 23, 2023. If it is NOT emailed by then Judge Lloret may CANCEL the settlement conference.(smcc) (Entered: 01/10/2023)
01/11/2023	<u>180</u>	NOTICE: A ZOOM video call will be held on January 12, 2023 at 2:00 p.m., before the Honorable Richard A. Lloret, United States Magistrate Judge. The ZOOM log-on information was emailed to counsel. Please email all participants names and emails to sheila_mccurry@paed.uscourts.gov by January 11, 2023. An In-Person Settlement Conference will be held on January 30, 2023 at 10:30 a.m. Please report to the James A. Byrne U.S. Courthouse, 601 Market Street, Courtroom 3D, Philadelphia, PA 19106. Please complete the attached summary and e-mail it to Chambers at sheila_mccurry@paed.uscourts.gov on or before January 23, 2023. If it is NOT emailed by then Judge Lloret may CANCEL the settlement conference.(smcc) (Entered: 01/11/2023)
01/13/2023	<u>181</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE RICHARD A. LLORET SETTLEMENT Conference held on 1/12/23 (JL) (Entered: 01/17/2023)
01/27/2023	<u>182</u>	Copy of Order/Notice dated 1/3/23 (Document # 177) and envelope returned from the U.S. Postal Service addressed to LINDSAY LASALLE for the following reason: NON DELIVERABLE ADDRESS.. (bw) (Entered: 01/27/2023)
02/01/2023	<u>183</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE RICHARD A. LLORET Settlement Conference held on 1/30/23. (JL) (Entered: 02/01/2023)
02/09/2023	<u>184</u>	MOTION to Withdraw as Attorney of <i>Justin M. Romeo</i> filed by BRIDESBURG CIVIC ASSOCIATION, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, FRIENDS OF MARCONI PARK, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, LOWER MOYAMENSING CIVIC ASSOCIATION, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PHILADELPHIA COMMUNITIES CIVIC ASSOCIATION (SPCCA), SOUTH PORT RICHMOND CIVIC ASSOCIATION.Certificate of Service. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Certificate of Service)(ROMEO, JUSTIN) (Entered: 02/09/2023)
02/09/2023	<u>185</u>	ORDER THAT THE MOTION TO WITHDRAW AS ATTORNEY JUSTIN M. ROMEO (ECF NO <u>184</u>) IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 02/09/2023.02/09/2023 ENTERED AND COPIES E-MAILED.(nd) (Entered: 02/09/2023)
03/22/2023	<u>186</u>	NOTICE: A Second Settlement Conference will be held on March 24, 2023 at 2:00 p.m., before the Honorable Richard A. Lloret, United States Magistrate Judge. The

		ZOOM log-on information was emailed to counsel. (smcc) (Entered: 03/22/2023)
03/23/2023	187	NOTICE: The Settlement Conference scheduled for 3/24/23 before Judge Lloret is CANCELED. (smcc) (Entered: 03/23/2023)
03/29/2023	188	NOTICE: A Second Settlement Conference will be held on April 13, 2023 at 9:30 a.m., before the Honorable Richard A. Lloret, United States Magistrate Judge. The ZOOM log-on information was emailed to counsel.(smcc) (Entered: 03/29/2023)
04/04/2023	<u>189</u>	NOTICE of Withdrawal of Appearance by COURTNEY G. SALESKI on behalf of JOSE BENITEZ, SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION)(SALESKI, COURTNEY) (Entered: 04/04/2023)
04/10/2023	<u>190</u>	MOTION to Withdraw as Attorney (<i>re: Megan Krebs & Thiru Vignarajah</i>) filed by JOSE BENITEZ, SAFEHOUSE.. (Attachments: # <u>1</u> Text of Proposed Order)(EISENSTEIN, ILANA) (Entered: 04/10/2023)
04/11/2023	<u>191</u>	ORDER THAT THE MOTION TO WITHDRAW THE APPEARANCES OF MEGAN KREBS AND THIRU VIGNARAJAH AS COUNSEL OF RECORD FOR SAFEHOUSE AND JOSE BENITEZ IS GRANTED AND THAT THE CLERK OF COURT IS DIRECTED TO WITHDRAW THE APPEARANCES OF MEGAN KREBS AND THIRU VIGNARAJAH IN THIS ACTION. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/11/23.4/11/23 ENTERED AND COPIES E-MAILED.(rf,) Modified on 4/12/2023 (lisad,). (Entered: 04/11/2023)
04/11/2023	<u>192</u>	MOTION to Intervene <i>as Party-Plaintiffs</i> filed by Delancey Square Town Watch, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, PHILADELPHIA LODGE NO. 5, Friends of Harrowgate Park, Friends of Penrose, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, Holme Circle Civic Association, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, North of Washington Avenue Coalition, PACKER PARK CIVIC ASSOCIATION, Point Breeze Community Development Coalition, PORT RICHMOND ON PATROL AND CIVIC, Queen Village Neighbors Association, Somerton Civic Association, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PORT RICHMOND CIVIC ASSOCIATION, WHITMAN COUNCIL, INC..Expedited Motion to Intervene as Party-Plaintiffs. (Attachments: # <u>1</u> Memorandum, # <u>2</u> Text of Proposed Order, # <u>3</u> Certificate of Service)(MCGINLEY, MICHAEL) (Entered: 04/11/2023)
04/11/2023	<u>193</u>	MOTION for Pro Hac Vice of <i>Eric D. Hageman</i> filed by Delancey Square Town Watch, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, Friends of Harrowgate Park, Friends of Penrose, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, Holme Circle Civic Association, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, North of Washington Avenue Coalition, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, Point Breeze Community Development Coalition, Queen Village Neighbors Association, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PORT RICHMOND CIVIC ASSOCIATION, Somerton Civic Association, WHITMAN COUNCIL, INC..Motion.(MCGINLEY, MICHAEL) *RE-FILED AT DOC. <u>194</u> WITH PAYMENT* Modified on 4/12/2023 (lisad,). (Entered: 04/11/2023)
04/11/2023	<u>194</u>	Amended MOTION for Pro Hac Vice of <i>Eric D. Hageman</i> (Filing fee \$ 40 receipt number APAEDC-16618100.) filed by Delancey Square Town Watch, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, Friends of Harrowgate Park, Friends of Penrose, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, Holme Circle Civic Association, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, North of Washington Avenue Coalition, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, Point Breeze Community Development Coalition, Queen Village Neighbors Association, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH

		PORT RICHMOND CIVIC ASSOCIATION, Somerton Civic Association, WHITMAN COUNCIL, INC..Motion.(MCGINLEY, MICHAEL) (Entered: 04/11/2023)
04/11/2023	<u>195</u>	MOTION for Pro Hac Vice of <i>M. Scott Proctor</i> (Filing fee \$ 40 receipt number APAEDC-16618145.) filed by Delancey Square Town Watch, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, Friends of Harrowgate Park, Friends of Penrose, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, Holme Circle Civic Association, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, North of Washington Avenue Coalition, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, Point Breeze Community Development Coalition, Queen Village Neighbors Association, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PORT RICHMOND CIVIC ASSOCIATION, Somerton Civic Association, WHITMAN COUNCIL, INC..Motion.(MCGINLEY, MICHAEL) (Entered: 04/11/2023)
04/11/2023	<u>196</u>	MOTION for Pro Hac Vice of <i>Justin W. Aimonetti</i> (Filing fee \$ 40 receipt number APAEDC-16618162.) filed by Delancey Square Town Watch, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, Friends of Harrowgate Park, Friends of Penrose, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, Holme Circle Civic Association, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, North of Washington Avenue Coalition, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, Point Breeze Community Development Coalition, Queen Village Neighbors Association, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PORT RICHMOND CIVIC ASSOCIATION, Somerton Civic Association, WHITMAN COUNCIL, INC..Motion.(MCGINLEY, MICHAEL) (Entered: 04/11/2023)
04/11/2023	<u>197</u>	ORDER THAT APPLICATION FOR PRO HAC VICE ADMISSION OF ERIC D. HAGEMAN IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/11/23. 4/11/23 ENTERED AND COPIES MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 04/11/2023)
04/11/2023	<u>198</u>	ORDER THAT APPLICATION FOR PRO HAC VICE ADMISSION OF MICHAEL SCOTT PROCTOR II IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/11/23. 4/11/23 ENTERED AND COPIES MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 04/11/2023)
04/11/2023	<u>199</u>	ORDER THAT APPLICATION FOR PRO HAC VICE ADMISSION OF JUSTIN W. AIMONETTI IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 4/11/23. 4/11/23 ENTERED AND COPIES MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 04/11/2023)
04/12/2023	<u>200</u>	Brief of Amicus Curiae filed by ANTHONY H. WILLIAMS, Jimmy Dillon, Christine M Tartaglione, Sharif Street. (GOSSETT, GEORGE) Modified on 4/13/2023 (lisad,). (Entered: 04/12/2023)
04/12/2023	<u>201</u>	MOTION to File Amicus Brief filed by Jimmy Dillon, ANTHONY H. WILLIAMS, Christine M Tartaglione, Sharif Street.Motion for Leave to File Amicus Brief, Amicus Brief, Certificate of Service.(Sollenberger, Shannon) (Entered: 04/12/2023)
04/18/2023	<u>202</u>	Minute Entry for proceedings held before MAGISTRATE JUDGE RICHARD A. LLORET Telephone Conference held on 4/12/23 (rf,) (Entered: 04/18/2023)
04/18/2023	203	PAPERLESS NOTICE: The Settlement Conference that was scheduled for 4/13/23 before Judge Lloret was canceled. (smcc) (Entered: 04/18/2023)
04/25/2023	<u>204</u>	RESPONSE in Opposition re <u>192</u> MOTION to Intervene <i>as Party-Plaintiffs</i> filed by JOSE BENITEZ, SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION). (Attachments: # <u>1</u> Text of Proposed Order)(EISENSTEIN, ILANA) (Entered: 04/25/2023)

05/01/2023	<u>205</u>	REPLY to Response to Motion re <u>192</u> MOTION to Intervene <i>as Party-Plaintiffs</i> filed by Delancey Square Town Watch, EAST PASSYUNK AVENUE BUSINESS IMPROVEMENT DISTRICT, FRATERNAL ORDER OF POLICE, LODGE 5, Friends of Harrowgate Park, Friends of Penrose, GIRARD ESTATE AREA RESIDENTS, HARROWGATE CIVIC ASSOCIATION, Holme Circle Civic Association, JUNIATA PARK CIVIC ASSOCIATION, KENSINGTON INDEPENDENT CIVIC ASSOCIATION, North of Washington Avenue Coalition, PACKER PARK CIVIC ASSOCIATION, PORT RICHMOND ON PATROL AND CIVIC, Point Breeze Community Development Coalition, Queen Village Neighbors Association, SOUTH BROAD STREET NEIGHBORHOOD ASSOCIATION, SOUTH PHILADELPHIA BUSINESS ASSOCIATION, SOUTH PORT RICHMOND CIVIC ASSOCIATION, Somerton Civic Association, WHITMAN COUNCIL, INC.. (Attachments: # <u>1</u> Proposed Answer, # <u>2</u> Certificate of Service)(MCGINLEY, MICHAEL) (Entered: 05/01/2023)
05/18/2023	<u>206</u>	STIPULATION AND ORDER THAT THE UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF BY 6/28/23. SAFEHOUSE SHALL FILE ANY BRIEF IN OPPOSITION BY 7/21/23. UNITED STATES SHALL FILE ANY REPLY BY 8/10/23. SIGNED BY HONORABLE GERALD A. MCHUGH ON 5/18/23. 5/19/23 ENTERED AND COPIES NOT MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 05/19/2023)
05/22/2023		Document #206 mailed to: Jillian Schlotter, Mark C. Fleming, Nicholas Roger Werle, Tasha J. Bahal. (dt) (Entered: 05/22/2023)
06/26/2023	<u>207</u>	Consent MOTION for Leave to File <i>Second Amended Counterclaims for Declaratory and Injunctive Relief</i> filed by JOSE BENITEZ, SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION).. (Attachments: # <u>1</u> Exhibit A (Redline – Proposed Amended Counterclaims), # <u>2</u> Text of Proposed Order)(EISENSTEIN, ILANA) (Entered: 06/26/2023)
06/27/2023	<u>208</u>	ORDER granting <u>207</u> MOTION FOR LEAVE TO FILE AS OUTINED HEREIN. SIGNED BY HONORABLE GERALD A. MCHUGH ON 6/27/23.6/27/23 ENTERED AND COPIES NOT MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 06/27/2023)
06/27/2023	<u>209</u>	ANSWER to Complaint <i>and</i> , Amended COUNTERCLAIM (<i>Second Amended Counterclaim</i>) against MERRICK B. GARLAND, U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA, JACQUELINE C. ROMERO by SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION), JOSE BENITEZ.(EISENSTEIN, ILANA) (Entered: 06/27/2023)
06/28/2023	<u>210</u>	STIPULATION AND ORDER THAT UNITED STATES SHALL RESPOND TO SAFEHOUSES AMENDED COUNTERCLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF BY 7/21/23, BY WAY OF ANSWER AND/OR APPROPRIATE RULE 12 MOTION. SAFEHOUSE SHALL FILE ANY BRIEFS IN OPPOSITION BY 8/15/23. UNITED STATES SHALL FILE ANY REPLY BY 9/8/23 SIGNED BY HONORABLE GERALD A. MCHUGH ON 6/28/23. 6/28/23 ENTERED AND COPIES MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 06/28/2023)
07/21/2023	<u>211</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by UNITED STATES OF AMERICA.Memorandum, Certificate of Service. (Attachments: # <u>1</u> Exhibit 1)(HUGHES, BRYAN) (Entered: 07/21/2023)
07/24/2023	<u>212</u>	ORDER denying <u>192</u> MOTION TO INTERVENE. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/24/23.7/25/23 ENTERED AND COPIES NOT MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 07/25/2023)
07/25/2023	<u>213</u>	ORDER THAT MOTION FOR LEAVE (DOC. 201) IS DENIED WITHOUT PREJUDICE AS OUTLINED HEREIN. SIGNED BY HONORABLE GERALD A. MCHUGH ON 7/25/23. 7/25/23 ENTERED AND COPIES NOT MAILED TO COUNSEL AND E-MAILED.(rf,) (Entered: 07/25/2023)
07/27/2023		DOCS 212 & 213 MAILED TO COUNSEL (rf,) (Entered: 07/27/2023)

08/14/2023	<u>214</u>	Consent MOTION to Amend/Correct <i>Scheduling Order</i> filed by JOSE BENITEZ, SAFEHOUSE.. (Attachments: # <u>1</u> Text of Proposed Order)(EISENSTEIN, ILANA) (Entered: 08/14/2023)
08/15/2023	<u>215</u>	RESPONSE in Opposition re <u>211</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION). (Attachments: # <u>1</u> Text of Proposed Order)(EISENSTEIN, ILANA) (Entered: 08/15/2023)
08/17/2023	<u>216</u>	NOTICE of Appearance by JULIE A BUSTA on behalf of FAITH LEADERS IN PHILADELPHIA AND BEYOND with Certificate of Service(BUSTA, JULIE) (Entered: 08/17/2023)
08/17/2023	<u>217</u>	MOTION for Pro Hac Vice <i>Nikunj P. Soni</i> (Filing fee \$ 75 receipt number APAEDC-16886163.) filed by FAITH LEADERS IN PHILADELPHIA AND BEYOND.Certificate of Service.(BUSTA, JULIE) (Entered: 08/17/2023)
08/17/2023	<u>218</u>	MOTION for Pro Hac Vice of <i>Shannon A. Jackenthal</i> (Filing fee \$ 75 receipt number APAEDC-16886171.) filed by FAITH LEADERS IN PHILADELPHIA AND BEYOND.Certificate of Service.(BUSTA, JULIE) (Entered: 08/17/2023)
08/18/2023	<u>219</u>	AMENDED SCHEDULING ORDER: ORDERED THAT The United States shall respond to Safehouses Amended Counterclaims for Declaratory and Injunctive Relief by July 21, 2023, by way of answer and/or appropriate Rule 12 Motion. Safehouse shall file any brief in opposition by August 15, 2023. Any amicus briefs filed in support of Safehouses opposition shall be filed by August 25, 2023. The United States shall file any reply by September 8, 2023. SIGNED BY HONORABLE GERALD A. MCHUGH ON 8/18/2023.8/18/2023 ENTERED AND COPIES MAILED AND E-MAILED.(sg) (Entered: 08/18/2023)
08/18/2023	<u>220</u>	ORDER THAT THE MOTION FOR PRO HAC VICE FOR NIKUNJ P. SONI IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 8/18/2023.8/18/2023 ENTERED AND COPIES MAILED AND E-MAILED.(sg) (Entered: 08/18/2023)
08/18/2023	<u>221</u>	ORDER THAT THE MOTION FOR PRO HAC VICE FOR SHANNON A. JACKENTHAL IS GRANTED. SIGNED BY HONORABLE GERALD A. MCHUGH ON 8/18/2023.8/18/2023 ENTERED AND COPIES MAILED AND E-MAILED.(sg) (Entered: 08/18/2023)
08/25/2023	<u>222</u>	Brief of Faith Leaders in Philadelphia and Beyond as Amici Curiae in Support of Defendant/Counterclaim Plaintiff SafeHouse by FAITH LEADERS IN PHILADELPHIA AND BEYOND. (SIKES, DEVIN) (Entered: 08/25/2023)
09/05/2023	<u>223</u>	STIPULATION <i>Amended Scheduling Order</i> by UNITED STATES OF AMERICA. (DAVID, GREGORY) (Entered: 09/05/2023)
09/05/2023	<u>224</u>	STIPULATION AND ORDER The United States shall file any Reply in further support of its Motion to Dismiss by September 20, 2023. SIGNED BY HONORABLE GERALD A. MCHUGH ON 9/5/2023. 9/6/2023 ENTERED AND COPIES MAILED AND E-MAILED.(sg) Modified on 9/7/2023 (sg). (Entered: 09/06/2023)
09/20/2023	<u>225</u>	REPLY to Response to Motion re <u>211</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by UNITED STATES OF AMERICA. (LINDGREN, ERIN) (Entered: 09/20/2023)
10/20/2023	<u>226</u>	ORDERED that a conference call is scheduled for Tuesday, October 24, 2023, at 3:00 p.m. A call-in number will be emailed to counsel.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 10/19/2023. 10/20/2023 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg) (Entered: 10/20/2023)
10/20/2023	<u>227</u>	ORDER THAT TELEPHONE CONFERENCE SET FOR 10/27/2023 01:30 PM IN Telephone Conference. SIGNED BY HONORABLE GERALD A. MCHUGH ON 10/20/23. 10/20/23 ENTERED AND COPIES MAILED AND E-MAILED.(rf,) (Entered: 10/20/2023)

10/20/2023		Order #226 mailed to counsel without E-mail addresses. (fdc) (Entered: 10/20/2023)
11/06/2023	<u>228</u>	NOTICE of Appearance by GREGORY BYRON IN DEN BERKEN on behalf of WILLIAM P. BARR(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL), MERRICK B. GARLAND(IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE UNITED STATES), WILLIAM M. MCSWAIN(IN HIS OFFICIAL CAPACITY AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA (COLLECTIVELY, THE "DOJ")), JACQUELINE C. ROMERO, U.S. DEPARTMENT OF JUSTICE, UNITED STATES OF AMERICA, JENNIFER A. WILLIAMS with Certificate of Service(IN DEN BERKEN, GREGORY) (Entered: 11/06/2023)
11/06/2023	<u>229</u>	ORDER THAT ORAL ARGUMENT ON THE MOTION TO DISMISS WILL BE HEARD ON 12/4/23 AT 2:00 P.M. IN COURTROOM 9B; ETC.. SIGNED BY HONORABLE GERALD A. MCHUGH ON 11/6/23. 11/6/23 ENTERED AND E-MAILED, NOT MAILED TO COUNSEL.(JL) (Entered: 11/06/2023)
11/07/2023		DOC. 229 MAILED TO COUNSEL. (er) (Entered: 11/07/2023)
11/22/2023		Copy of Order/Notice dated 11/6/23 (Document # 229) and envelope returned from the U.S. Postal Service addressed to Andrew R. Schlossberg for the following reason: Not Deliverable as Addressed Unable to Forward. (dt) (Entered: 11/24/2023)
11/30/2023	<u>230</u>	Letter dated November 30, 2023 by SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION). (Attachments: # <u>1</u> Exhibit A (DOJ Statement of Interest))(EISENSTEIN, ILANA) (Entered: 11/30/2023)
12/04/2023	<u>231</u>	Minute Entry for proceedings held before HONORABLE GERALD A. MCHUGH in Courtroom 9B Motion Hearing held on 12/4/2023 re <u>211</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by UNITED STATES OF AMERICA. Court Reporter: ESR. (sg) Modified on 12/6/2023 (lisad,). (Entered: 12/05/2023)
12/20/2023	<u>232</u>	TRANSCRIPT of ORAL ARGUMENT held on 12/4/2023, before Judge MCHUGH. Court Reporter/Transcriber Associated Reporters Intl., Inc.. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 1/10/2024. Redacted Transcript Deadline set for 1/20/2024. Release of Transcript Restriction set for 3/19/2024. (sg) (Entered: 12/20/2023)
12/20/2023	<u>233</u>	Notice of Filing of Official Transcript with Certificate of Service re <u>232</u> Transcript – PDF, 12/20/2023 Entered and Copies Emailed and Mailed to Counsel Without Email Addresses. (sg) Modified on 12/22/2023 (sg). (Entered: 12/20/2023)
03/25/2024	<u>234</u>	ORDERED THAT SAFEHOUSE SHALL PROVIDE TO THE COURT A COPY OF ITS FORM 1023, THE COMPLETED APPLICATION FOR RECOGNITION OF ITS EXEMPTION FROM FEDERAL INCOME TAX UNDER INTERNAL REVENUE CODE SECTION 501(C)(3).. SIGNED BY DISTRICT JUDGE GERALD A. MCHUGH ON 3/25/2024. 3/25/2024 ENTERED AND COPIES MAILED AND E-MAILED.(sg) (Entered: 03/25/2024)
03/29/2024	<u>235</u>	Letter dated March 29, 2024 (with Safehouse's IRS Form 1023 attached) by SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION). (EISENSTEIN, ILANA) (Entered: 03/29/2024)
04/03/2024	<u>236</u>	MEMORANDUM AND/OR OPINION. SIGNED BY DISTRICT JUDGE GERALD A. MCHUGH ON 4/3/2024. 4/3/2024 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg) (Entered: 04/03/2024)
04/03/2024	<u>237</u>	ORDERED THAT, FOR THE REASONS IN THE ACCOMPANYING MEMORANDUM, COUNTERCLAIM DEFENDANT UNITED STATES OF AMERICAS MOTION TO DISMISS (ECF 211) IS GRANTED AND THIS ACTION IS HEREBY DISMISSED. THE CLERK OF COURT IS REQUESTED TO MARK THIS CASE CLOSED. SIGNED BY DISTRICT JUDGE GERALD A. MCHUGH ON 4/3/2024. 4/3/2024 ENTERED AND COPIES E-MAILED. NOT MAILED TO COUNSEL WITHOUT EMAIL ADDRESS.(sg) (Entered: 04/03/2024)

04/04/2024		DOCS 236 & 237 MAILED TO COUNSEL WITHOUT EMAIL ADDRESSES (rf,) (Entered: 04/04/2024)
05/31/2024	<u>238</u>	NOTICE OF APPEAL as to <u>237</u> Order (Memorandum and/or Opinion), by JOSE BENITEZ, SAFEHOUSE(A PENNSYLVANIA NONPROFIT CORPORATION). Filing fee \$ 605, receipt number APAEDC-17507935. (EISENSTEIN, ILANA) (Entered: 05/31/2024)
06/10/2024	<u>239</u>	NOTICE of Docketing Record on Appeal from USCA re <u>238</u> Notice of Appeal filed by JOSE BENITEZ, SAFEHOUSE. USCA Case Number 24-2027.(DT) (Entered: 06/10/2024)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
v.	:	Civil Action No. 19-0519
	:	
SAFEHOUSE, a Pennsylvania nonprofit	:	
corporation;	:	
	:	
JOSE BENITEZ, as President and	:	
Treasurer of Safehouse;	:	
	:	
Defendants.	:	
	:	

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

While our country is in the midst of an opioid epidemic, this is not the first time we have faced a drug crisis. From crack cocaine, to methamphetamine, to heroin and fentanyl, our country has faced the challenge and tragedy of drug addiction for many years. Congress and the President have sought to address the challenges of drug addiction, abuse, and diversion with the Controlled Substances Act (“CSA”), enacted in 1970.

The CSA established a comprehensive and carefully balanced regulatory scheme that has been updated and revised over time, but remains in full force and effect. Among other things, the CSA created a tiered structure of controlled substances based on their risk of abuse and medical purpose; controlled the flow of these substances from their manufacture through the distribution chain; established important record-keeping requirements; determined which substances were illegal without an administrative application and waiver; and established a comprehensive scheme for the treatment of those afflicted with substance use disorder through narcotic treatment programs.

The legislation's calculated scheme includes the prohibition of certain conduct involving controlled substances. Most relevant to the suit at hand, the CSA provides that it is wholly unlawful to manage or control any place, regardless of compensation, for the purpose of unlawfully using a controlled substance. Defendant Safehouse seeks to disregard the law and override Congress' carefully balanced regulatory scheme by establishing, managing, and controlling sites in Philadelphia that will allow individuals to engage in the illicit use of controlled substances, namely, heroin and fentanyl.

For purposes of this action, it does not matter that Safehouse claims good intentions in fighting the opioid epidemic. What matters is that Congress has already determined that Safehouse's conduct is prohibited by federal law, without any relevant exception. To prevent Safehouse from violating federal law, the United States asks the Court to declare illegal the Defendants' proposed establishment and operation of a place for the unlawful use of controlled substances.

Plaintiff, the United States of America, by and through its attorneys, alleges as follows:

1. This is a civil action seeking declaratory judgment under the Declaratory Judgment Act, as amended, 28 U.S.C. § 2201, and under the Controlled Substances Act, as amended, 21 U.S.C. §§ 801 *et seq.*, and its implementing regulations, 21 C.F.R. §§ 1301 *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 21 U.S.C. §§ 856(e), 843(f), and 28 U.S.C. §§ 1331, 1345.

3. Venue is proper in the Eastern District of Pennsylvania pursuant to 21 U.S.C. § 843(f)(2) and 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiff is the United States of America.

5. Defendant Safehouse, a privately held Pennsylvania nonprofit corporation, was formed in or around August of 2018. Safehouse's mailing address is 1211 Chestnut Street, Suite 600, in Philadelphia, Pennsylvania, 19107.

6. Safehouse seeks to establish and operate one or more sites in Philadelphia where, among other things, intravenous drug users will be permitted to use illegal controlled substances (primarily, heroin and fentanyl) in "consumption rooms" under medical supervision (hereinafter, "Consumption Room(s)").

7. Defendant Jose Benitez is Safehouse's President and Treasurer. He also serves as the Executive Director of Prevention Point Philadelphia, which operates on Kensington Avenue in Philadelphia.

FACTUAL ALLEGATIONS

8. Existing nonprofit community organizations, such as Prevention Point Philadelphia, provide a wide range of medical and non-medical services intended to reduce the harms of the opioid crisis in Philadelphia. These services include, but are not limited to, access to addiction treatment, wound care, clean needle exchange, social services, testing, free distribution of the opioid overdose reversal medication Naloxone (Narcan), and training on how to administer Naloxone.

9. Safehouse states on its website that its mission is "sav[ing] lives by providing a range of overdose prevention services" in Philadelphia, including "[m]edically supervised safe consumption and post-consumption observation." (See Safehouse FAQ, attached hereto as Exhibit A).

10. Safehouse further states on its website that drug users – called “participants” – who seek supervised consumption will be directed to a Consumption Room where they will be provided with syringes and related paraphernalia by Safehouse staff, who will observe them while they prepare and inject illegal narcotics within the Safehouse Consumption Room. (*Id.*).

11. “From the consumption area, participants will be directed to” what Safehouse calls an “observation room,” where they will be “offered on-site initiation of Medication Assisted Treatment (MAT), wound care, and referrals to primary care, social services, and housing opportunities.” (*Id.*). Safehouse states that it will “provide overdose reversal and other emergency care” and “advise on sterile injection technique,” but its staff will not “administer any narcotic or opioid,” nor will they make any such drug available “other than those that are FDA-approved for treating opioid addiction[.]” (*Id.*).

12. Heroin and fentanyl are controlled substances. 21 U.S.C. § 812; 21 C.F.R. §§ 1308.11, 1308.12. Heroin is a Schedule I substance, and fentanyl is a Schedule II substance. 21 U.S.C. § 812(c) (“Schedule I” at (b)(10)); “Schedule II” at (b)(6)).

13. Knowing or intentional possession of Schedule I or II substances such as heroin or fentanyl, without satisfying certain exceptions that do not apply to Safehouse participants, violates federal law. 21 U.S.C. § 844(a).

14. The Controlled Substances Act, 21 U.S.C. §§ 801-971, provides, in pertinent part, that:

it shall be unlawful to . . . manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

21 U.S.C. § 856(a), (a)(2).

15. Section 856(a)(2) applies to any person who “manage[s] or control[s] any place” that they “knowingly and intentionally . . . make available for use, with or without compensation . . . for the purpose of unlawfully . . . using a controlled substance.” Defendants’ operation of Consumption Rooms would do exactly that.

16. Therefore, Defendants will violate section 856(a)(2) of Title 21 if they open a Consumption Room.

17. Defendants have publically stated their position that the operation of such a Consumption Room would not violate federal law and that they intend to open one or more Consumption Rooms notwithstanding section 856 of Title 21 of the United States Code. (*See* Exhibit A).

18. By a letter to Safehouse’s President and Vice President dated November 9, 2018, the United States Attorney for the Eastern District of Pennsylvania, William M. McSwain, advised Safehouse that its planned operation of one or more Consumption Rooms would clearly violate federal law. (*See* Nov. 9, 2018, letter, attached hereto as Exhibit B). The government requested assurance that Safehouse would comply with federal law, and advised that the government would pursue appropriate legal remedies should Safehouse fail to ensure its compliance. *Id.*

19. By letter dated November 26, 2018, Safehouse’s President and Vice President advised the government that Safehouse would not comply, asserting, “[w]e respectfully disagree with the conclusion that Safehouse’s proposed consumption room would violate federal law.” (*See* Nov. 26, 2018, letter, attached hereto as Exhibit C, at 1).

20. On or about December 24, 2018, Safehouse announced that it had retained DLA Piper to represent it in potential litigation against the United States regarding Safehouse's legality.

21. Upon information and belief, Defendants will imminently open one or more Consumption Rooms in Philadelphia. Defendants' initial plan was to be operational by January 2019.¹ Even after the United States initiated this lawsuit, Defendants have continued to take steps toward opening a site.

COUNT I

Violation of the Controlled Substances Act, 21 U.S.C. § 856(a)(2) – Declaratory Judgment

22. The United States repeats and re-alleges Paragraphs 1 through 21 as if fully set forth herein.

23. Pursuant to 21 U.S.C. § 856(a) and (a)(2), "it shall be unlawful to . . . manage or control any place . . . and knowingly and intentionally . . . make available for use, with or without compensation, the place for the purpose of unlawfully . . . using a controlled substance."

24. Defendants intend to manage and control one or more Consumption Rooms in Philadelphia and they will knowingly and intentionally provide a place for drug users to use controlled substances unlawfully, such as heroin and fentanyl.

25. Accordingly, Defendants imminently will violate 21 U.S.C. § 856(a)(2).

¹ Colleen Slevin, *Denver is latest city pushing for 1st US drug injection site* (Nov. 28, 2018), <https://www.apnews.com/86a3aca99f72489082fcfa7ff0ab3a83> ("A private nonprofit is raising money for a supervised injection site in Philadelphia but has pushed back its potential opening date from January to mid-March, the group Safehouse said.").

26. Pursuant to 21 U.S.C. § 856(e), “[a]ny person who violates subsection (a) of this section shall be subject to declaratory and injunctive remedies as set forth in section 843(f) of this title.”

27. Section 843(f), provides, in turn, that “the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to . . . [section] 856 of this title.” 21 U.S.C. § 843(f)(1).

28. Under 28 U.S.C. § 2201(a), “[i]n a case of actual controversy within its jurisdiction . . . any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

29. Declaratory relief is especially appropriate where illegal conduct is imminent.

30. The United States is accordingly entitled to appropriate declaratory relief through this civil action pursuant to 21 U.S.C. § 843(f) and 28 U.S.C. § 2201, stating that Defendants’ establishment and operation of any Consumption Rooms will violate section 856 of Title 21 of the United States Code.

PRAYER FOR RELIEF

WHEREFORE, the United States respectfully requests that judgment be entered in its favor and against Defendants declaring that Defendants' establishment and operation of any Consumption Room, or similar sites made available for the unlawful use of controlled substances, will violate 21 U.S.C. § 856(a)(2).

Dated: May 24, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General
Civil Division

JAMES M. BURNHAM
Deputy Assistant Attorney General
Civil Division

GUSTAV W. EYLER
Acting Director
Consumer Protection Branch

JAMES J. GILLIGAN
Acting Director
Federal Programs Branch

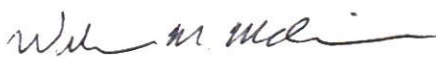
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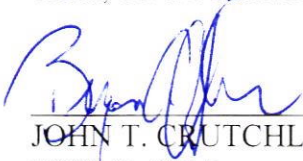
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EXHIBIT A

FREQUENTLY ASKED QUESTIONS

- **GENERAL**

- **What is Safehouse?**

Safehouse is a privately funded, 501(c)(3) tax-exempt, Pennsylvania nonprofit corporation whose mission is to save lives by providing a range of overdose prevention services.

The leaders and organizers of Safehouse are motivated by the Judeo-Christian beliefs ingrained in us from our religious schooling, our devout families and our practices of worship. At the core of our faith is the principle that preservation of human life overrides any other considerations.

Safehouse is one element of a much-needed comprehensive plan to address a public health crisis. The organization seeks to open the first safe injection site in the U.S. providing a range of overdose preventions services, including safe consumption and observation rooms staffed by a medical staff prepared to administer overdose reversal if needed. Additional services would include on-site initiation of Medically Assisted Treatment (MAT), recovery counseling, education about substance use treatment, basic medical services, and referrals to support services such as

housing, public benefits, and legal services.

Safehouse is working with community partners to find suitable locations to deliver this unified range of services.

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- **Where will Safehouse be located?**

Safehouse locations will be determined by community and city input, as well as data that show the areas where the greatest need exists. Safehouse considers it a priority to be a good neighbor, so locations will be selected in consultation with local leaders, businesses and residents.

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- **Who will deliver services at Safehouse?**

Medically trained professionals, certified peer specialists, recovery specialists, social workers, and case managers specializing in overdose prevention and harm reduction will provide Safehouse services.

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- **When will Safehouse begin operating in Philadelphia?**

Safehouse remains committed to opening as soon as possible, but is awaiting the resolution of a civil lawsuit the U.S. Attorney for the Eastern District of Pennsylvania filed against it. Safehouse has

asked the Court to declare its planned operations legal.

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- **Why do we need overdose prevention services in Philadelphia?**

Philadelphia is experiencing an overdose crisis of unprecedented proportion. In 2015, the city's rate of 46.8 drug overdose deaths per 100,000 residents dramatically outpaced those of Chicago (11.8) and New York (13.7).[4], [5] In 2017, the 1,217 overdose deaths in Philadelphia [6] represented a 34 percent increase from 907 in 2016.[7] In 2018, fatalities slightly decreased to 1,116 overdose deaths. Since 2009, overdose deaths in the city have risen by nearly 200 percent.[8] Philadelphia has not had a public health crisis of this magnitude in more than 100 years.[9] Across all racial and ethnic groups, more people have died from drug overdose than from homicide.[10],[11]

This crisis led the Mayor's Task Force to Combat the Opioid Epidemic in Philadelphia to recommend that the city further explore implementing overdose prevention services and expand treatment access and capacity. Overdose prevention services have a long record of success in reducing harms of injecting heroin and other opioids.[12]

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- **Will Safehouse provide illegal drugs to participants?**

Under no circumstances will Safehouse make available any narcotic or opioid, other than those that are FDA-approved for treating opioid addiction.

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- **Will Safehouse encourage people to use drugs?**

We are not aware of any credible evidence that suggests supervised consumption sites encourage increased drug use or initiate new users.

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- **How will Safehouse help participants to learn more about treatment for substance use?**

Participants will be presented with rehabilitation options at multiple points during their Safehouse visit, beginning with when they arrive and go through a registration process. A physical and behavioral health assessment will be conducted, and a range of overdose prevention services offered.

From the consumption area, participants will be directed to the medically supervised observation room and offered on-site initiation of Medication Assisted Treatment (MAT), wound care, and referrals to primary care, social services, and housing opportunities. Upon arrival, participants may choose to go directly

to the observation room to access MAT and other services.

Certified peer specialists, recovery specialists, social workers, and case managers will encourage treatment readiness and facilitate access to medical and social services. As participants leave, additional data will be collected, treatment, medical and social services will be offered again, and naloxone will be distributed.

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- **How will Safehouse prevent fatal overdoses?**

Medical personnel will always be on duty to observe and assess participants in both the consumption room and the post-consumption observation room. Medical personnel will immediately intervene in the event of an overdose, administering oxygen and/or naloxone. No overdose deaths have been reported at any of the more than 120 supervised consumption sites worldwide.[17],[18]

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- **Which drugs will Safehouse provide supervised injection oversight?**

Safehouse staff will not monitor the type of consumption by participants. Safehouse personnel will be available to advise on sterile injection technique in order to reduce the risks of skin infections but will not place needles or administer any narcotic or opioid, nor encourage the use of any drug. No consumption by

smoking will be allowed unless appropriate ventilation is available.

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- **SAFE INJECTION SITES AND HARM REDUCTION**

- **What is harm reduction?**

Harm reduction in substance use treatment is aimed at decreasing the negative consequences of substance use, and it includes elements of safer use, managed use, and medication-supported treatment plans. Harm reduction is designed to address the circumstances of the addiction in addition to the addiction itself, striving to minimize the harmful effects of addiction while recognizing that drug addiction cannot be completely eliminated. Current leading scholarship establishes that a demonstrably effective approach to combating substance use disorder is to encourage treatment while providing harm reduction.[3]

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- **Do safe injection sites exist elsewhere?**

Yes. The first government-authorized supervised consumption room opened more than 30 years ago in Switzerland. Today, more than 120 supervised consumption sites are operating in Europe, Australia, and Canada. The availability of overdose prevention services is increasing as research confirms the effectiveness and the advantages to the broader community. Currently, no such program exists in the United States.

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◦ **What are the benefits of overdose prevention services?**

Overdose prevention services are part of a multifaceted public health approach to combating the opioid crisis. Extensive research has demonstrated the benefits of overdose prevention services for people who use drugs and the communities where drug use occurs.[13],[14],[15],[16]

Overdose prevention services:

- **SAVE LIVES** by reducing the number of fatal drug overdoses through education on safer use practices, overdose prevention, and intervention.
- **REDUCE THE SPREAD OF INFECTIOUS DISEASES** such as HIV and hepatitis C among people who use drugs by providing sterile consumption supplies.
- **CONNECT PEOPLE** who use drugs with other health, treatment, and social services.
- **CREATE A SAFER COMMUNITY** by reducing drug use in public spaces and publicly discarded paraphernalia.

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◦ **Is there a financial benefit to the community?**

Overdose prevention services will reduce fatal opioid overdoses. As Safehouse will provide immediate reversal in the event of

overdoses, the strain on emergency medical services and health systems will be decreased. By reducing ambulance rides, emergency room trips, and hospital visits, overdose prevention services are expected to save Philadelphia at least \$2 million a year in health care costs. [28]

In addition, by providing a supervised place to consume drugs, fewer people will use drugs on the streets. Less drug paraphernalia will be publicly discarded.

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• **PROTOCOL AND SAFETY**

◦ **Will data be collected at Safehouse?**

Yes. Data will be collected on a range of information points, including: client demographics, needs assessments, utilization, and referrals for treatment. An evaluation of the impact of the services on overdose fatalities and use of drug treatment will be conducted. Data collection and analysis will be conducted in a manner that respects and preserves client privacy and confidentiality.

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◦ **Do supervised consumption sites increase neighborhood crime?**

No. Considerable research on neighborhoods around safe

consumption sites has shown no increase in crime.[25] In fact, a decrease in drug-related crime has been reported.[26],[27]

Safehouse believes in a partnership with law enforcement and supports appropriate law enforcement measures to address public safety issues resulting from the opioid epidemic. Safehouse will actively discourage loitering.

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- **What safety and security protocols will exist at Safehouse for both users and the community?**

Safehouse will provide appropriate security for its facilities and immediate surroundings. All participants will be expected to comply with rules to ensure the safety of participants, employees, volunteers, and the public. Safehouse is developing detailed policies and procedures, which it will post in a conspicuous place on location and on its website.

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- **What are Safehouse's rules of use?**

Safehouse's rules of use include:

- No one under age 18 may use the services. Appropriate referrals will be provided to minors.
- No drug dealing.
- No drug sharing.
- No exchange of currency.

- No sharing of consumption equipment.
- No participant may help another consume drugs.
- No staff person may help a participant consume drugs.
- Staff will not handle controlled substances.
- All participants must properly dispose of consumption equipment before leaving the premises.
- Violence, intimidation, and harassment will not be tolerated.
- All participants will treat the staff and other participants with respect.

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◦ **Will Safehouse seek a partnership with law enforcement?**

Yes. Safehouse hopes to have a mutually beneficial, productive partnership with law enforcement, as we have a shared goal of making the community safer.

In Vancouver, police leaders strongly support overdose prevention services.[33] Bill Spearn, a longtime inspector with the Vancouver Police Department, formerly a staunch opponent of the sites, now admits that he was wrong. In May 2018, he said: “If you want to keep these people alive long enough to get them into treatment, you have to give them a space to use.”

In reflecting on the benefit of Vancouver’s overdose prevention services, Spearn said “it made sense to me that the reason that

the number of overdoses that I was attending, or my members were attending, had dropped significantly, was because of Insite.” [Insite is North America’s first public supervised injection facility.] [34]

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- **THE LEGALITY OF SAFEHOUSE**

- **Does the law allow overdose prevention services like those provided by Safehouse?**

We believe it does. Safehouse’s overdose prevention services are designed to save lives, which is consistent with the intent of federal drug laws.

We believe that 21 U.S. Code § 856 (“Section 856”) was never intended to apply, and does not apply, to a nonprofit providing a good faith, public health approach to overdose prevention services, including a supervised consumption room. The purpose of a supervised consumption room is to carry out legitimate medical and public health initiatives that offer scientifically proven interventions effective for encouraging treatment and rehabilitation of individuals addicted to opioids.

Section 856 prohibits maintaining any place “for the purpose of . . . using any controlled substance.” The purpose of a supervised consumption room is to save lives by preventing fatal overdoses

and encouraging participants to enter into treatment. It is intended solely as a place to address the public health crisis of opioid addiction by providing harm reduction and emergency response in the event of an overdose or other medical emergency, in addition to providing counseling about safer injection practices and referrals to other social and health services including referrals to addiction treatment, medical care, housing, and other related comprehensive social services.

The express statutory restrictions set forth under Section 856 are not clearly applicable to a supervised consumption room that will be utilized as part of Safehouse's holistic approach to saving lives and providing overdose prevention services.

Philadelphia has a history of creative public health initiatives and prosecutorial discretion. In 1992, then-Mayor Edward G. Rendell and the Board of Health authorized by executive order Prevention Point Philadelphia's syringe exchange program to protect public health by preventing the transmission of HIV. Syringe exchange in Philadelphia has been found to be an effective harm reduction method. Indeed, syringe exchange has reduced new HIV cases in injection drug users in Philadelphia by more than 95 percent, from 819 cases in 1992 when Prevention Point opened to just 27 cases in 2016.[29]

Effective syringe exchange programs also increase the number of injection drug users referred to and retained in substance use treatment. In addition, they increase referral and entry opportunities for social services such as housing, case management, and medical care.[30] Studies also have found that syringe exchange programs do not increase injection drug use.[31]

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REFERENCES:

1. Division of Health Data and Policy, Illinois Department of Public Health, State of Illinois Comprehensive Opioid Data Report, Dec. 4 2017, from <http://dph.illinois.gov/sites/default/files/publications/publicationsdoil-opioid-data-report.pdf> (<http://dph.illinois.gov/sites/default/files/publications/publicationsdoil-opioid-data-report.pdf>)
2. Paone, D. Tuazon, E., Nolan, M., & Mantha, S., “Unintentional Drug Poisoning (Overdose) Deaths Involving Heroin and/or Fentanyl in New York City, 2000–2015,” New York City Department of Health and Mental Hygiene: Epi Data Brief August 2016 (74), from <https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief74.pdf> (<https://www1.nyc.gov/assets/doh/downloads/pdf/epi/databrief74.pdf>)

3. City of Philadelphia, Department of Public Health (2018, April). Fatal Drug Overdoses in Philadelphia, 2017.
from <https://www.phila.gov/health/pdfs/chart%20v3e1.pdf>
(<https://www.phila.gov/health/pdfs/chart%20v3e1.pdf>)
4. Ibid.
5. Office of the Medical Examiner, Philadelphia Department of Public Health. (2018). Unintentional Drug Related Deaths by Year 2003-2017. Retrieved on Oct 1, 2018
from <https://public.tableau.com/profile/pdph#!/vizhome/UnintentionalDrugF>
(<https://public.tableau.com/profile/pdph#!/vizhome/UnintentionalDrugRelate>)
6. Combating the opioid epidemic | Department of Behavioral Health and Intellectual disAbility Services (n.d.). Retrieved Sept. 14, 2018, from <https://www.phila.gov/programs/combating-the-opioid-epidemic/>
(<https://www.phila.gov/programs/combating-the-opioid-epidemic/>)
7. The Mayor's Task Force to Combat the Opioid Epidemic in Philadelphia, Final Report and Recommendations. 2017: Philadelphia, PA. from https://dbhids.org/wp-content/uploads/2017/04/OTF_Report.pdf (https://dbhids.org/wp-content/uploads/2017/04/OTF_Report.pdf)
8. Ibid.

9. Alternatives To Public Injection, Harm Reduction Coalition (2016) from <https://harmreduction.org/wp-content/uploads/2016/05/Alternatives-to-Pu> (<https://harmreduction.org/wp-content/uploads/2016/05/Alternatives-to-Pu>)...
10. Kerr, T., Tyndall, M. W., Lai, C., Montaner, J. S., & Wood, E. (2006). Drug-related overdoses within a medically supervised safer injection facility. *International Journal of Drug Policy*, 17(5), 436-441. doi:10.1016/j.drugpo.2006.05.008
11. Logan, D.E. & Marlatt, G.A., Harm Reduction Therapy: A Practice-Friendly Review of Research, NCBI (Feb. 2010), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3928290/> (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3928290/>)
 - “As described, harm reduction interventions are demonstrably effective for alcohol and substance abuse in many settings and with many populations. They are also effective in recruiting a larger proportion of afflicted clients and in reaching several populations (e.g., worksite, homeless) that conventional treatment programs rarely reach.”
12. Wood, E. (2004). Changes in public order after the opening of a medically supervised safer injecting facility for illicit injection drug users. *Canadian Medical Association Journal*, 171(7), 731-734. doi:10.1503/cmaj.1040774

13. Wood, E., Tyndall, M. W., Lai, C., Montaner, J. S., & Kerr, T. (2006). Impact of a medically supervised safer injecting facility on drug dealing and other drug-related crime [Abstract]. *Substance Abuse Treatment, Prevention, and Policy*, 1(13), 1-4. doi:10.1186/1747-597X-1-13; Supervised Injection Services. (2018, August 20). Retrieved Sept. 13, 2018, from <https://www.toronto.ca/community-people/health-wellness-care/health-programs-advice/supervised-injection-services/> (<https://www.toronto.ca/community-people/health-wellness-care/health-programs-advice/supervised-injection-services/>)
14. Kerr, T., PhD, Tyndall, M. W., MD, Zhang, R., MSc, Lai, C., MMath, Montaner, J. S., MD, & Wood, E., PhD. (2007). Circumstances of First Injection Among Illicit Drug Users Accessing a Medically Supervised Safer Injecting Facility. *American Journal of Public Health*, 97(7), 128-130. doi:10.2105/AJPH.2006.086256
15. Wood, E., Tyndall, M. W., Zhang, R., Montaner, J. S., & Kerr, T. (2007). Rate of detoxification service use and its impact among a cohort of supervised injecting facility users. *Addiction*, 102(6), 916-919. doi:10.1111/j.1360-0443.2007.01818.x
16. Larson, S., Padron, N., Mason, J. & Bogaczyk (2017) Supervised Consumption Facilities – Review of the Evidence. Retrieved from https://healthdocbox.com/Substance_Abuse/72880022-Supervised-consumption-facilities-review-of-the-evidence-sharon-larson-phd-norma-padron-phd-jennifer-mason-tyler-bogaczyk.html

(https://healthdocbox.com/Substance_Abuse/72880022-Supervised-consumption-facilities-review-of-the-evidence-sharon-larson-phd-norma-padron-phd-jennifer-mason-tyler-bogaczyk.html)

17. Wood, E. (2004), supra note 12

18. Supervised Injection Services. (2018, Aug. 20), supra note 13

19. Mannarino, D., Inside supervised injection sites: How they work in the fight against opioid crisis, WPIX11 NY, May 8 2018, <https://pix11.com/2018/05/08/inside-supervised-injection-sites-how-they-work-in-the-fight-against-opioid-crisis/>
(<https://pix11.com/2018/05/08/inside-supervised-injection-sites-how-they-work-in-the-fight-against-opioid-crisis/>)

20. Gordon, Elana, Lessons from Vancouver: U.S. cities consider supervised injection facilities, WHYY, July 5, 2018, <https://whyy.org/segments/lessons-from-vancouver-u-s-cities-consider-supervised-injection-facilities/>
(<https://whyy.org/segments/lessons-from-vancouver-u-s-cities-consider-supervised-injection-facilities/>)

21. Philadelphia Department of Public Health, AIDS Activities Coordinating Office Surveillance Report, 2016. Philadelphia, PA: City of Philadelphia; September 2017

22. Des Jarlain, D., & Braine, N., Assessing syringe exchange programs (2004). *Addiction*, 99(9), 1081-1082. doi:10.1111/j.1360-0443.2004.00800.x

 23. Frakt, A., Ph.D. (2016, Sept. 2). Effectiveness and cost-effectiveness of syringe exchange programs [Web log post]. *AcademyHealth.org*, Retrieved Sept. 24, 2018, from <https://www.academyhealth.org/node/2211>
(<https://www.academyhealth.org/node/2211>)
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EXHIBIT B



U.S. Department of Justice

United States Attorney

Eastern District of Pennsylvania

*William M. McSwain
United States Attorney*

*615 Chestnut Street
Suite 1250
Philadelphia, Pennsylvania 19106-4476
(215) 861-8200*

November 9, 2018

Via Certified Mail (Return Receipt Requested)
and First Class Mail

Jose A. Benitez, M.S.W.
President
Ronda B. Goldfein, Esquire
Vice President
Safehouse
c/o Prevention Point Philadelphia
2913-15 Kensington Avenue
Philadelphia, PA 19134

Re: Safehouse/Proposed Injection Site

Dear Mr. Benitez and Ms. Goldfein:

Earlier this month, Safehouse announced its formation as a nonprofit and intention to open at least one facility in Philadelphia where, among other things, "participants" could inject controlled substances such as heroin and fentanyl in a "consumption room" under medical supervision. It also plans to offer onsite medical care and referral services such as wound care, onsite initiation of medication-assisted treatment for substance abuse, and referrals to primary care. In addition, it will offer a series of "wrap-around social services" such as referrals to social services, legal services, and housing opportunities.

While the U.S. Attorney's Office supports many of the services that Safehouse proposes to offer, including the medical and social referral services, Safehouse's proposed "consumption room" for injection of illicit drugs would violate federal law. Specifically, Title 21, United States Code, Section 856 provides in relevant part that "it shall be unlawful to":

(a)(1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;

(a)(2) manage or control any place whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without

Safehouse
c/o Prevention Point Philadelphia
November 9, 2018
Page Two

compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

Section 856(a)(2), in particular, encompasses a broad range of relationships and conduct. It reaches a person or entity who has management or control over a place made available for the unlawful use of controlled substances, whether “permanently” or “temporarily.” It covers not only landlords, but also lessees, agents, employees, occupants, and even mortgagees (*i.e.*, lending institutions). It applies whether the place is made available “with or without compensation,” explicitly encompassing a situation such as this one where Safehouse does not plan to profit from the use of the property. Moreover, the statute makes no exception for entities, such as Safehouse, who claim a benevolent purpose or purpose other than the use of controlled substances. *See, e.g., United States v. Tamez*, 941 F.2d 770, 774 (9th Cir. 1991).

Please ensure that your organization, board members, and employees comply with federal law. The Department of Justice will pursue appropriate legal remedies should you fail to ensure your organization’s compliance.

The Department of Justice is committed to ending the opioid epidemic through prevention, enforcement, and treatment efforts. We recognize that Safehouse and its proponents share our goal of combatting the scourge of opioid abuse. I appreciated the recent opportunity to tour Prevention Point with Mr. Benitez and I thank Ms. Goldfein for proactively contacting my office to keep us apprised of Safehouse’s intentions. Many of the services Safehouse intends to provide appear worthwhile and commendable. While we do not and cannot approve of Safehouse’s “consumption room,” we invite a continuing dialogue with you to hear more about your proposal and to discuss how we can work together to fight this epidemic within existing federal law.

Very truly yours,



WILLIAM M. McSWAIN
United States Attorney

EXHIBIT C

Safehouse

A public health approach to overdose prevention in Philadelphia

November 26, 2018

2019 NOV 30 P 3:01

William M. McSwain
U.S. Department of Justice
U.S. Attorney
Eastern District of Pennsylvania
615 Chestnut Street
Suite 1250
Philadelphia, PA 19106-4476

Dear U.S. Attorney McSwain:

Thank you for letter of November 9 and the invitation to continue the dialogue about our efforts to provide overdose prevention services. We are grateful for a Department of Justice that embraces the need to combat the scourge of opioid abuse.

To ensure candor in our ongoing dialogue, we would like to share our thoughts about this initiative.

We respectfully disagree with the conclusion that Safehouse's proposed consumption room would violate federal law. The legislative intent of Title 21, United States Code, Section 856 is to prohibit individuals from knowingly allowing their property to be used for the purpose of distributing or using drugs for profit. We believe that a proper and constitutional application of Section 856 does not prohibit our primary purpose of preventing fatal overdoses.

Overdose prevention is part of a multifaceted public health approach to combating the opioid crisis. Extensive research has demonstrated the benefits of overdose prevention services for people who use drugs and the communities where drug use occurs. For more on the services to be offered, please see safehousephilly.org.

Moreover, the leaders and organizers of Safehouse are motivated by the Judeo-Christian beliefs ingrained in us from our religious schooling, our devout families and our practices of worship. At the core of our faith is the principle that preservation of human life overrides any other considerations. As witnesses to great losses of life in our community, we are compelled by our religious beliefs to take action to save lives.

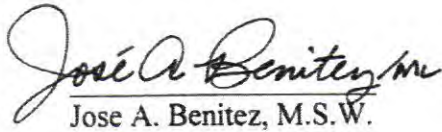
Finally, we hope that the U.S. Attorney's office will exercise prosecutorial discretion in assessing our proposed overdose prevention services. This is not a request that your office approve or ignore Safehouse's proposed consumption room, but rather that the

P. O. Box 36788, Philadelphia, PA 19107
safehousephilly.org

same discretion in prosecution, that is shown in a range of activities that may be considered unlawful, be exercised here.

We welcome the opportunity to meet and discuss our shared goals of fighting this epidemic.

Respectfully,


Jose A. Benitez, M.S.W.


Ronda B. Goldfein, Esq.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

SAFEHOUSE, a Pennsylvania nonprofit
corporation; JOSE BENITEZ, as President and
Treasurer of Safehouse,

Defendants.

Civil Action No.: 2:19-cv-00519

SAFEHOUSE, a Pennsylvania nonprofit
corporation,

Counterclaim Plaintiff,

v.

UNITED STATES OF AMERICA,
Counterclaim Defendant,

U.S. DEPARTMENT OF JUSTICE; WILLIAM P.
BARR, in his official capacity as Attorney General
of the United States; WILLIAM M. MCSWAIN, in
his official capacity as U.S. Attorney for the Eastern
District of Pennsylvania,

Third-Party Defendants.

**DEFENDANTS' ANSWER, AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS TO PLAINTIFF'S AMENDED COMPLAINT**

Defendants Safehouse and Jose Benitez, by and through their counsel, answer the Amended Complaint of Plaintiff United States of America ("Plaintiff") and aver as follows:

1. Defendants admit that Plaintiff purports to seek a declaratory judgment under the Declaratory Judgment Act, as amended, 28 U.S.C. § 2201, and under the CSA, 21 U.S.C. § 843(f) (as made applicable by *id.* § 856(e)) and its implementing regulations, 21 C.F.R. § 1301 *et seq.*, but denies that Plaintiff is entitled to such relief.

2. Admitted.

3. Admitted.

PARTIES

4. Admitted.

5. Admitted.

6. Denied as stated.

7. Admitted.

FACTUAL ALLEGATIONS

8. Admitted. Despite the existence of such nonprofits providing services intended to reduce the harms of the opioid crisis, Philadelphians continue to die of overdoses at rates higher than nearly every other major city.¹

9. Admitted in part and denied in part. Safehouse’s mission, as stated on its website, “is to save lives by providing a range of overdose prevention services.”² Also as stated, “[t]he leaders and organizers of Safehouse are motivated by the Judeo-Christian beliefs ingrained in [them] from [their] religious schooling, [their] devout families and [their] practices of worship. At the core of [their] faith is the principle that preservation of human life overrides any other considerations.”³ Safehouse will save lives by providing a range of overdose prevention

¹ In 2016, Philadelphia had the second-highest rate of drug overdose deaths among counties with a population of more than one million residents. See Pew Tr., *Philadelphia’s Drug Overdose Death Rate Among Highest in Nation* (Feb. 15, 2018), <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/15/philadelphias-drug-overdose-death-rate-among-highest-in-nation>.

In 2017, Philadelphia had the highest overdose death rate (65/100,000 residents) of the counties in the top ten largest U.S. cities. Its overdose death rate was three times the rate of the second highest county (Cook County, 23/100,000 residents). See CDC, *CDC WONDER Online Database: About Underlying Cause of Death, 1999-2017*, <https://wonder.cdc.gov/ucd-icd10.html> (last visited June 7, 2019).

² Safehouse, *Frequently Asked Questions*, <https://www.safehousephilly.org/about/faqs> (last visited June 7, 2019).

³ *Id.*

services, including medically supervised consumption and observation. Exhibit A to the Amended Complaint is a writing that speaks for itself. Any attempt by Plaintiff to characterize or interpret Exhibit A is therefore denied.

10. Denied as stated. Upon arrival at Safehouse, all participants must register and provide demographic information. A physical and behavioral health assessment will be conducted and a range of overdose prevention services offered. “[P]articipants will be directed to the medically supervised observation room,” where they will be “offered on-site initiation of Medication Assisted Treatment (MAT), wound care, and referrals to primary care, social services, and housing opportunities.”⁴ Participants may seek supervised consumption, in which case they will be directed to the medically supervised consumption room and provided sterile consumption equipment and fentanyl test strips.⁵ Participants will safely dispose of used consumption equipment before leaving the supervised consumption area.⁶ Under no circumstance will Safehouse make available any illicit narcotic or opioid. From the consumption area, participants will be directed to the medically supervised observation room and again offered opportunities for drug treatment, medical care, and social services. Exhibit A is a printout of the Safehouse website as of May 24, 2019. Exhibit A to the Amended Complaint is a writing that speaks for itself. Any attempt by Plaintiff to characterize or interpret Exhibit A is therefore denied.

⁴ *Id.*

⁵ The provision of sterile consumption equipment will reduce of the risk of transmission of infectious diseases. Fentanyl test strips are used to detect the presence of fentanyl prior to consumption. By alerting the participant to the presence of fentanyl and the increased risk of overdose, Safehouse would be practicing a harm reduction strategy that encourages a dosage adjustment to a safer level.

⁶ The safe disposal of consumption equipment will reduce the risk of transmission of intravenous diseases, and will further the goals of city-sponsored programs like the Philadelphia Resilience Project, which aim to alleviate the public littering of consumption equipment that is prevalent in areas of Philadelphia with high drug use. See City of Phila., *Philadelphia Resilience Project*, <https://www.phila.gov/programs/philadelphia-resilience-project/>.

11. Admitted in part and denied in part. Paragraph 11 selectively quotes from the Safehouse website as of May 24, 2019, as reflected in Exhibit A. Exhibit A to the Amended Complaint is a writing that speaks for itself. Any attempt by Plaintiff to characterize or interpret Exhibit A is therefore denied.

12. Denied. The averments contained in Paragraph 12 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

13. Denied. The averments contained in Paragraph 13 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

14. Denied. The averments contained in Paragraph 14 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

15. Denied. The averments contained in Paragraph 15 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied. Safehouse's provision of overdose prevention services would not violate Section 856(a)(2).

16. Denied. The averments contained in Paragraph 16 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied. Safehouse's overdose prevention services would not violate Section 856(a)(2).

17. Admitted in part and denied in part. Safehouse has publicly stated that its planned operations would not violate federal law. The remainder of Paragraph 17 is denied.

18. Admitted in part and denied in part. It is admitted that Safehouse received a letter from U.S. Attorney for the Eastern District of Pennsylvania, Third-Party Defendant William M. McSwain, dated November 9, 2018. Exhibit B to the Amended Complaint is a copy of that letter, which is a writing that speaks for itself. Any attempt by Plaintiff to characterize or interpret Exhibit B is therefore denied.

19. Admitted in part and denied in part. It is admitted that Safehouse sent a letter to U.S. Attorney for the Eastern District of Pennsylvania, Third-Party Defendant William M. McSwain, dated November 26, 2018, explaining (among other things) that a proper and constitutional application of Section 856 does not prohibit Safehouse's overdose prevention services model that would combat the opioid crisis and prevent fatal overdoses. Exhibit C to the Amended Complaint is a copy of that letter, which is a writing that speaks for itself. Any attempt by Plaintiff to characterize or interpret Exhibit C is therefore denied.

20. Admitted.

21. Admitted as stated.

COUNT I

Violations of the Controlled Substances Act, 21 U.S.C. § 856(a)(2) – Declaratory Judgment

22. Defendants incorporate by reference their responses to paragraphs 1 through 21 of Plaintiff's Amended Complaint as if set forth fully herein.

23. Denied. The averments contained in Paragraph 23 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

24. Denied. The averments contained in Paragraph 24 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

25. Denied. The averments contained in Paragraph 25 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

26. Denied. The averments contained in Paragraph 26 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

27. Denied. The averments contained in Paragraph 27 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

28. Denied. The averments contained in Paragraph 28 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

29. Denied. The averments contained in Paragraph 29 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and are therefore denied.

30. Denied. The averments contained in Paragraph 30 constitute conclusions of law to which no response is required by the Federal Rules of Civil Procedure, and is therefore denied.

PRAYER FOR RELIEF

Defendants deny that Plaintiff is entitled to any relief in connection with the allegations set forth in its Amended Complaint, including, but not limited to, the allegations set forth in Plaintiff's Prayer for Relief.

AFFIRMATIVE DEFENSES

As affirmative defenses to Plaintiff's Amended Complaint, Defendants assert as follows without assuming the burden of proof or persuasion on matters for which it has no such burden. In doing so, Defendants incorporate herein by reference, as though fully set forth in full, the allegations contained in the Answer, Affirmative Defenses, Counterclaims, and Third-Party Complaint in the action styled *Safehouse v. United States of America et al.*, No. 2:19-cv-00519, ECF No. 3, together with paragraphs 1 through 30 above, and further reserve the right to restate, re-evaluate, or recall any defenses and to assert additional defenses:

1. The cited provision of the CSA, 21 U.S.C. § 856(a)(2), does not apply to Defendants' proposed conduct.
2. Defendants' proposed conduct is justified by medical necessity to avoid imminent serious bodily injury and death.
3. The application of Section 856 to Defendants is barred by RFRA, 42 U.S.C. § 2000bb *et seq.*
4. Section 856(a)(2) is unconstitutional under the Commerce Clause, both facially and as applied to Defendants.

COUNTERCLAIMS AND THIRD-PARTY COMPLAINT

Counterclaim Plaintiff Safehouse incorporates herein by reference, as though set forth in full, the allegations, counterclaims against Counterclaim Defendant United States of America,

and claims against Third-Party Defendants U.S. Department of Justice, William P. Barr, and William M. McSwain set forth in the Answer, Affirmative Defenses, Counterclaims, and Third Party Complaint in the action styled *Safehouse v. United States of America et al.*, No. 2:19-cv-00519, E.D. Pa. (ECF No. 3).⁷ As a result, Safehouse reasserts the affirmative counterclaims and claims it previously asserted in this action on April 3, 2019.

WHEREFORE, Answering Defendants Safehouse and Jose Benitez request that judgment be entered in their favor, and against Plaintiff United States of America, for the same relief requested in the action styled *Safehouse v. United States of America et al.*, No. 2:19-cv-00519, E.D. Pa. (ECF No. 3).

Dated: June 7, 2019

Respectfully submitted,

DLA PIPER LLP (US)

By: /s/ Ilana H. Eisenstein

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⁷ Counterclaim Plaintiff Safehouse incorporates its Counterclaims and Third-Party Complaint by reference and without waiver to the right to file a consolidated Answer and Counterclaim in a single pleading, if instructed to do so by the Court.

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*Attorneys for Defendant and Counterclaim Plaintiff
Safehouse and Defendant Jose Benitez*

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of June, 2019, a copy of the foregoing was filed via the Court's electronic filing system and served upon counsel of record via electronic notification:

/s/ Ilana Eisenstein
Ilana Eisenstein

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	No. 19-0519
	:	
SAFEHOUSE, a Pennsylvania nonprofit	:	
Corporation;	:	
JOSE BENITEZ, as President and	:	
Treasurer of Safehouse,	:	
Defendants.	:	

SAFEHOUSE, a Pennsylvania nonprofit	:
Corporation,	:
Counterclaim Plaintiff,	:
	:
v.	:
	:
UNITED STATES OF AMERICA,	:
Counterclaim Defendant,	:
	:
and	:
	:
U.S. DEPARTMENT OF JUSTICE;	:
WILLIAM P. BARR, in his official capacity	:
as Attorney General of the United States;	:
and WILLIAM M. McSWAIN, in his official	:
capacity as U.S. Attorney for the Eastern	:
District of Pennsylvania,	:
Third-Party Defendants.	:

McHugh, J.

October 2, 2019

MEMORANDUM

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This is a declaratory judgment action brought by the United States seeking to enjoin the operation of a proposed safe injection site for opioid users in the City of Philadelphia. The Government contends that its operation is unlawful under the Controlled Substances Act (CSA). As an initial matter, it is useful to delineate what is not before the Court. The question is not whether safe injection sites are an appropriate means of dealing with the opioid crisis, either as a matter of public policy or a matter of public health. Nor does this Court have jurisdiction to address the concerns raised by residents of the beleaguered neighborhood of Kensington in Philadelphia as to the appropriate location for the operation of such a facility, if it is lawful. It is also helpful to observe that, although both parties globally invoke various aspects of the Controlled Substances Act, a sprawling statute amended many times over many years, this case focuses on a single narrow provision of the Act, 21 U.S.C. § 856(a)(2)—colloquially known as the “Crack House” statute—as the legal basis for the injunction sought by the Government.

This narrowness of focus reflects a fundamental underlying reality, which is that no credible argument can be made that facilities such as safe injection sites were within the contemplation of Congress either when it adopted § 856(a) in 1986, or when it amended the

statute in 2003. And that baseline reality ultimately has substantive significance in determining whether this statute is properly applied to the safe injection site proposed by Safehouse.

Having examined the text and employed a number of tools of statutory construction, I conclude that the provision on which the Government relies is reasonably capable of more than one interpretation. This supports a further conclusion that consideration of the legislative evidence surrounding passage of this provision is appropriate. As discussed below, courts must exercise extreme care in discerning the objective sought by Congress in enacting a statute. That said, having reviewed materials I consider appropriate in discerning what Congress sought to address in enacting § 856(a)(2), there is no support for the view that Congress meant to criminalize projects such as that proposed by Safehouse. Although the language, taken to its broadest extent, can certainly be interpreted to apply to Safehouse's proposed safe injection site, to attribute such meaning to the legislators who adopted the language is illusory. Safe injection sites were not considered by Congress and could not have been, because their use as a possible harm reduction strategy among opioid users had not yet entered public discourse. Particularly in the area of criminal law, it is the province of Congress to determine what is worthy of sanction. A line of authority dating back to Chief Justice John Marshall cautions courts against claiming power that properly rests with the legislative branch.¹ A responsible use of judicial power under those circumstances is to decline to expand the scope of criminal liability under the statute and allow Congress to address the issue.

¹ *United States v. Davis*, 139 S. Ct. 2319, 2333 (2019) (quoting *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76, 95 (1820) (Marshall, C.J.)).

I. The Relevant Factual Background

Safehouse seeks to open an “Overdose Prevention Site,” which will offer a variety of services aimed at preventing the spread of disease, administering medical care, and encouraging drug users to enter treatment. According to Safehouse’s representations about its protocol,² when one arrives at Safehouse, they will first go through a registration process. The participant will provide certain personal information and receive a physical and behavioral health assessment. Safehouse staff will then offer a variety of services, including medication-assisted treatment, medical care, referrals to a variety of other services, and use of medically supervised consumption and observation rooms. There is nothing in the protocol that suggests Safehouse will specifically caution against drug usage.

Participants who choose to use drugs in the medically supervised consumption room will receive sterile consumption equipment as well as fentanyl test strips once they enter the room. At no point will Safehouse staff handle or provide controlled substances. Staff members will supervise participants’ consumption and, if necessary, intervene with medical care, including reversal agents to prevent fatal overdose. Before leaving the room, participants will dispose of used consumption equipment. After participants finish in the medically supervised consumption room, staff will direct them to the medically supervised observation room. Nothing in the Safehouse protocol appears to require that a participant remain in the observation room for a specified period of time. In the observation room, certified peer counselors, as well as recovery

² I base this summary of Safehouse’s proposed operation and protocol only on the facts presented in the pleadings, including Exhibit A to the Government’s Amended Complaint, which is a printout of a previous version of Safehouse’s website. I have disregarded all witness testimony presented at the evidentiary hearing held on August 19, 2019.

specialists, social workers, and case managers will be available to offer services and encourage treatment. The same services will again be offered for the third time at check out.

II. Procedural Posture

After Safehouse announced its plans, the Government engaged in some correspondence with Safehouse's leadership. The parties could not reach agreement, and the United States then initiated this action against Safehouse and its President and Treasurer, Jose Benitez.³ See Pl.'s Compl., ECF No. 1; Pl.'s Am. Compl., ECF No. 35. The Government seeks a declaratory judgment that the medically supervised consumption rooms violate 21 U.S.C. § 856(a)(2). I commend the Government for proceeding in this manner, rather than with criminal prosecution. Defendants answered the Government's Declaratory Judgment Complaint with several affirmative defenses, including an argument that application of the statute to their proposed site would be unconstitutional. Defs.' Answer to Compl., ECF No. 3; Defs.' Answer to Am. Compl., ECF No. 45. Safehouse also brought counterclaims and third-party claims, first seeking a declaratory judgment that its proposed operation will not violate § 856(a) and second seeking a declaratory judgment that the Department of Justice's efforts to enforce the statute, threats to prosecute Safehouse, and litigation against Safehouse violate 42 U.S.C. § 2000bb, the Religious Freedom Restoration Act. *Id.* The Government answered Safehouse's counterclaims and third-party complaint, Pl. & Third-Party Defs.' Answer, ECF No. 46, and then filed a Motion for

³ The Government initially brought the action against Safehouse and Jeannette Bowles, whom it expected to be Safehouse's Executive Director. Pl.'s Compl., ECF No. 1. After it became clear that Jeannette Bowles had severed ties with Safehouse, the parties stipulated to her dismissal, Stipulation of Dismissal, ECF No. 30, and the Government amended its complaint, naming Jose Benitez instead. Pl.'s Am. Compl., ECF No. 35.

Judgment on the Pleadings as to its claim as well as the counterclaims and third-party claims. Pl. & Third-Party Defs.’ Mot. for J. on the Pleadings, ECF No. 47.⁴

After considering the pleadings, the Government’s Motion for Judgment on the Pleadings, Safehouse’s Response, ECF No. 48, and the Government’s Reply, ECF No. 115, I have concluded that 21 U.S.C. § 856(a) does not prohibit Safehouse’s proposed medically supervised consumption rooms because Safehouse does not plan to operate them “for the purpose of” unlawful drug use within the meaning of the statute. Accordingly, I need not consider whether application of the statute to Safehouse’s proposed conduct violates the Commerce Clause. As to the Religious Freedom Restoration Act, Safehouse’s claim that the Government’s effort to enforce 21 U.S.C. § 856(a) violates the Religious Freedom Restoration Act is now moot, as Safehouse sought only prospective injunctive relief. The Government’s Motion will be denied as to its claim for declaratory judgment, as well as Safehouse’s counterclaim for declaratory judgment.

⁴ At the outset of the case, the Government represented that the issue was purely one of law that could be decided on a Motion for Judgment on the Pleadings. Safehouse objected and requested a full trial. I adopted the Government’s view but sought more detail as to the protocol under which Safehouse was to operate. Therefore, I requested an evidentiary hearing on a limited number of issues, with the goal of having the parties amend the pleadings to frame the issues. Safehouse provided a summary of proposed testimony that broadly addressed issues of public policy and public health. I declined to allow it such leeway, and attempted to provide the parties with clear guidance as to the narrow scope of the proposed hearing. The hearing was held on August 19, 2019. Safehouse presented substantial evidence that went well beyond the scope of my guidelines. The Government raised no objection, however, and it became clear during cross-examination that the Government also sought to use the hearing to address a number of public policy and public health issues.

After considering the record, I held a telephone conference on August 23, 2019, and advised both parties that neither had abided by my ground rules for the hearing. I then sought to secure agreement as to nine discrete factual items to be incorporated into the record by agreement. The parties were able to reach agreement on eight of the nine points but had a vigorous dispute as to the ninth. I then ruled that I would consider nothing beyond the pleadings. Ironically, during oral argument, the Government repeatedly invoked portions of the testimony from Mr. Benitez in an attempt to support its arguments. Significantly, however, the Government has not withdrawn its Motion for Judgment on the Pleadings or altered its original position that no further record is necessary. I have therefore proceeded to address the pending Motion for Judgment on the Pleadings without reference to the testimony presented at the evidentiary hearing, as originally requested by the Government.

III. The Controlling Procedural Standard

A Rule 12(c) motion for judgment on the pleadings “is analyzed under the same standards that apply to a Rule 12(b)(6) motion.” *Revell v. Port Auth. of N.Y. & N.J.*, 598 F.3d 128, 134 (3d Cir. 2010). This well-established standard requires that I view the pleadings in the light most favorable to the non-moving party. *Leamer v. Fauver*, 288 F.3d 532, 535 (3d Cir. 2002). “A Rule 12(c) motion should not be granted unless the moving party has established that there is no material issue of fact to resolve, and that it is entitled to judgment in its favor as a matter of law.” *D.E. v. Cent. Dauphin Sch. Dist.*, 765 F.3d 260, 271 (3d Cir. 2014) (internal quotations and citations omitted). I may consider all pleadings in ruling on a motion for judgment on the pleadings. *Id.* (citing to Rule 12(c)).

IV. The Statutory Question

For purposes of this motion, the facts outlined above are undisputed, and the sole question is one of law.

a. The Absence of a Controlling Standard of Statutory Construction

District courts must faithfully apply the law Congress enacts. Binding precedent usually dictates or substantially influences the way in which district courts apply the law. But the Third Circuit has not yet considered the proper construction of 21 U.S.C. § 856(a), and although other courts of appeals have addressed that subsection, no court has yet considered its application to medically supervised consumption sites.⁵

When a district judge must address a novel question of statutory construction, part of the challenge is that “[s]tatutory interpretation does not have a defined set of predictable rules. The

⁵ The Third Circuit has considered the meaning of the word “maintained” under U.S.S.G. § 2D1.1(b)(12) and looked to other circuit courts’ interpretations of the word “maintained” in § 856. *United States v. Carter*, 834 F.3d 259, 262-63 (3d Cir. 2016).

doctrines of the field are not treated as law. They do not have a theorized jurisprudence that legitimates their source, or even indicates what it might be.” Abbe R. Gluck, *Justice Scalia’s Unfinished Business in Statutory Interpretation: Where Textualism’s Formalism Gave Up*, 92 Notre Dame L. Rev. 2053, 2054 (2017). There are instead competing models and schools of thought, and a judge’s choice of methodology carries a risk of dictating the outcome of a case. For that reason, I first address the various methods available, both because I believe transparency is important, and because I am convinced that judges must be conscious of the inherent limitations in all the various methods employed.

The Third Circuit has noted that a court’s “goal when interpreting a statute is to effectuate Congress’s intent.” *S.H. ex rel. Durrell v. Lower Merion School Dist.*, 729 F.3d 248, 257 (3d Cir. 2013) (quoting *Hagans v. Comm’r of Soc. Sec.*, 694 F.3d 287, 295 (3d Cir. 2012)). Stated differently, “[w]hen a court interprets a statute, the court articulates the meaning of the words of the legislative branch.” Robert A. Katzmann, *Judging Statutes* 8 (2014). In this endeavor, the Third Circuit has, as recently as this past August, again emphasized that “words matter” and that interpreters must begin the process of statutory construction by looking to the text. *Pellegrino v. Transp. Sec. Admin.*, 937 F.3d 164, 2019 WL 4125221, at *12 (3d Cir. Aug. 30 2019) (en banc) (Ambro, J.) (majority opinion); *id.* (Krause, J., dissenting). Accordingly, where the meaning of a provision is clear, a court need not look beyond the statutory language.

To determine whether language is unambiguous, the Third Circuit has instructed that one should “read the statute in its ordinary and natural sense.” *In re Phila. Newspapers, LLC*, 599 F.3d 298, 304 (3d Cir. 2010) (quoting *In re Harvard Indus., Inc.*, 568 F.3d 444, 451 (3d Cir. 2009)). “A provision is ambiguous only where the disputed language is ‘reasonably susceptible of different interpretations.’” *Id.* (quoting *Dobrek v. Phelan*, 419 F.3d 259, 264 (3d Cir. 2005)).

In application, however, reliance on the plain meaning of the text is hardly as simple as its proponents contend, as evidenced by cases where both the majority and dissent claim that the language of a statute is clear and unambiguous while reaching opposite results. *See, e.g., Zuni Pub. Sch. Dist. No. 89 v. Dep't of Educ*, 550 U.S. 81 (2007). I find substantial merit to the observation that “[p]lain meaning is a conclusion, not a method.” Victoria Nourse, *Misreading Law, Misreading Democracy* 5, 66, 68-69 (Harvard Univ. Press 2016) (hereinafter Nourse, *Misreading Law*).

Where plain meaning proves elusive or “a statute is unclear on its face,” the Court of Appeals has recently reaffirmed that “good arguments exist that materials making known Congress’s purpose ‘should be respected, lest the integrity of legislation be undermined.’” *Pellegrino*, 2019 WL 4125221 at *11 (quoting Robert A. Katzmann, *Judging Statutes* 4 (2014)). In fact, respecting Congress’s purpose is necessary to preserve both the legislative and judicial roles, and legislative materials often provide helpful insight into what Congress meant to accomplish with a given statute. Among the criticisms leveled at courts’ use of legislative materials is that they are cited selectively and cited indiscriminately without recognition that different sources are entitled to different weight.⁶ Judges must therefore consider legislative materials with an accurate understanding of Congress’s rules and procedures. Katzman, *supra* at 49; Richard A. Posner, *Statutory Interpretation—in the Classroom and in the Courtroom*, 50 U. Chi. L. Rev. 800, 802-05 (1983) (hereinafter Posner, *Statutory Interpretation*).

⁶ Indeed, the Government at oral argument voiced the oft-repeated criticism that using legislative history is like looking over the heads of guests at a cocktail party and choosing one’s friends. *See* Tr. at 12; *Conroy v. Aniskoff*, 507 U.S. 511, 519 (1993). In reality, the same potential problem also pervades the realm of judicial canons of statutory construction, as judges choose which canons to employ, Anita S. Krishnakumar, *Dueling Canons*, 65 Duke L.J. 909 (2016), and the realm of textual analysis, as judges select the specific words on which to focus, Victoria Nourse, *Picking and Choosing the Text: Lessons for Statutory Interpretation from the Philosophy of Language*, 60 Fla. L. Rev. 1409 (2017). Whatever tools judges employ, it must be with an awareness of their limitations.

Recently, Georgetown Law Professor Victoria Nourse⁷ articulated five guiding principles to facilitate a disciplined, objective use of legislative history—which she prefers to call “legislative evidence”—in statutory interpretation. Nourse, *Misreading Law*, *supra* at 68-69; *see also* Victoria Nourse, *A Decision Theory of Statutory Interpretation: Legislative History by the Rules*, 122 Yale L.J. 70 (2012). First, she observes that “Statutes Are Elections.” By that she means that the legislature makes choices, and one side prevails. Accordingly, statements of a law’s opponents should never be cited for the authoritative meaning of the law, much in the way that a dissenting opinion would not be cited as authority without explanation. Nourse, *Misreading Law*, *supra* at 68. Nourse’s second principle emphasizes the sequential nature of how laws develop. Just as subsequent appellate decisions trump trial court decisions, later text or legislative evidence can trump earlier legislative evidence. *Id.* at 69. One should therefore read legislative history in reverse, beginning with the last point in the decision-making process related to the text at issue. *Id.* at 79-80. The third principle recognizes that Congress’s own rules can provide meaningful interpretive guidance when used as legislative canons. *Id.* at 85-88. Nourse’s fourth principle rejects the view that any particular “type” of legislative history will always be the most reliable. Any type of legislative history may mislead the interpreter absent an understanding of the realities of legislative conflict, sequence, and congressional rules. *Id.* at 88-90. Finally, the fifth principle recognizes that Congress operates with different institutional expectations and incentives than the courts, which may cause courts to misunderstand the

⁷ I am indebted to Judge Michael Boudin, of the First Circuit, for first acquainting me with Professor Nourse’s work. I note as well that he has cited her scholarship in his own opinions. *See, e.g., United States v. Acosta-Joaquin*, 894 F.3d 60, 63 (1st Cir. 2018) (citing Victoria Nourse, *Misreading Law*, *Misreading Democracy* (Harvard Univ. Press 2016)).

significance of certain congressional language. *Id.* at 91-94. To the extent that I consider legislative context, it is with these principles in mind.

Necessarily, statutory construction also requires consideration of the “canons” of construction given new life by the late Justice Scalia, and now widely used. *See* Antonin Scalia & Bryan Garner, *Reading Law: The Interpretation of Legal Texts* (2012). Indeed, a critical case relied upon by the Government based its holding on the application of a canon. *See United States v. Chen*, 913 F.2d 183 (5th Cir. 1991). But like legislative evidence, judicial canons need to be employed with an awareness of their limitations. *See, e.g.*, Katzmann, *supra* at 51-53; Posner, *Statutory Interpretation*, *supra* at 805-17. Two criticisms in particular resonate with me. First, many canons are premised on unrealistic assumptions about how Congress creates law. Katzmann, *supra* at 52-53; Abbe R. Gluck & Lisa Schultz Bressman, *Statutory Interpretation from the Inside—An Empirical Study of Congressional Drafting, Delegation and the Canons: Part I*, 65 *Stan. L. Rev.* 901 (2013); Posner, *Statutory Interpretation*, *supra* at 806. Second, the manipulability of canons carries the potential for judges to rewrite statutes based on personal preferences under the guise of adherence to objective rules. Nourse, *Misreading Law*, *supra* at 105-06; Posner, *Statutory Interpretation*, *supra* at 816 (“Vacuous and inconsistent as they mostly are, the canons do not constrain judicial decision making but they do enable a judge to create the appearance that his decisions are constrained.”). Canons’ prevalence in the case law requires their consideration, but with the same caution that accompanies use of the legislative record.

The challenge of statutory construction is such that fidelity to method must often yield to the need to answer a specific, complex question. For example, textualists are fond of praising Justice Frankfurter’s admonition to “(1) Read the statute; (2) read the statute; (3) read the statute!” Judge Henry J. Friendly, *Mr. Justice Frankfurter and the Reading of Statutes*, in

Benchmarks, 196, 202 (1967). But Justice Frankfurter more broadly recognized that “there is no table of logarithms for statutory construction. No item of evidence has a fixed or even average weight. One or another may be decisive in one set of circumstances, while of little value elsewhere.” Felix Frankfurter, *Some Reflections on the Reading of Statutes*, 47 *Colum. L. Rev.* 527, 543 (1947), in *Judges on Judging: Views from the Bench* 221, 229 (David M. O’Brien ed., 1997). In practice, therefore, most judges do not subscribe to purely one method. Katzman, *supra* at 55; Abbe R. Gluck & Richard A. Posner, *Statutory Interpretation on the Bench: A Survey of Forty-Two Judges on the Federal Courts of Appeals*, 13 *Harv. L. Rev.* 1298, 1313-14 (2018); *see also* Morell E. Mullins, Sr., *Tools, Not Rules: The Heuristic Nature of Statutory Interpretation*, 30 *J. Legis.* 1 (2003). Instead, they draw upon multiple tools with the goal being to interpret the statute in question “in a way that is faithful to its meaning.” Katzmann, *supra* at 29. Although both parties to this case claim the statute is clear, to resolve the question here requires the use of multiple tools as well.

I employ these tools of statutory construction to illuminate the statute’s ordinary meaning. I take a statute’s “ordinary meaning” to refer to the meaning consistent with the undisputed, prototypical examples of circumstances in which the statute applies—those to which legislators and members of the public would have expected the statute to apply at the time of enactment. *See* Lawrence Solan, *The New Textualists’ New Text*, 38 *Loy. L.A. L. Rev.* 2027, 2040-42, 2044 (2005). Expressing a preference for a statute’s ordinary meaning is not to say that the statute *only* applies to those examples. But just as courts should not interpret the law in a way that excludes the ordinary examples to which it undisputedly applies, courts should hesitate to extend a statute far beyond its ordinary meaning.

Such principles reflect appropriate respect for the role of Congress. Justice Gorsuch, writing for a majority of the Court, observed that “Congress alone has the institutional competence, democratic legitimacy, and (most importantly) constitutional authority to revise statutes in light of new social problems and preferences. Until it exercises that power, the people may rely on the original meaning of the written law.” *Wisconsin Cent. Ltd. v. United States*, 138 S. Ct. 2067, 2074 (2018). Absent binding precedent or some compelling rationale, courts should hesitate to expand the reach of a statute—particularly a criminal statute—far beyond the ordinary meaning conceived of at the time of enactment.

b. Interpretation of 21 U.S.C. § 856(a)

The sole question in this case is one of statutory construction. Specifically, the Court is tasked with construing 21 U.S.C. § 856(a), the most relevant portion of which makes it unlawful for any person to “manage or control any place . . . and knowingly and intentionally . . . make available for use, with or without compensation, the place for the purpose of unlawfully . . . using a controlled substance.” § 856(a)(2). I must then determine whether Safehouse’s planned activity, specifically the operation of the consumption room, falls within the scope of the statute’s criminal prohibition.⁸

Section 856(a) was enacted in 1986 as part of the Anti-Drug Abuse Act and subsequently amended in 2003 as part of the PROTECT Act. The full text reads:

Except as authorized by this subchapter, it shall be unlawful to--

- (1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;

⁸ Neither party disputes that the other aspects of Safehouse’s operation—providing sterile consumption equipment, naloxone, respiratory support, medical care, and addiction treatment referrals—do not violate the CSA. *See* Pl.’s Reply at 10. In fact, the Government conceded at oral argument that even mobile vans parked near public places to provide the same services offered inside Safehouse would not violate the statute. Tr. at 38.

- (2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

Some aspects of the statute's application to these facts are clear. Safehouse will manage or control a place and make that place available to participants. Safehouse participants undisputedly will use drugs on Safehouse's property. The remaining question is whether Safehouse will knowingly and intentionally make its property available "for the *purpose* of unlawfully . . . using drugs" within the meaning of the statute. In the parties' view, this is a simple question. I disagree.

The impetus for § 856(a) initially was a concern about crack houses, and a similar concern about drug-fueled raves motivated the 2003 amendment. The question is how far beyond those undisputedly covered activities the statute reaches. While I agree that, taking each of the statute's words literally, it might be possible to read § 856(a) to apply to Safehouse, I am not convinced that a plain or ordinary reading of the statute allows that application.

The Government argues that (a)(2) prohibits Safehouse's medically supervised consumption rooms because the purpose requirement there applies to the third party using the property, not the actor charged with violating the statute. That is, in the Government's view, only the third party must act "for the purpose of unlawfully . . . using drugs." The Government further contends that, even if the relevant purpose under the statute is that of Safehouse, Safehouse is necessarily acting for the purpose of unlawful drug use. Safehouse disagrees, arguing that the relevant purpose is the purpose for which the property itself is used and contending that its site is not "for the purpose of unlawfully . . . using drugs." Safehouse also

asserts that § 856(a) does not prohibit safe consumption rooms because the CSA authorizes their operation and because the statute does not define “unlawfully . . . using.”

I reject Safehouse’s latter two arguments for reasons explained more fully below. With respect to the purpose requirement, I conclude that the relevant purpose is that of the *actor*, not the third party or the property. However, “for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance” remains ambiguous, susceptible to multiple interpretations. Consistent with the common understanding of purpose to refer to one’s end or goal, along with the statutory scheme and legislative context, I interpret that provision to require that the actor have a significant, but not sole, purpose to facilitate drug activity. Because Safehouse does not plan to make its facility available “for the purpose of” facilitating unlawful drug use, I ultimately conclude that § 856(a) does not criminalize Safehouse’s proposed conduct.

i. Authorization

Safehouse contends that its proposed conduct is “authorized by” the Controlled Substances Act (CSA) and therefore falls within the “[e]xcept as authorized by this subchapter” exemption of § 856(a). According to Safehouse, this follows not from any express authorization, but from the fact that medically supervised consumption sites constitute a legitimate medical practice “which the CSA does not regulate and Section 856 does not prohibit.” Defs.’ Resp. to Pl.’s Mot. J. on the Pleadings at 28, ECF No. 48 (hereinafter Safehouse Response). As a logical matter, Safehouse advances an argument that is both simplistic and circular: because the proposed conduct is not prohibited or regulated by the CSA, it is therefore necessarily authorized by the statute and excluded from the reach of § 856 of the CSA. I reject the premise that Congress’s failure to prohibit activity constitutes an affirmative authorization. Rather, I am confident that the statute neither expressly prohibits nor authorizes the sites for the same reason—the legislature simply never contemplated them when enacting the law. Granted, if

§ 856 does not prohibit Safehouse’s medically supervised consumption sites—a matter explored further below—additional express authorization would of course be unnecessary. That may make the sites “authorized” in the colloquial sense that they are not illegal, but it does not render them “authorized by this subchapter” within the meaning of the statute.

Safehouse relies heavily on *Gonzales v. Oregon*, 546 U.S. 243 (2006), in support of its contention that the Controlled Substances Act allows for safe consumption sites. *See* Safehouse Response at 30; Transcript of Oral Argument, ECF No. 131, at 49-50. Specifically, Safehouse contends that its medically supervised consumption rooms are authorized because the Attorney General lacks the power to “promulgate rules ‘based on his view of legitimate medical practice’” and the CSA does not regulate the legitimate practice of medicine. Safehouse Response at 30 (quoting *Gonzales*, 546 U.S. at 260, 270). *Gonzales* involved a federal challenge to an Oregon statute, passed through a voter ballot initiative, allowing physicians to assist with suicide. 546 U.S. at 250. The statute in question established a detailed protocol for physicians to follow under the supervision of the Oregon Department of Human Services. Or. Rev. Stat. § 127.800 *et seq.* (2003). The Attorney General of the United States later published an “Interpretative Rule” that physician-assisted suicide was not a legitimate medical purpose, with the result that prescribing, dispensing, or administering drugs to facilitate it could be deemed a violation of federal law and lead to the suspension or revocation of a physician’s registration under the CSA. 546 U.S. at 254.

Although the Supreme Court ruled against the Government, *Gonzales* does not control on the facts of the current case for several reasons. As a preliminary matter, the proposed activities of Safehouse here are not analogous to the detailed state-regulated scheme at issue in *Gonzales*. Safe injection sites are recognized as a legitimate harm reduction strategy among some public

health experts and recognized medical authorities such as the American Medical Association, *see* Defs.’ Answer at 31, but as Safehouse concedes, no state medical board has issued standards governing their operation. Tr. at 52. It is clear that the Supreme Court in *Gonzales* was also concerned with issues of federalism, which are not present in a case where the conduct in question is not formally endorsed by any state or local governmental entity.⁹ *See* 546 U.S. at 270.

Furthermore, an important concern of the Court in *Gonzales* was the Attorney General exceeding the bounds of his authority by interpreting a specific regulation governing the issuance of prescriptions by physicians. 546 U.S. at 266 (interpreting 21 C.F.R. § 1306.04). Similar concerns do not exist here where the Government seeks no more than direct enforcement of the statute.

Finally, as to Safehouse’s argument that because “Congress does not regulate the legitimate practice of medicine” under *Gonzales*, the CSA does not prohibit safe consumption sites, Tr. at 49, I again find the facts of this case distinguishable. Although medication-assisted treatment, which requires the involvement of a physician, is part of the Safehouse protocol, medical practitioners are not directing that participants make use of safe consumption rooms as part of any formal course of treatment. Even if they were, *Gonzales* cannot be read so broadly as to exempt all legitimate medical practices from all provisions of the CSA. *Gonzales* may shed some light on the proper interpretation of the statute—a matter I address further below—but it does not by itself prohibit a criminal prosecution simply because the conduct in question is related to medical practice.¹⁰

⁹ I do not recognize the support of individual public officials as the formal support of a governmental entity.

¹⁰ Safehouse also cites several cases for the proposition that, to convict a practitioner, the Government must prove the practitioner acted outside the course of professional practice and without a legitimate medical purpose. But the

ii. Meaning of “unlawfully . . . using”

Safehouse also suggests that, because the statute does not offer a technical definition of “unlawfully . . . using,” the meaning of that phrase is indecipherable, and § 856 cannot apply where the drug activity in question is consumption or use. With this argument, Safehouse advocates a problematic isolationist approach to statutory interpretation that can lead courts to conclusions far from the legislature’s meaning. I decline to isolate “using” and read that term out of the text when the statutory and legislative context easily clarify the meaning of “unlawfully . . . using.” Although the CSA does not criminalize “use” alone, the statute criminalizes possession, which, as the Government points out, is a necessary predicate to use.¹¹ By definition, a person cannot lawfully use or consume¹² a substance that the person cannot even lawfully possess. In the context of the statute, a reader can fairly understand “unlawfully . . . using” to refer to use of a substance the person cannot lawfully possess. This view is consistent with the legislative evidence, which refers to “using illegal drugs.” *See* Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 108-66, 108th Cong., 1st Sess. 49, at 68 (2003) (hereinafter Joint Explanatory Statement).¹³ In a case where the illegality of the

cases cited exclusively concern distribution under 21 U.S.C. § 841(a) and its implementing regulation concerning prescriptions, 21 C.F.R. § 1306.04. These cases might be relevant if the Government were accusing Safehouse of distributing medication, but they offer no insight into the question about § 856(a)(2)’s applicability to the facts at hand.

¹¹ The hypothetical used by Safehouse to advance its position at oral argument—one who unlawfully consumes a prescription they initially lawfully possessed for another, Tr. at 55, simply has no relevance to the issues here.

¹² Neither party seems to dispute that the term “using” unambiguously refers to consumption in this context.

¹³ The joint explanatory statement to a conference report offers explanations of how conferees resolved disputes between the House and Senate versions of a bill or why any new language was added to the final bill text, which is embodied in the conference report. *See* Nourse, *Misreading Law*, *supra* at 80; Christopher M. Davis, *Conference Reports and Joint Explanatory Statements*, Congressional Research Service (2015). The statements are therefore helpful and proximate evidence of the meaning of text, particularly text added or modified in conference committees.

controlled substances involved is undisputed, the use of the term “unlawfully using” is not ambiguous. The question remains whether Safehouse plans to knowingly and intentionally make a place available for the purpose of unlawfully using drugs.

iii. To whose purpose (a)(2) refers

With respect to the purpose requirement, the first dispute concerns *whose* purpose is at issue. The text of (a)(2) requires that the actor charged with violating the statute “knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.” 21 U.S.C. § 856(a)(2). The Government contends that the actor in (a)(2) simply needs to have knowingly made a place available to *others who have the purpose* of engaging in drug activity. Pl. & Third-Party Defs.’ Mot. for J. on the Pleadings at 9. Safehouse argues that the relevant purpose is that of the place itself. I reject both constructions and conclude that the statute requires that the *actor* have acted for the proscribed purpose.

A natural reading of the text indicates that, for a person to knowingly and intentionally make a place available for use for the purpose of unlawful drug activity, *that person*—the actor—must make the place available with the proscribed purpose. Section 856(a)(2) applies only when a person knowingly and intentionally makes a place available for use or rents the place “for the purpose of” unlawful drug activity, not when he knowingly makes it available for use or rents it to others who have the purpose of engaging in drug activity. In the most natural reading of the sentence, the “for the purpose of” clause refers to the mental state of the actor.

The context of the whole statute supports this reading. Sections 856(a)(1) and (a)(2) both contain the requirement that one engage in the prohibited conduct “for the purpose of” drug activity. No party—and no court, for that matter—disputes that the actor in (a)(1) must act “for the purpose of” drug activity. The same requirement exists in (a)(2) structured in precisely the

same way. Both provisions have the same subject, identified in § 856(b) as “any person.” Both further identify a knowledge requirement—“knowingly” or “knowingly and intentionally”—followed by a set of verbs and a direct object—“place”—and conclude with the “for the purpose of” clause. In both provisions, the purpose requirement applies to the person who acts knowingly—an elaboration of the requisite mental state. The text suggests no reason to read the requirement differently in (a)(2) than in (a)(1).¹⁴

The substantive difference between the two provisions, as the Government agrees, Tr. at 9, and as many courts have recognized, is that (a)(1) targets actors who themselves use or maintain the place in question to engage in drug activity, whereas (a)(2) encompasses actors who manage or control a space and then make the place available *to others* who engage in drug activity. The legislative context confirms as much. Joint Explanatory Statement at 68 (explaining that the 2003 amendment to § 856 aimed to make “clear that anyone who knowingly and intentionally uses their property, or allows another person to use their property, for the purpose of distributing or manufacturing or using illegal drugs will be held accountable”). But that distinction does not mean that in (a)(2) the actor need not have the proscribed purpose. One can still make a place available to others for the purpose of those people manufacturing, distributing, or using illicit substances there.¹⁵ Reading § 856(a) naturally, the purpose

¹⁴ The Government at oral argument made much of the fact that (a)(2) begins with “manage and control” as opposed to “knowingly open” in (a)(1) and that “knowingly and intentionally” appears later in (a)(2). Tr. at 24-27. But the introductory clause in (a)(2) simply adds that one must first “manage and control” the place *and then* “knowingly and intentionally” make it available for use for the purpose of drug activity. Although “knowingly and intentionally” appears later in (a)(2), it precedes several verbs and the “for the purpose of” clause, just as in (a)(1). Moreover, the verbs in (a)(1) and (a)(2) share the same subject—“any person,” as indicated in § 856(b). At no point has the Government presented a compelling textual reason why the structure of (a)(2) dictates that the purpose requirement must refer to the purpose of the third party.

¹⁵ At oral argument, the Government referred to this reading of the statute as “nonsensical and self-defeating” because it would allow “a stone-cold crack dealer” to claim a benign purpose of making money to support his family. Tr. at 19. That argument erroneously merges two distinct issues. *Whose* purpose is at issue is a distinct question from whether the proscribed purpose must be the sole purpose. I address the latter question below and conclude that the proscribed purpose may be one of multiple purposes for which the actor makes the space available.

requirement applies to the actor in both (a)(1) and (a)(2) on its face, and absent evidence that it should apply differently in each, I decline to assign (a)(2) a lower mental state than its text requires.

Legislative evidence confirms that the purpose requirement applies to the actor in both provisions. When Congress most recently considered § 856, in 2003, it amended the statute, including (a)(2).¹⁶ The amendment to § 856, originally introduced as the Illicit Drug Anti-Proliferation Act, was added to the PROTECT Act in the Conference Committee, an Act aimed at preventing child abuse and facilitating prosecution of crimes against children. Then-Senator Joseph Biden sponsored the Illicit Drug Anti-Proliferation Act and was a conferee at the Conference Committee on the PROTECT Act.¹⁷ His remarks during the subsequent debate on the Conference Report offer strong evidence that § 856’s meaning requires the actor or defendant to act with the purpose of drug use. The remarks were made just prior to Congress’s collective decision to agree to the Conference Report, which represented the final decision about the text at issue. Because these comments were made by a sponsor of the original bill containing the amendment, who was also a conferee to the Conference Committee, they carry weight as

Because one of the primary purposes of the “stone-cold crack dealer” is undoubtedly facilitating drug use, his purpose of facilitating drug activity would assure he did not “get off scot free,” as the Government laments. *See id.* at 19, 20. Moreover, the Government’s hypothetical profoundly underestimates the capacity of federal judges to avoid being duped by criminal defendants engaging in wordplay.

¹⁶ Although the “for the purpose of” language was also in the original version of § 856, the legislative evidence from 2003 carries no less weight simply because the language was not entirely new in 2003. Congress revisited the language in question in 2003 and decided to enact the modified provision with the “for the purpose of” language. The context surrounding that decision constitutes evidence of the most recent legislative decision about the relevant text and can therefore shed light on its meaning. *See Nourse, Misreading Law*, at 69, 80.

¹⁷ In the Senate, a conferee is also called a “manager” and is appointed to serve on a conference committee, typically from the committee or committees that reported the legislation. Conferees “are expected to try and uphold the Senate’s position on measures when they negotiate with conferees from the other body” about the text of a bill. *Conferees*, United States Senate Glossary, *available at* https://www.senate.gov/reference/glossary_term/conferees.htm (last visited Oct. 1, 2019).

evidence of the text’s meaning. See Nourse, *Misreading Law*, *supra* at 69. Biden stated explicitly that the actor must make the place available for the purpose of drug activity: “My bill would help in the prosecution of rogue promoters who **not only know** that there is drug use at their event but also **hold the event for the purpose of illegal drug use** or distribution. That is quite a high bar.” 149 Cong. Rec. 9384 (emphasis added). He further commented that “[t]he bill is aimed at the defendant’s predatory behavior,” which points to the requirement of purposeful action on the part of the person accused of violating the statute. 149 Cong. Rec. 9383. Coupled with the text of the statute, the legislative context makes clear that, to be liable under (a)(2), an actor must make the place in question available for the specific purpose of drug activity.

A deeper textual analysis, tested by application of judicial canons, leads to the same conclusion. On the face of (a)(2), “for the purpose of” modifies the preceding verbs (rent, lease, profit from, make available for use), the subject of which is the actor accused of violating the statute.¹⁸ The “grammar canon” therefore supports the view that the purpose applies to the actor, rather than an unspecified third party. See Scalia & Garner, *supra* at 140. The “presumption of consistent usage” likewise encourages this view. That canon holds that, if a phrase has a clear meaning in one portion of a statute, but the meaning is less clear in a related section, courts should presume that the phrase carries the same meaning in both. *Id.* at 170; see *Si Min Cen v. Attorney General*, 825 F.3d 177, 193 (3d Cir. 2016). Though canons must be applied with caution, the presumption of consistent usage carries inherent logical force where, as here, the two provisions in question are part of the same subsection, were enacted together, and use the phrase

¹⁸ Safehouse asks the Court to read “for the purpose of” to modify the place itself rather than any person’s action with respect to the place. As a technical matter, I read “for the purpose of” to modify the verbs, rather than the direct object. One *acts* for a purpose; a place does not carry an inherent purpose separate from a person’s intentions for its use. Because any “purpose” of a place is simply the purpose a person or group has given it, there is little meaningful difference between referring to the purpose of a place and the purpose of the actor controlling it.

in the same way. In that regard, the presumption of consistent usage canon is one that directs the court to focus on how *Congress* used terms within the structure of a statute, reducing the risk of judges importing a meaning of their own. “For the purpose of” in (a)(1) clearly and undisputedly refers to the purpose of the actor accused of violating the provision. Although the implication in (a)(2) that third parties will use the place in question may make the purpose clause there less clear to some readers than in (a)(1), courts should presume—absent context indicating otherwise¹⁹—that the clause carries the same meaning. That is, courts should presume that (a)(2) requires that the *actor* act “for the purpose of” drug activity.

The inclusion of “and intentionally” in (a)(2) further emphasizes that the actor allowing others to use the property must do so “for the purpose of” drug activity. Unlike (a)(1), which requires only that the defendant act “knowingly,” (a)(2) requires that the defendant have “knowingly *and intentionally*” made the place available for the proscribed purpose—expressly requiring not only knowledge of the drug-related circumstances but the intention that the proscribed purpose occur. The Government concedes that the combination of “knowingly” and “for the purpose of” in (a)(1) unambiguously requires that the actor “open” or “maintain” the

¹⁹ The close reader may notice that the terms “rent” and “lease” also appear in both provisions, but context clarifies that these terms carry different meanings in (a)(1) and (a)(2). In (a)(2), the indication that the actor must “manage or control” the property as an owner or lessee *and then* rent, lease, or make it available, clarifies that “rent” and “lease” in that provision refer to renting and leasing a space to others. In (a)(1), the same words refer to renting and leasing a space for one’s own use. The legislative context reinforces this interpretation. When Congress added these terms to the statute in 2003, it did not change the primary distinction between (a)(1) and (a)(2)—that the former applies to use of one’s own property and the latter to making a property one controls available to others. *See* Joint Explanatory Statement at 68; 149 Cong. Rec. 1849 (Statement of Senator Grassley at introduction of the Illicit Drug Anti-Proliferation Act that the bill was “an important step, but a careful one”). Construing “rent” and “lease” to mean the same thing in both would run counter to the meaning the legislature gave the two sections. Proponents of the “Latin canons” will also note that the *noscitur a sociis* canon, which holds that interpreters should give related meanings to words in a list, requires this interpretation. *See* Scalia & Garner, *supra* at 195. In (a)(1), “rent” and “lease” take on meanings related to “open,” “use,” and “maintain,” and in (a)(2), their meaning must relate to “profit from” and “make available for use,” both of which imply a third party using the property. Nothing in the text counters the presumption that “for the purpose of” has consistent meaning in both provisions. In fact, both the statutory and legislative context confirm that “for the purpose of” applies to the actor in both.

place in question “for the purpose of” drug activity. The addition of “intentionally” to that combination cannot possibly signal a change in the purpose requirement from (a)(1)—particularly not a change that would *lower* the requisite mental state for an (a)(2) violation. Congress’s addition of the term “intentionally” resolves any doubt over whether the actor must act with the proscribed purpose of fostering drug activity under (a)(2).²⁰

The Government would have me read a combination of “knowingly,” “intentionally,” and “for the purpose of” to require mere knowledge of an unidentified third party’s purpose. Its requested interpretation would require judicial editing of the statutory text, ignore a critical term, read (a)(1) and (a)(2) inconsistently, and lower the requisite mental state of (a)(2) in a manner that directly contradicts the legislative context surrounding the provision. I am compelled to reject the Government’s view of whose purpose (a)(2) concerns and accept the interpretation that, as in (a)(1), the purpose requirement applies to the actor charged with violating the statute.

The Government correctly points out that more than one circuit court has adopted the interpretation the Government advocates. But these circuit courts do not include the Third Circuit, and upon closer review, all of those decisions rest upon *United States v. Chen*, 913 F.2d 183 (5th Cir. 1991), adopting its conclusion without critical analysis. This is not said as a criticism of those other circuits; the cases before them did not require rigorous analysis of *Chen*. This case does, and though it may seem presumptuous for a lone district judge to look behind so many circuit decisions, the unique facts of this case require me to do so, and judges must not shirk from their responsibility to follow where reason and logic take them.

²⁰ Depending on the context, “intentionally” can mean either “purposely”—having the conscious object to cause a specific result, or “knowingly”—being practically certain that one’s conduct will cause a result. *See* 3d Cir. Model Crim. Jury Instructions § 5.03 cmt. (2018). In this context, it would be redundant to treat “knowingly” and “intentionally” as synonymous when they appear together in (a)(2).

In *Chen*, the Fifth Circuit analyzed the 1986 version of 21 U.S.C. § 856(a) to determine whether the trial court had erred in giving a deliberate ignorance instruction as to the knowledge requirement in both (a)(1) and (a)(2). The *Chen* court concluded that “for the purpose of” in (a)(1) referred to the purpose of the actor charged with violating the statute, making the deliberate ignorance instruction inappropriate, but that in (a)(2) the actor need not have the purpose that drug activity take place. In reaching this conclusion, the Court spent little time analyzing the text of (a)(2). Rather, most of its analysis focused on (a)(1), specifically concluding that, in combination with “knowingly,” “for the purpose of” unambiguously applies to the actor who opens or maintains the place in question—a proposition with which I agree.²¹ I accept the *Chen* court’s conclusion that the actor in (a)(1) must act for the purpose of drug activity. But I see no reason why the court’s reasoning should not extend to (a)(2).

Rather than analyze (a)(2) as it did (a)(1), however, the *Chen* court stated in an almost offhand way that reading (a)(1) differently would make it superfluous in relation to (a)(2). This conclusion was, according to the Court, simply “[b]ased on [its] reading” of (a)(2)—a reading that involved little to no analysis of the text. *Chen*, 913 F.2d at 190. Under the Fifth Circuit’s reading, “§ 856(a)(2) is designed to apply to the person who may not have actually opened or maintained the place for the purpose of drug activity, but who has knowingly allowed others to engage in those activities by making the place ‘available for use . . . for the purpose of unlawfully’ engaging in such activity.” *Id.* at 190. Without elaboration, the court then concluded that in (a)(2), “the person who manages or controls the building and then rents to

²¹ In that regard, the Government’s assertion that the *Chen* court found (a)(2) unambiguous is inaccurate. Notably, the court only remarked that the statute was unambiguous in its discussion of (a)(1). *Chen*, 913 F.2d at 190.

others, need not have the express purpose in doing so that drug related activity take place; rather such activity is engaged in by others (*i.e.*, others have the purpose).”

Five concerns lead me to decline to follow *Chen*. First, I cannot read (a)(1) and (a)(2) as redundant. Second, the *Chen* court’s interpretation of (a)(2) is inconsistent with its analysis of (a)(1). Third, the court unnecessarily applied the rule against surplusage to address a redundancy that in my view does not exist, and then violated it by failing to give meaning to the term “intentionally.” Fourth, the court selectively applied statutory canons, invoking the rule against surplusage but violating the presumption of consistent usage by giving “purpose” one meaning in (a)(1) but a different meaning in (a)(2). Fifth, legislative evidence directly refutes the Fifth Circuit’s construction of the statute.

First, the baseline premise of *Chen*, that (a)(1) and (a)(2) overlap, is not one I can accept. Read naturally, (a)(1) addresses circumstances where the actor uses their property for their own unlawful drug activity, whereas (a)(2) addresses circumstances where the actor makes the property available to others for the purpose of those individuals engaging in unlawful drug activity. As I have described above, a violation of (a)(1) requires that “any person” “knowingly open, lease, rent, use, or maintain any place . . . for the purpose of” drug activity. §§ 856(a)(1), (b).²² Section (a)(2) then makes it unlawful for “any person” to “manage or control any place,” in one of a variety of capacities, “and knowingly and intentionally . . . make available for use, with or without compensation, the place for the purpose of” unlawful drug activity. §§ 856(a)(2), (b). I find it clear from the face of subsection (a) that (a)(1) and (a)(2) are different: (a)(1) refers to one’s use of their property for their own drug activity, and (a)(2) refers to one

²² Section 856(b) delineates the criminal penalties for “[a]ny person who violates subsection (a).” “Any person” therefore can be fairly understood as the subject associated with the verbs in subsection (a).

making property available for the purpose of others engaging in drug activity. I do not see the redundancy that concerned the *Chen* court.

Second, as to the inconsistency between the court’s interpretation of (a)(2) and its analysis of (a)(1), the court offered no textual reason why the terms “for the purpose of” should apply to a different person in (a)(2) than (a)(1). In its analysis of (a)(1), the court emphasized that the combination of “knowingly” and “for the purpose of” clearly signified that the relevant purpose was that of the actor—the person controlling the property. To hold otherwise would “twist the clear and plain language of the statute.” *Id.* at 190. In support of that conclusion, the court noted that, in sixteen other federal statutes combining the terms “knowingly” and “for the purpose of,” the purpose clearly referred to that of the actor. *Id.* at 190 n.9. The problem with this analysis is that the *same* combination of “knowingly” and “for the purpose of” appears in (a)(2), *reinforced* by the addition of the term “intentionally.” Yet the court offered no explanation why its reasoning as to whose purpose matters in (a)(1) should not apply equally if not with greater force in (a)(2).²³

Third, the court unnecessarily altered the meaning of the statute. As discussed above, the court did not need to change the purpose requirement to retain the key distinction that (a)(2) involves *others* engaging in drug activity. It reached that result applying a statutory canon, the rule that “a statute should be construed so that each of its provisions is given its full effect,” *id.* at 190 (citation omitted), also known as the rule against surplusage. Ironically, that same cannon

²³ One portion of the court’s opinion even seemed to contradict this conclusion. The court initially noted that “[t]he government agrees both that the offense requires two mental elements—knowledge and purpose—and that the jury had to find that Chen maintained (§ 856(a)(1)) or operated (§ 856(a)(2)) the motel with the *specific purpose* of unlawfully using, storing, or distributing a controlled substance, and not merely that she ‘operated a motel where drug activity was rampant.’” *Chen*, 913 F.2d at 188. Although the *Chen* court seemed to accept the Government’s concession that *the actor* must have the specific purpose of drug activity under both paragraphs, the court then inexplicably interpreted the purpose requirement as pertaining to a third party.

requires that *every* word in a statute be given meaning when possible. *See Bastardo-Vale v. Attorney General*, 934 F.3d 255, 261-62 (3d Cir. 2019) (en banc) (Schwartz, J.) (majority opinion); *id.* at 271-72 (McKee, J., dissenting); Scalia & Garner, *supra* at 174-79. Yet the *Chen* court read “intentionally” out of the statute.²⁴ Earlier in its opinion, the *Chen* court noted that “intention” is a synonym for purpose, *id.* at 189, and quoted the trial court jury instruction stating that “[a]n act is done ‘willfully’ or ‘intentionally’ if done voluntarily and purposely with the intent to do something the law forbids.” *Id.* at 187.²⁵ Yet the court failed to examine the implication of the inclusion of “intentionally” in (a)(2) before concluding that (a)(2) requires a person to act with a significantly lower mental state than (a)(1).

The *Chen* court’s use of the rule against surplusage brings me to my fourth point about the selective application of the canons of construction and underscores one of the risks of their use.²⁶ The rule against surplusage generally presumes that Congress is not redundant. But it applies in different ways. When a court deems two provisions of a statute redundant, it is *the court* who then proceeds to supply meaning by means of inference. Necessarily, there is a risk that the meaning supplied by the court is different from that of Congress. In contrast, when a court invokes the rule for the purpose of giving meaning to every word of a statutory provision,

²⁴ The Government concedes the responsibility of a judge to give meaning to every word in a statute, Tr. at 28, but its briefing, like the *Chen* court, simply ignores the term “intentionally,” and it offered no insight at argument as to how this term should be construed.

²⁵ Confusingly, the trial court’s “knowingly” instruction also said that “[a]n act is done ‘knowingly’ if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason.” *Chen*, 913 F.2d at 187. This is consistent with the Fifth Circuit’s current model instruction for “knowingly.” *See* 5th Cir. Model Crim. Jury Instructions § 1.37 (2015). But, in context, the suggestion that “intentionally” is akin to “voluntarily” conflicts with the court’s immediately preceding suggestion that “intentionally” is a synonym for “willfully,” which requires one act with a specific purpose. *Chen*, 913 F.2d at 187.

²⁶ As indicated above, Judges and academics alike have offered various criticisms of the canons. Katzmann, *supra* at 52-53; Abbe R. Gluck & Lisa Schultz Bressman, *Statutory Interpretation from the Inside—An Empirical Study of Congressional Drafting, Delegation and the Canons: Part I*, 65 Stan. L. Rev. 901 (2013); Nourse, *Misreading Law*, *supra* at 105-06; Posner, *Statutory Interpretation*, *supra* at 806.

the focus is on the actual term employed by Congress, reducing the risk of legislating from the bench. In failing to assign any meaning to the term “intentionally,” but deeming (a)(1) and (a)(2) redundant save for the court’s inferred meaning, *Chen* applied the rule against surplusage selectively.

Moreover, when statutory canons are applied, what is the standard for choosing *which* to apply? See Richard A. Posner, *The Federal Courts: Crisis and Reform* 277 (1985) (“[T]here is no canon for ranking or choosing between canons; the code lacks a key.”) Along with the rule against surplusage, a separate canon is the presumption of consistent usage, which provides that “[a] word or phrase is presumed to bear the same meaning throughout a text.” Scalia & Garner, *supra* at 170. Absent some reason, and I can identify none, the phrase “for the purpose of” should be interpreted consistently, particularly when it appears in contiguous paragraphs of the statute. The same sixteen federal criminal statutes supporting the Fifth Circuit’s construction of (a)(1) would apply equally to (a)(2). Yet the *Chen* court neglected this canon in favor of a selective application of the rule against surplusage, claiming redundancy on the one hand, while simply ignoring the term “intentionally.”²⁷

Finally, as reviewed above, legislative evidence directly contradicts the *Chen* court’s interpretation. The court gave life to the precise interpretation that the sponsor of the 2003 amendment expressly rejected. Then-Senator Biden rejected the concern that the law might allow prosecution of businesses that knew individuals would come onto their property and use drugs. He specifically stated that the provision would allow for prosecution of those who “**not**

²⁷ This graphically illustrates Professor Llewellyn’s classic critique of statutory canons, the observation that for almost every canon, there is a counter-canon. Karl N. Llewellyn, *Remarks on the Theory of Appellate Decision and the Rules or Canons about How Statutes Are to Be Constructed*, 3 Vanderbilt L. Rev. 395, 400 (1949-1950); see also Anita S. Krishnakumar, *Dueling Canons*, 65 Duke L.J. 909 (2016).

only know that there is drug use at their event but also **hold the event for the purpose of illegal drug use** or distribution. That is quite a high bar.” 149 Cong. Rec. at 1847, 9384. Biden further remarked that “[t]he bill provides federal prosecutors the tools needed to combat the manufacture, distribution or use of any controlled substance at any venue **whose purpose is to engage in illegal narcotics activity.**” 149 Cong. Rec. at 9383 (Apr. 10, 2003). These statements make clear that the event-holder or the venue—in practice the venue operator—must have the proscribed purpose.

Biden’s remarks were directed at criticisms that the mental state required to support conviction was too low and would allow prosecution of legitimate businesses for knowingly allowing others to use drugs on their property without some greater involvement in the unlawful conduct. *Id.* Earlier in the debate, Senator Leahy, who ultimately voted for the Act, had voiced concerns about the Government using the existing crack house statute, or any expanded version, to pursue legitimate business owners. 132 Cong. Rec. 9378 (addressing reports of the Government using the statute to prosecute business owners who take precautions against drug use rather than “solely against property owners who have been directly involved in committing drug offenses” and contending that business owners’ worries “about being held personally accountable for the illegal acts of others” warranted a fuller hearing).²⁸ Senator Leahy’s

²⁸ Senator Leahy noted that these concerns were raised in a prior House Judiciary Hearing. The previous Congress’s House Judiciary Committee hearing on the RAVE Act—the prior version of the Illicit Drug Anti-Proliferation Act—is not properly considered as legislative evidence of the meaning of the statute. However, Senator Leahy’s citation to the hearing gives it some relevance. At that hearing, a witness raised concerns about what he considered “a frightening interpretation of the law” expressed in *United States v. Tamez*, 941 F.2d 770 (9th Cir. 1991), a case that relied on *Chen* to conclude that “the person who manages and controls the building and then rents it to another need not have the express purpose in doing so that drug-related activity is engaged in by others.” *Reducing Americans’ Vulnerability to Ecstasy Act of 2002: Hearing Before the Subcomm. on Crime, Terrorism, & Homeland Security of the House Comm. on the Judiciary*, 107th Cong. 56 (2002) (statement of Graham Boyd, Director, Drug Policy Litigation Project, American Civil Liberties Union); *see also id.* at 58 (statement of Boyd noting the Fifth Circuit’s interpretation in *Chen*). This appeared to surprise and confuse some members of Congress. *See id.* at 56-58. Even the representative from the DEA at the hearing said he was unfamiliar with the *Tamez* case but “would be flabbergasted if that was the majority opinion.” *Id.* He proceeded to indicate that the “knowingly” requirement sufficiently protects an innocent owner because it requires one act “purposely and deliberately.” *Id.* at 60. During

comments draw attention to a risk that law enforcement could improperly apply the statute to actors without a purpose of unlawful drug activity. Senator Biden’s subsequent comments then confirm that the statute means to subject to punishment only those who act for the purpose of drug activity, and Senator Leahy supported the conference report that included the amendment. This exchange reinforces the view that only actors who make their space available for the purpose of drug activity were meant to face criminal liability for the activity of others on their property.²⁹

Of course, the *Chen* court—and most of the cases following *Chen* for that matter—did not have the benefit of this 2003 legislative evidence, nor did it look to the 1986 legislative record. That is no reason, however, for this Court to ignore a clear explanation of the meaning of the most recent congressional decision as to the text.³⁰ The legislative evidence demonstrates

comments on the PROTECT Act, Senator Leahy shared the alarm expressed at the House Judiciary Committee hearing in the previous Congress about a *Tamez*-like interpretation allowing the government to criminally prosecute property owners and managers for drug use that occurred on their property even if they did not act for the purpose of permitting drug use.

²⁹ Notably, the only statement arguing that § 856 requires an affirmative effort by business owners to prevent drug use—and implying that they need not act “for the purpose of” unlawful activity to be liable—came from an opponent, Representative Kilpatrick, who voted against the bill, in a statement inserted into the record after debate. 132 Cong. Rec. 9093. To take as authoritative the meaning attributed to a provision after debate by an opponent who voted against the bill would give legal effect to the minority view that lost the debate. Nourse, *Misreading Law*, *supra* at 74; *see also* Parliamentarian of the House Thomas J. Wickham, Jr., *House Practice*, U.S. House of Representatives, 383-84 (2017) (providing that extraneous materials, including extensions of remarks, submitted on the day of a bill’s consideration or later are inserted into the congressional record *after* the general debate on the bill and identified by a distinct typeface), *available at* <http://clerk.house.gov/legislative/legprocess.aspx>.

³⁰ As noted above, Congress revisited the statutory text in 2003 and decided to enact the modified provision, with the original “for the purpose of” language included. The context surrounding that decision constitutes evidence of the most recent legislative decision about the relevant text and sheds light on its meaning. *See* Nourse, *Misreading Law*, *supra* at 69, 80. To the extent one might argue that Congress incorporated *Chen* and related decisions in 2003, the legislative record reveals no evidence that *Chen*’s interpretation of (a)(2) was debated or considered by the 108th Congress prior to the enactment of the PROTECT Act. It is true that courts often employ the so-called prior-construction canon. That canon presumes that Congress, if it adopts language used in an earlier version of the act, must also be considered to have adopted “judicial interpretations [that] have settled the meaning of an existing statutory provision.” *Bragdon v. Abbott*, 524 U.S. 624, 645 (1998); *see also Berardelli v. Allied Servs. Inst. Of Rehab. Med.*, 900 F.3d 104, 117 (3d Cir. 2018). Judicial interpretations are “settled” only if a word or phrase has been authoritatively interpreted by the jurisdiction’s highest court or has been given a uniform interpretation by the lower courts. *See id.* Neither has occurred here. At the time of the 2003 amendment, the Supreme Court had not interpreted the meaning of (a)(2)’s “purpose” clause. Nor had the courts of appeals produced anything close to a

that *Chen* misinterpreted whether the actor in (a)(2) must act for the purpose of drug activity. For this and the four other reasons described above, I decline to follow *Chen*'s interpretation.

The other Circuits that have endorsed *Chen*'s interpretation have largely done so without question, simply citing the rule against surplusage and choosing not to engage in independent analysis of the statute. The first case to address § 856(a)(2) after *Chen* was *United States v. Tamez*, 941 F.2d 770 (9th Cir. 1991). Although faced with an argument from the appellant “that the statute require[d] that he *intend* to use the building for a prohibited purpose under section 856(a)(2),” the *Tamez* court never addressed the implication of the word “intentionally” in the statute. *Id.* at 774. The court rejected the appellant’s argument as to § 856(a)(2) exclusively “on the logic of *Chen*,” finding that, because (a)(1) “applies to purposeful activity,” it follows that “if illegal purpose is . . . a requirement of 856(a)(2), the section would overlap entirely with 856(a)(1).” *Id.* at 774. The Court did not explain why this was so but simply concluded that “§ 856(a)(2) requires only that proscribed activity was present, that [the actor] knew of the activity and allowed that activity to continue.” *Id.* at 774. Inexplicably, the Ninth Circuit noted that § 856(a)(1), which does *not* include the word “intentionally,” “requires purpose or intention” to engage in drug activity, *id.*, without paying heed to the addition of intentionally in (a)(2).

Since *Tamez*, several other circuit courts have reached the same conclusion on the authority of *Chen*, but the facts of the cases before them did not require that they engage in any independent interpretation of the text. *See United States v. Banks*, 987 F.2d 463, 466 (7th Cir. 1993) (accepting *Chen*'s conclusion without question or elaboration); *United States v. Wilson*, 503 F.3d 195, 196-97 (2d Cir. 2007) (relying on *Chen* and *Tamez* to reach the same conclusion

“uniform body of . . . judicial precedent.” *See Bragdon*, 524 U.S. at 645. To be sure, *Chen* (in the Fifth Circuit) and *Tamez* (in the Ninth Circuit) were on the books, but no other court of appeals had sought to interpret (a)(2), and as discussed below, *Tamez* relied exclusively “on the logic of *Chen*.” 941 F.2d at 744.

without elaboration, despite appellant’s argument that § 856(a)(2) required that “she herself intended that the premises would be used for the unlawful purpose”); *United States v. Tebeau*, 713 F.3d 955, 959-61 (8th Cir. 2013) (relying on the aforementioned cases to reach the same conclusion without question or elaboration³¹); *see also United States v. Ramsey*, 406 F.3d 426, 429 (7th Cir. 2005) (relying on *Chen*, *Tamez*, and *Banks* to conclude that deliberate ignorance satisfies the knowledge requirement and approving of removal of the word “intentionally” from jury instructions on § 856(a)(2) because the “‘intentionally’ element can be satisfied by the government proving . . . the defendant intentionally permitted another person to use the property at issue and that the other person used it for an illicit purpose about which the defendant knew”).³² Given the importance of close analysis of the statute on the facts of this case, I cannot simply rely upon other circuits’ uncritical embrace of *Chen* when the cases before them did not require critical reflection on its analysis.

The Government has cited only one Third Circuit case, a non-precedential decision that, ironically, does not support its position. In *United States v. Coles*, 558 F. App’x 173, 181 (3d Cir. 2014), a panel of the Court considered an appeal where a defendant convicted under § 856(a)(2) argued the Government had failed to establish his knowledge of drug activity at an apartment he rented but allowed his cousin to live in. The Court reviewed the record, including evidence that the defendant had coached his cousin to cook crack, and concluded that “the jury was entitled to infer [the defendant] intended that the property be used for manufacturing and

³¹ The Eighth Circuit also cited their own model jury instructions on § 856(a)(2), but those instructions simply relied on the authority of *Chen* and *Banks*. *Tebeau*, 713 F.3d at 961.

³² The Government further cites *United States v. Bilis*, 170 F.3d 88, 92 (1st Cir. 1999), as a case that supports its interpretation of “for the purpose of.” But the First Circuit in that case did not address the “for the purpose of” clause, nor did it discuss the implication of “intentionally.” It simply evaluated whether a willful blindness instruction was appropriate based only on a test recognized in the First Circuit.

storing controlled substances.” *Id.* In short, this panel of the Third Circuit appears to have read the purpose requirement of (a)(2) as I do, referring to the purpose of the actor in control of the property. The Government is certainly correct that this case is not binding, and that non-precedential decisions of our Circuit are not meant to involve the same depth of analysis as precedential decisions. But in a case where ordinary meaning is the question, I give at least some weight to the fact that no ambiguity arose in the minds of these jurists applying the statute to a trial record.³³

Absent any instruction from the Third Circuit to follow *Chen* and its progeny, I cannot do so in good conscience, given my own analysis of § 856(a). For the foregoing reasons, I conclude that the actor charged with violating § 856(a)(2)—in this case Safehouse—must have acted “for the purpose of unlawfully . . . using a controlled substance.” I turn next to the meaning of that phrase.

iv. Meaning of “for the purpose of unlawfully . . . using a controlled substance”

Having determined *who* must act “for the purpose of” unlawful drug activity under (a)(2)—that the actor who manages or controls the place must make it available “for the purpose of unlawfully . . . using a controlled substance”—does not end the inquiry. There remains a question of what it means to make a space available “for the purpose of unlawfully . . . using a controlled substance”—and whether Safehouse is acting for that purpose.³⁴ I begin with the

³³ I have reviewed the briefs from *Coles* and take note that neither side advanced arguments rooted in the text of the statute.

³⁴ Setting aside the dispute resolved in the preceding section about whether the actor must have the purpose in question, the parties seem to accept that the conduct (a)(2) addresses involves making a space available to *others* who use, manufacture, distribute, or store drugs. In contrast, cases brought under § 856(a)(1), at least in this circuit, typically center on drug activity in which the defendant is directly involved. *See, e.g., United States v. Sawyers*, 2019 WL 3816940, at *1 (M.D. Pa. Aug. 14, 2019) (defendant charged under § 856(a)(1) stemming from his “selling drugs from [his residence]”); *United States v. Fuhai Li*, 2019 WL 1126093, at *1 (M.D. Pa. Mar. 12, 2019) (defendant “charged [with] violations of 21 U.S.C. § 856(a)(1)” for “maintaining locations . . . for the purpose of

observation that, by its very nature, the phrase “for the purpose of” can be assigned many different meanings and can operate on multiple levels.

In the Government’s view, Safehouse plans to make safe consumption rooms available for the purpose § 856(a)(2) proscribes. It argues in part that even an ultimately lawful purpose does not suffice to avoid liability if unlawful drug use is required to accomplish that purpose. In that regard, the Government cites a number of cases that can accurately be described as civil disobedience cases. Common among those cases is a defendant deliberately violating a law to achieve some higher moral purpose. *See, e.g., United States v. Romano*, 849 F.2d 812, 816 n.7 (3d Cir. 1988) (defendant broke into naval air station and damaged government property but argued that his conduct was justified because it would save lives). I do not find these cases instructive. Unlike the civil disobedience cases the Government cites, Safehouse does not concede that it is violating § 856(a) or any other law.³⁵ Safehouse has not argued that its ultimate purpose justifies an intermediate purpose of unlawful drug use. Rather, Safehouse argues that it will not unlawfully make a place available “for the purpose of . . . using a controlled substance” as that clause is properly understood under § 856(a)(2).

To determine whether Safehouse is acting with the proscribed purpose, I must examine the scope of the purpose requirement—what it means to act “for the purpose of unlawfully . . . using a controlled substance.” Faced with these differing interpretations, I again begin with the text, and where the text remains unclear, I turn to a variety of contextual sources for guidance as

unlawfully distributing controlled substances”); *United States v. Rice*, 2017 WL 6349372, at *1 (W.D. Pa. Dec. 13, 2017) (defendant charged under § 856(a)(1) stemming from discovery of “grow operation” at defendant’s residence and commercial building used by defendant).

³⁵ Technically, certain defendants in *Romano* asserted they lacked the requisite mens rea or that their actions were “necessary” and, in those ways, did not concede illegality. But there was no dispute whether the defendants broke into the military installation and damaged government property.

to the meaning of “for the purpose of unlawfully . . . using a controlled substance.” I note that even in the course of determining whether the text is clear on its face, the Third Circuit has relied on an array of extra-textual sources. *See, e.g., Pellegrino*, 2019 WL 4125221, at *5-6, *11 (citation omitted) (considering dictionaries, the broader statutory and regulatory scheme, and Fourth Amendment case law to determine the meaning of “execute searches” before concluding that the statutory text was clear). Where the evidence points toward multiple interpretations, an interpretation consistent with the law’s original, ordinary meaning is the most responsible course to take in an effort to avoid unwarranted judicial expansion of the statute.

The text itself does not specify the scope of § 856(a)(2)’s purpose requirement, let alone address the legal status of public health projects that would make property available for drug use to facilitate the administration of treatment. Safehouse knows and intends that some drug use will occur on its property, but it does not necessarily follow that the organization will knowingly and intentionally make the place available *for the purpose of* unlawful drug activity. That is so because, as noted above, the purpose requirement in (a)(2) is susceptible of multiple meanings. The condition that one act “for the purpose of” unlawful drug activity could refer to any purpose (however insignificant), to one’s sole purpose, or to one’s ultimate purpose.

Although I am certain the parties would each claim “plain meaning” on the face of the text, both their interpretations implicitly add some meaning to the language of the statute. The Government argues that “for the purpose of unlawfully . . . using” drugs plainly includes *any* intended allowance of drug use on one’s property, even as part of an effort to administer medical treatment. Safehouse, on the other hand, argues that “for the purpose of unlawfully . . . using” drugs plainly does not extend to a purpose that would allow drug use on-site only to provide life-saving treatment to drug users. Safehouse reads the statute to require a *primary* purpose to

encourage drug use, not just any purpose that involves allowing drug use and certainly not a purpose aimed at stopping drug use.

To determine the scope of the purpose requirement, I must initially examine whether the proscribed purpose must be the primary or principal purpose of the actor, as Safehouse contends, or whether it may be one of multiple purposes, as the Government argues. I next address whether any purpose involving the allowance of drug use satisfies the purpose requirement or whether the purpose requirement must be applied in a more discerning way.

I turn first to whether the proscribed purpose must be the primary purpose of the actor or whether it may be one of many purposes. To answer that question, I consider the dictionary definition of “purpose.” Both the Supreme Court and the Court of Appeals cite to dictionaries as a tool of statutory construction, observing that “[o]rdinarily, a word’s usage accords with its dictionary definition.” *Yates v. United States*, 135 S. Ct. 1074, 1082 (2015); *Pellegrino*, 2019 WL 4125221, at *3. Dictionary definitions offer substantial support to Safehouse’s view, as neither party seems to dispute that, as a definitional matter, “purpose” refers to one’s objective, goal, or end. Safehouse Response at 21; Tr. at 31; *see Purpose*, Merriam-Webster’s Collegiate Dictionary (11th ed. 2003) (“[S]omething set up as an object or end to be attained.”); *Purpose*, Black’s Law Dictionary (7th ed. 1999) (“An objective, goal, or end.”); *Purpose*, Oxford English Dictionary (1986) (“That which one sets before oneself as a thing to be done or attained; the object which one has in view.”).³⁶ Based on this definition, Safehouse insists that the only relevant purpose under § 856(a) is the *primary* or principal purpose, because the term “purpose”

³⁶ The definitions in earlier editions of the same authorities are essentially the same. *Purpose*, Webster’s Deluxe Unabridged Dictionary (2d ed. 1983) (“[T]hat which a person sets before himself as an object to be reached or accomplished; aim; intention; design.”); *Purpose*, Black’s Law Dictionary (5th ed. 1979) (“That which one sets before him to accomplish; an end, intention, or aim, object, plan, project.”).

would ordinarily refer to one’s ultimate objective. If one literally reads the dictionary definitions into the statute—“for the [objective, goal, end] of unlawfully using a controlled substance”—Safehouse’s interpretation would appear to be correct, for the dictionary definitions do in fact consider purpose as referring to one’s ultimate end, goal, or objective, rather than an intermediate step. Those who find dictionaries sufficient to determine the ordinary meaning of statutory language might stop here.³⁷ But it remains conceivable that an intermediate purpose could be relevant under the statute or that one could act with more than one ultimate purpose. I therefore decline to adopt Safehouse’s position merely on the authority of Webster or Black.

Looking beyond the dictionary definitions of “purpose,” I agree with the Government that requiring a *sole* purpose of unlawful drug use would render § 856(a)(2) inapplicable to the undisputed examples of behavior it targets. If the drug-related purpose for which the place was made available had to be the sole purpose of the actor, the statute would fail to reach rave promoters who encourage dancing *and* drugs and crack house operators who live in the house *and* use it as a crack house. Neither party disputes that the statute targets those individuals. The conclusion that the proscribed purpose in § 856(a)(2) need not be the actor’s sole purpose thus reflects the “prototypical” meaning of the statute. *See Solan, supra* at 2040-42, 2044. Multiple

³⁷ In modern practice appellate courts have made extensive use of dictionaries, making it necessary for district courts to employ the same tool. This was not always the case. Learned Hand famously noted:

It is not enough for a judge just to use a dictionary. If he should do no more, he might come out with a result which every sensible man would recognize to be quite the opposite of what was really intended; which would contradict or leave unfulfilled [the statute’s] plain purpose.

Learned Hand, *How Far Is a Judge Free in Rendering a Decision?*, in *The Spirit of Liberty* 103, 106 (Irving Dilliard ed., 1952); *see McBoyle v. United States*, 283 U.S. 25 (1931) (Holmes, J.). As modern scholars increasingly conduct empirical research into how Congress actually operates, there is also reason to question whether the drafters of legislation rely on dictionaries to the same degree as the courts. *See* Abbe R. Gluck & Lisa Schultz Bressman, *Statutory Interpretation from the Inside—An Empirical Study of Congressional Drafting, Delegation, and the Canons: Part I*, 65 *Stan. L. Rev.* 901, 938-939 (2013) (noting that more than fifty percent of legislative staffers either rarely or never consult dictionaries when drafting, and awareness of judicial citation to dictionaries has not changed staff practice.)

courts have reached this conclusion when interpreting § 856(a)(1). *United States v. Gibson*, 55 F.3d 173, 181 (5th Cir. 1995); *United States v. Church*, 970 F.2d 401, 406 (7th Cir. 1992). It follows logically that the proscribed purpose in (a)(2) may also be one of multiple purposes for which the property is made available. That is not to say, however, that any drug-related purpose would satisfy the statute’s purpose requirement. In fact, the Government agreed at oral argument that an incidental purpose would be insufficient. Tr. at 34-35.

I conclude that the proscribed purpose must be a “significant” purpose or “one of the primary” purposes. See *United States v. Soto-Silva*, 129 F.3d 340, 346 n.4 (5th Cir. 1997); *United States v. Verners*, 53 F.3d 291, 296 (10th Cir. 1995) (finding that the purpose must be “at least one of the primary or principal uses to which the house is put”).³⁸ This view is consistent with the proposition which multiple courts of appeals have endorsed that the “‘casual’ drug user does not run afoul of § 856 because he does not maintain his house for the purpose of using drugs but rather for the purpose of residence, the consumption of drugs therein being merely incidental to that purpose.” *United States v. Russell*, 595 F.3d 633, 642-43 (6th Cir. 2010) (citation omitted); see also *United States v. Johnson*, 737 F.3d 444, 449 (6th Cir. 2013); *United States v. Shetler*, 665 F.3d 1150, 1161 (9th Cir. 2011); *Verners*, 53 F.3d at 296; *United States v. Robinson*, 997 F.2d 884, 896 (D.C. Cir. 1993). Although the user maintains and uses the residence and has, at the time of the use, the purpose of unlawfully using drugs—all within the strict language of § 856(a)(1)—courts have found no violation of § 856(a)(1). As a matter of logic, then, it would seem that one who makes a place available to another for a purpose other than drug use does not necessarily violate § 856(a)(2) even if they know some consumption of

³⁸ By finding that the drug-related purpose must be *one of the* significant or primary purposes, I do not endorse Safehouse’s view that the proscribed purpose must be the *singular* primary or principal purpose. This is a subtle, but important distinction.

drugs therein occurs in addition to that other lawful purpose. Although such a limitation has not been expressly articulated in cases considering (a)(2), it is implicit in the analysis of those circuit courts and is reflected in practice by the fact that cases brought under (a)(2) typically have not involved individuals who allowed casual drug use in their homes.³⁹ I therefore accept that there is a limitation on the scope of the purpose requirement in that the proscribed purpose must bear a significant relationship to the conduct that Congress sought to prohibit.

The statutory context supports the view that the purpose must be a significant, not incidental, purpose. Looking to the whole statute, a requirement that the purpose be significant enables the statutory scheme to make sense. The severity of the sentence permitted by § 856(a)(2)—up to 20 years in prison—strongly favors such a conclusion. Those who knowingly and intentionally allow use secondary to another lawful purpose would be subject to a far harsher penalty than opioid users whose possession is undisputedly criminal but who would be subject to at most three years if prosecuted for possession under 21 U.S.C. § 844. Such disparity would be inconsistent with the overall statutory scheme, particularly where courts agree that a user in his own home could not be punished under § 856(a)(1). *See Russell*, 595 F.3d at 642-43. I also find this interpretation consistent with the legislative background’s focus on *predatory* actors rather than casual users or friends of users. *See* 149 Cong. Rec. 9383 (2003). The drug-related purpose in § 856(a)(2) must therefore be a significant purpose, even if not the sole purpose, of the actor.

There is the additional question of whether a purpose of unlawful drug use includes any purpose that involves allowing drug use or only purposes to encourage, promote, or facilitate

³⁹ Indeed, Safehouse represented at oral argument that, since the statute’s inception, the Government has not brought a single § 856(a) case predicated solely on use. Transcript at 58. This is consistent with the Court’s own research.

drug use. Safehouse assumes the latter view, while the Government’s briefing embraces the former. But the Government conceded an important limitation on the scope of the purpose requirement when, at oral argument, it recognized that not every allowance of drug use on one’s property would constitute a purpose of unlawful drug use within the meaning of the statute.

The Government was presented with a hypothetical of parents whose adult child is using drugs, leading the parents to have them move back home. Tr. at 35. The parents then instruct the child to inject drugs there, in the parents’ presence, to allow for resuscitation. *Id.* The United States Attorney responded that (a)(2) would not apply, because it was not the parents’ “purpose for their son, their adult son or adult daughter to be in the home [] to use drugs.” *Id.* As an initial matter, it should be noted that the Government’s response to the hypothetical was inconsistent with its embrace of *Chen*, because it invoked the purpose of the parents as the owners of the property. I do not raise this as a judicial admission, but only to point out that the Government’s instinctive response to a specific factual scenario underscores that (a)(2) is most naturally and logically read as I have analyzed it above, and as a panel of the Third Circuit did in *Coles*. It also illustrates how reading (a)(2) as *Chen* did would lead to an absurd result.

The Government’s answer is further instructive because it admits there are limitations on the scope of (a)(2) that turn on the actor’s purpose vis-à-vis the user. Specifically, the Government replied that, where the actor does not want the drug use to occur or has the goal of “trying to stop that person from using drugs,” the statute does not prohibit their actions. *Id.* at 35. In fairness to the Government, it should be noted that the Court’s hypothetical also included a statement by the parents that they would prefer the child not use drugs, a fact the Government emphasized because the Safehouse protocol does not reflect that participants will be actively

discouraged from use before entering the consumption room.⁴⁰ But that fact's relevance pertains to the statute's specific application to Safehouse, a matter I take up below. I raise the Government's response to the hypothetical at this juncture as I consider the *scope* of the statute's purpose requirement. Its response supports a conclusion that a purpose involving some known and intended drug use may nonetheless fall outside the reach of the statute, at least where the actor aims to stop drug use. In short, both parties agree that there is some limit to the scope of the purpose requirement; I now look to the usual tools of statutory interpretation to define that limit.

Returning to dictionaries, the definition of "purpose" as an objective, goal, end, aim, or intention indicates that a purpose is something one seeks to advance, "something set up as an object or end to be attained." *Purpose*, Merriam-Webster's Collegiate Dictionary (11th ed. 2003); *see also Purpose*, Black's Law Dictionary (7th ed. 1999) (similar); *Purpose*, Oxford English Dictionary (1986) (similar). An action taken "for the purpose of" unlawful drug use would therefore refer to a purpose of facilitating drug use, not an effort to reduce drug use. Again, those who deem dictionary definitions sufficient to determine a statute's ordinary meaning might stop here, but in my view an analysis that ends here would be superficial. I will therefore consider the Government's view that an intermediate purpose of allowing drug use on one's property, even as one component of an overall effort to combat drug use, could fall within the scope of the statute, and test it through the prism of § 856(a)(2)'s statutory and legislative context.

⁴⁰ In the final analysis, the specific details of Safehouse's model only go so far in answering the statutory question. Whether to approach opioid users confrontationally or empathetically is a therapeutic decision. If the delivery of a lecture on the hazards of opioid abuse would render Safehouse's facility legal, I am confident that Safehouse would even allow the Government to supply its content.

The context of the larger statutory scheme, something the Supreme Court deemed relevant in *Gonzalez v. Oregon*, provides support for both parties' interpretations, albeit to different degrees. On the one hand, as Safehouse points out, the statutory scheme largely permits medical practice and treatment efforts. No provision in the CSA contains a broad exemption from its prohibitions for all legitimate medical practices, nor did *Gonzales* create any such exemption. But the Supreme Court emphasized that the CSA generally does not regulate medical practice. 546 U.S. at 270. With respect to medical harm reduction efforts in particular, federal law expressly permits a number of tactics that aim to reduce harm and increase access to treatment for drug abuse. *See* Appropriations Act of 2016 § 520, 129 Stat. 2652 (permitting federal funding to be used for syringe exchange programs that address risk of HIV or hepatitis outbreaks); Comprehensive Addiction and Recovery Act of 2016 § 911(e)(1), 130 Stat. 759 (requiring that the Secretary of Veterans Affairs “maximize the availability of opioid receptor antagonists, including naloxone, to veterans”); Support for Patients and Communities Act § 3201, 130 Stat. 3894 (allowing for greater flexibility with respect to medication-assisted treatment for opioid use disorders).⁴¹

On the other hand, the Government emphasizes that § 812 of the CSA expresses a congressional judgment that Schedule I drugs have “no currently accepted medical use in treatment in the United States” and that “[t]here is a lack of accepted safety for use of the drug or other substance under medical supervision.” 21 U.S.C. § 812(b). Similarly, Schedule II reflects a congressional judgment that covered drugs, including fentanyl, cannot be used safely without a prescription. 21 U.S.C. § 812(b). The Government goes on to cite *United States v. Oakland*

⁴¹ Although one might then question why Congress has not specifically authorized safe injection sites, congressional failure to act is generally not considered a reliable tool for statutory construction. *See In re Visteon Corp.*, 612 F.3d 210, 230 (3d Cir. 2010).

Cannabis Buyers' Coop., which held that medical necessity could not be a defense to the CSA prohibition on distribution of marijuana because Congress had made a judgment that marijuana has no medical use. 532 U.S. 483, 490-91 (2001). But unlike the defendant in *Oakland Cannabis Buyers' Cooperative*, Safehouse does not propose to provide or administer any prohibited substance. In that case, there was no dispute about whether the defendants had directly violated the CSA by engaging in distribution. *Id.* at 487. The Court refused to recognize a medical necessity defense because it would require a rejection of Congress's judgment that marijuana has no therapeutic purpose. *Id.* at 491-95. I do not understand Safehouse in any respect to contradict Congress's conclusion that, even under medical supervision, heroin use remains unsafe. Rather, I understand Safehouse to assert that, when drug users engage in the undisputedly unsafe behavior of consuming Schedules I and II drugs, providing a space to facilitate immediate medical intervention, although insufficient to make that behavior safe, does not violate § 856(a) of the CSA. At best, § 812 offers limited support for the Government's position, and can hardly be read to criminalize harm reduction strategies like the one proposed by Safehouse.

A review of the legislative evidence confirms that the reach of § 856(a)(2) is limited to purposes to facilitate drug use, which would in turn exclude a purpose to curb or combat drug use that may involve some allowance of use. I begin with the last decision-making point related to the text in question: the 2003 agreement to the Conference Report including the amendment to the crack house statute.⁴² The 2003 amendment, originally called the Illicit Drug Anti-

⁴² A conference committee report contains the final proposed text of a bill, which emerges from the conference committee, where members of both houses have resolved differences between versions of the bill passed by the House and the Senate. Davis, *supra* at 1. Each chamber then votes on whether to agree to the conference report. Christopher M. Davis, *The Legislative Process on the House Floor: An Introduction*, Congressional Research Service 9 (2019). The decision to agree to the conference report is therefore the final legislative act with respect to

Proliferation Act and incorporated into the PROTECT Act, aimed to expand the crack house statute to address events, such as raves, at which promoters encourage use of “club drugs” and other controlled substances by children and teens. *See* 149 Cong. Rec. 9383. In determining the scope of the amendment, is important to recognize the significance of the amendment being inserted in conference. Under both Senate and House Rules, any addition to a bill in conference must be germane to the subject of the legislation, in this case the protection of children. *See* Senate Rule XXVIII; House Rule XXII.⁴³ It is for that reason that the joint explanation to the Conference Report emphasized the amendment’s goal of protecting children. Joint Explanatory Statement at 68. Prior to the vote on the Conference Report, then-Senator Biden, sponsor of the original bill, expressly noted that “[t]he bill is aimed at the defendant’s **predatory behavior**, regardless of the type of drug or the particular place in which it is being used or distributed.” 149 Cong. Rec. 9383 (2003) (emphasis added). This evidence makes clear that, when Congress decided to amend the statute, it expanded the meaning of the law to include a larger category of “predatory behavior” that involved increasing access to illicit drugs at a variety of events, particularly those attracting young people. It broadened the meaning of the statute from targeting crack houses to targeting events, like raves, that encourage drug use and prey on potential drug users.

the text, and the debate prior to the vote on whether to agree offers proximate evidence of the legislature’s decision. *See* Nourse, *Misreading Law*, *supra* at 80.

⁴³ Both Houses’ rules require that any changes made in conference be germane to the matters committed to conference. *Id.* It bears mention that the addition of an entirely new provision in conference pushes the limits of the matters properly before the conferees under the rules of both Houses. Senate Rule XXVIII, ¶ 3; House Rule XXII, cl. 9. Nonetheless the § 856 amendment was included in the Protect Act without objection. *See* Senate Rule XXVIII, ¶ 3 (providing members with recourse to raise a point of order in objection to non-germane additions); House Rule XXII, cl. 10 (same). Both Houses then agreed to the conference report, and the legislative evidence pertaining to debate on that decision is therefore relevant.

Although the Government is correct that Congress expanded the statute, that expansion was minimal. The change to the statute clarified that single events as well as ongoing operations were included, that the place involved need not be a building or enclosure, and that renters and lessees could also be liable.⁴⁴ *See* Conference Report to S. 151 at 43; 149 Cong. Rec. 9383 (statement of then-Senator Biden). At the introduction of the Illicit Drug Anti-Proliferation Act, co-sponsor Senator Grassley commented on the limited nature of the change. 149 Cong. Rec. 1849. He described the amendment as an effort to “update our laws so they can be used effectively against drug dealers who are pushing drugs on our kids.” 149 Cong. Rec. 1848. His comments specifically focused on raves and other temporary events. One statement, which referred to “illegal drug use in any location,” could lend support to the Government’s position, but the remainder of his remarks do not support such a broad interpretation. Senator Grassley referred to “cover activity” created to hide drug transactions and emphasized that the amendment was not designed to hamper “legitimate” activities. *Id.* He noted that § 856 would be a means for law enforcement to target events at which dealers “push their product,” and addressed the party drug Ecstasy at length. *Id.* at 1848-49. He specifically referred to drug reduction efforts as an example of conduct that would be inconsistent with criminal intent. *Id.* at 1849. He closed his remarks by characterizing the amendment as a “careful step,” with a recognition that drug abuse must be addressed “not only through law enforcement but education and treatment as well.” *Id.* at 1849. Similarly, although the legislative evidence includes a description of the statute applying to “any type of event for the purpose of drug use or distribution,” 149 Cong.

⁴⁴ The Government also references the change in title to “maintaining drug-involved premises.” I do not reject looking to titles for guidance, but in this instance the wording is not particularly enlightening. The statute cannot possibly apply to *all* “drug-involved premises,” just as under the previous title it could not have applied *only* to “manufacturing operations.”

Rec. 9384 (statement of then-Senator Biden), nothing in the legislative record reveals an expansion of the statute’s meaning beyond events and operations to facilitate drug use, and certainly not an expansion to reach activities designed to stop drug use.⁴⁵

⁴⁵ The Government cites a statement from Senator Biden in which he said, “section 856 has always punished those who knowingly and intentionally provide a venue for others to engage in illicit drug activity.” 149 Cong. Rec. 20539. Safehouse cites to another portion of the same statement in support of its position. The statement in question was made in July 2003, several months *after* the April passage of the PROTECT Act.

Courts generally reject such “post hoc” statements as unreliable tools for construing a statute. *See, e.g., Blanchette v. Connecticut General Ins. Corps.*, 419 U.S. 102, 132 (1974); *Pa. Med. Soc. v. Snider*, 29 F.3d 886, 898 (3d Cir. 1994). In part this is because they were not part of the consideration or debate in which the legislature engaged prior to voting to enact the law in question. *See* James J. Brudney & Lawrence Baum, *Oasis or Mirage: The Supreme Court’s Thirst for Dictionaries in the Rehnquist and Roberts Eras*, 55 Wm. & Mary L. Rev. 483, 568 (2013); Nourse, *Misreading Law*, *supra* at 155 (arguing that to the extent “group process determines the legitimacy of legislative evidence . . . evidence incapable of influencing the group, should be rejected”). Statutory interpreters largely agree that “post-enactment history” is therefore minimally helpful in determining the meaning of legislative decisions. *See* John F. Manning, *Separation of Powers as Ordinary Interpretation*, 124 Harv. L. Rev. 1939, 2035 (2011) (suggesting that a rule considering post-enactment evidence authoritative would be unconstitutional); Jonathan R. Siegel, *The Use of Legislative History in a System of Separated Powers*, 53 Vanderbilt L. Rev. 1457, 1522-23 (2000) (describing general agreement that post-enactment legislative history deserves less weight); *see also* § 48:20. Post-enactment history, 2A Sutherland Statutory Construction § 48:20 (7th ed.). In part, this is a recognition that legislators are also politicians, whose statements after a bill becomes law may serve other purposes.

But to the extent that the Government focuses on this specific comment, it must be reviewed in the context of Biden’s immediately preceding remarks clarifying that his amendment to § 856 in the PROTECT Act did not greatly expand that statute. He sought to emphasize the point that the crack house statute has always been used, not only against traditional crack houses, but also against “seemingly ‘legitimate businesses’ used as a front for drug activity,” such as motels, car dealerships, and bars. 149 Cong. Rec. 20539. Later in his remarks he referred to the same venues as “non-traditional crack house[s].” *Id.* What Safehouse proposes, whether within the scope of the statute or not, is certainly different from a “non-traditional crack house.”

The remainder of these post-hoc remarks would lend no support to the Government. First, Senator Biden clarified the limited effect of the bill’s changes to the statute, contradicting the Government’s assertions that the amendment significantly broadened § 856. *Id.* Next, Biden repeatedly emphasized that the amended statute only targets those who intentionally hold or promote events for the purpose of unlawful drug activity. *Id.* Third, during a lengthy discussion of the “‘knowledge’ and ‘intent’” requirement and the “requirement that the defendant make their property available ‘for the purpose’ of illicit drug activity,” Biden made no distinction between how the purpose requirement should be understood in (a)(1) and (a)(2), undercutting the Government’s argument for a lower mental state requirement in (a)(2). *Id.* at 20539. In a discussion clearly considering (a)(2), given references to the “‘knowingly and intentionally’” requirement and the language about making a property available, Biden cited the *Chen* court’s discussion of (a)(1)’s purpose requirement, evidently assuming it applied to (a)(2) as well. *Id.* Specifically, he noted that a purpose is “that which one sets before him to accomplish; an end, intention, or aim, object, plan, project” and that “it is strictly incumbent on the government to prove beyond a reasonable doubt that a defendant knowingly maintained a place for the specific purpose of distributing or using a controlled substance.” *Id.* (quoting *Chen*, 913 F.2d at 189). In discussing knowledge and intent, he clarified that actual knowledge is required and referred to the portion of *Chen* in which the court quoted the trial court’s instructions, including the instruction that an act is done “‘intentionally’ if done voluntarily and purposely with the intent to do something the law forbids.” *Id.* (quoting *Chen*, 913 F.2d at 187). These statements indicate that Biden understood the purpose requirement to refer to the actor’s purpose and to set a high bar for the Government to clear. Fourth, in a point that Safehouse emphasizes as part of its analysis, Biden explicitly endorsed the view that the purpose must be the

The 1986 legislative record related to the provision reveals that the original meaning of the statute, prior to any expansion in 2003, contemplated only purposes to facilitate drug use. The 1986 act focused specifically on crack houses. For instance, the section-by-section description read: “Outlaws operation of houses or buildings, so-called ‘crack houses,’ where ‘crack’ cocaine and other drugs are manufactured and used.” 132 Cong. Rec. 26474. The original meaning of places made available “for the purpose of unlawfully . . . using a controlled substance” referred to spaces designed to facilitate drug use.

The legislative focus on making places available for such illicit purposes does not limit the provision’s applicability to only crack houses and raves, but it does caution against extending the statute too far beyond similar circumstances. The evidence indicates that the statute targets exploitive behavior like that of crack house operators, rave promoters, and others creating spaces to facilitate drug use and access to drugs. A common denominator among the actions of these individuals is the goal of enabling drug use and supporting the market for unlawful drugs. To read § 856(a)(2) to apply to medical purposes and efforts to combat drug abuse would take the statute well beyond what it aimed to criminalize. As employed by Congress, the words “for the purpose of unlawfully . . . using a controlled substance” in § 856(a) are properly understood as referring to significant purposes to facilitate, rather than reduce, unlawful drug use.

primary purpose of the place in question, *id.* at 20538, 20539, quoting a DEA memo that likewise stated that the activity on the property must be “primarily for the purpose of drug use.” *Id.* at 20538. Finally, the remarks expressed that the bill’s only goal was to “deter illicit drug use and protect kids” and made repeated references to crack houses, “non-traditional crack houses,” raves, and other events that perpetuate illicit drug activity. *Id.* at 20538-39.

Thus, even if properly considered, nothing about this post-hoc statement suggests contemplation of efforts to facilitate medical care and access to drug treatment.

V. Application of (a)(2) to Safehouse

I cannot conclude that Safehouse has, as a significant purpose, the objective of facilitating drug use. Safehouse plans to make a place available for the purposes of reducing the harm of drug use, administering medical care, encouraging drug treatment, and connecting participants with social services. None of these purposes can be understood as a purpose to facilitate drug use.

The Government contended at oral argument that Safehouse's purpose cannot be to stop or reduce drug use. Tr. at 32-34. But its own Complaint belies that argument. It acknowledges that Safehouse will offer all its participants treatment referrals and on-site initiation of medication-assisted treatment. Pl.'s Am. Compl. at 4. Treatment, along with a variety of other services, will be offered during at least three stages of Safehouse's protocol. Pl.'s Am. Compl. Ex. A at 4-5; *see also* The Safehouse Model, <https://www.safehousephilly.org/about/the-safehouse-model> (last visited Oct. 1, 2019). One offer of services will be made before any participant enters the consumption room. *Id.* Any participant who then chooses to use the medically supervised consumption room will, in the subsequent medically supervised observation room, meet with peer specialists, recovery specialists, social workers, and case managers who will specifically encourage treatment. *Id.* The Court is hardly being "anti-factual," as the Government accuses, Tr. at 34, when it construes the pleadings as describing a program that ultimately seeks to reduce unlawful drug use.

Within the consumption rooms themselves, Safehouse will engage in the legal acts of providing sterile injection equipment and administering emergency medical care. The Government has not contended that the provision of medical treatment facilitates or advances drug use. In fact, other federally supported initiatives recognize that such services prevent

fatalities from drug use. The use that will occur is subsidiary to the purpose of ensuring proximity to medical care while users are vulnerable to fatal overdose. The Government has conceded that similar harm reduction strategies would be lawful if executed through mobile vans or if Safehouse personnel monitored drug use in public places. The Government seeks to distinguish consumption rooms from the ways in which other entities currently engage in harm reduction (and ways that they could, such as through use of a mobile van) by observing that in those efforts no real property is used, and “what matters [is] the statutory language.” Tr. at 39. This is myopic textualism that seeks to avoid the central issue. The statutory language that matters most is “purpose,” and no credible argument can be made that a constructive lawful purpose is rendered predatory and unlawful simply because it moves indoors. Viewed objectively, what Safehouse proposes is far closer to the harm reduction strategies expressly endorsed by Congress than the dangerous conduct § 856(a) seeks to prohibit. Safehouse therefore is not making a place available “for the purpose of unlawfully . . . using a controlled substance” within the meaning of § 856(a)(2).

When pointedly asked—twice—whether Safehouse was promoting drug use, the Government could only respond obliquely. Tr. at 36-37. It replied that because Prevention Point, an existing program run by Safehouse’s President and Treasurer, Jose Benitez, is already successfully moving some of its clients into treatment, in the absence of proof that Safehouse will accomplish more, the net effect of Safehouse will simply be more drug use. *Id.* at 37. Specifically, the Government replied that “the logical implication of setting up Safehouse is there’s going to be more drug use. So yes, they are promoting drug use.” *Id.* In a case that turns on “purpose,” the nature of the Government’s response is revealing. Rather than attribute any unlawful purpose to Safehouse, it pointed instead to what it presumes will be a deleterious

outcome.⁴⁶ And as observed at the beginning of this opinion, the wisdom or effectiveness of safe injection sites is not the issue before me. One might criticize the Safehouse model from the standpoint of therapeutic soundness or effectiveness, but again that is not the issue before me.

It would be an issue for Congress, but there can be no question that Safehouse’s approach to harm reduction and increasing access to treatment was not within the contemplation of Congress when it enacted or amended this statute. The records of Congress are now searchable electronically, and a global search of the legislative record prior to the statute’s amendment in 2003 reveals a single passing reference to a 1998 article in *Foreign Affairs* magazine discussing safe injection facilities as a potential harm reduction strategy. See *The Decriminalization of Illegal Drugs: Hearing Before the Subcomm. on Criminal Justice, Drug Policy, and Human Resources of the H. Comm. on Gov’t Reform*, 106th Cong. 8 (1999) (statement of Thomas A. Constantine, Former Administrator, Drug Enforcement Administration (citing Ethan A. Nadelmann, *Commonsense Drug Policy*, *Foreign Affairs*, Jan.–Feb. 1998)). Even then, the article cited by the witness discussed safe injection facilities as a “[h]arm reduction innovation . . . to stem the spread of HIV,” not in relation to an opioid crisis. *Id.*

Aside from the legislative record, there is an additional governmental source to consult that sheds light on when safe injection sites became a subject of public debate. The National Center for Biotechnology Information, in collaboration with the United States National Library of Medicine and National Institutes of Health, maintains a searchable database of medical literature, PubMed, which includes articles that cut across multiple disciplines, including public

⁴⁶ For the sake of completeness, it must be mentioned that the Government’s rebuttal was not as carefully nuanced. Referring to Safehouse’s description of its program, counsel derided it as “Bizarro World,” urged the Court to “be real,” and seemingly rejected any therapeutic purpose, stating, “They’re not inviting people onto their property just to get treatment or whatever other services they’re offering. The whole purpose here is for people to use drugs.” Tr. at 71-72. My inclination is to discount these remarks as a moment of overly zealous advocacy. But in any case, no plausible reading of the pleadings before me supports such a caricature of what Safehouse proposes.

health. The statute here was last amended in April 2003. If one conducts a search using the term “safe injection sites,” multiple publications appear, none having to do with management of opioid addiction prior to 2003.⁴⁷ If one adds the limiting term “opioid,” there are still no relevant results. A search for the related term “supervised injection” through the end of 2003 reveals only two relevant articles published within five months of the amendment, both in a Canadian specialty law review focusing on HIV and AIDS prevention efforts. Simply put, supervised injection sites as a harm reduction strategy for opioid abuse were not a subject of public discourse when the statute was last amended.

At argument, the Government was invited multiple times to point to any legislative evidence that supervised injection programs were specifically considered by Congress, but counsel skillfully avoided giving a direct answer to the question. Tr. at 7-12. The most the Government could offer as to a specific focus on safe injections sites was for the Court to go back in time to reconstruct what Congress *might* have thought had the subject actually been considered at the time. Tr. at 7. This method is mentioned in the scholarly literature and termed “imaginative reconstruction.” Posner, *Statutory Interpretation, supra* at 817. Such an approach is inherently speculative and has not been endorsed by case law.⁴⁸ As Justice Gorsuch has noted, although new applications of statutes may arise, “every statute’s meaning is fixed at the time of enactment.” *Wisconsin Central, Ltd. v. United States*, 138 S. Ct. 2067, 2074 (2018).

⁴⁷ Judges are rightly cautioned to limit internet research. I am not concerned with doing so here because the exercise is akin to judicial notice. The search conducted can be objectively replicated by anyone, with the results speaking for themselves. And the purpose is not to garner substantive input for the Court to consider without the perspective of the litigants, but simply to test what resources were publicly available at the time Congress was deliberating.

⁴⁸ To adopt the Government’s suggestion would fly in the face of the admonition that courts should “not interpret a federal criminal statute so as to increase the penalty that it places on an individual when such an interpretation can be based on no more than a guess as to what Congress intended.” *Ladner v. United States*, 358 U.S. 169, 214 (1958); accord *Reno v. Koray*, 515 U.S. 50, 65 (1995) (Rehnquist, C.J.).

Accordingly, I confine myself to the documented evidence of what Congress did, in fact, mean to accomplish at the time of enactment.

The Government's refusal to concede that there was not specific consideration by Congress reveals its concern over a core weakness in its position. It urges me to hold that even though harm reduction efforts like safe consumption facilities were indisputably beyond the contemplation of Congress, I should apply the language of the statute in the broadest possible way, leaving it to Congress to clarify if it does *not* wish to criminalize safe consumption facilities. But the law does not default to criminalization, requiring Congress to clarify when it wishes not to incarcerate citizens. Rather, as Chief Justice John Marshall explained, "penal laws are to be construed strictly" because "the power of punishment is vested in the legislative, not the judicial department. It is the legislature, not the Court, which is to define a crime, and ordain its punishment." *United States v. Wiltberger*, 18 U.S. (5 Wheat.) 76, 95 (1820). Modern cases echo those same principles: "[B]ecause of the seriousness of criminal penalties, and because criminal punishment usually represents the moral condemnation of the community, legislatures and not courts should define criminal activity." *United States v. Bass*, 404 U.S. 336, 348 (1971).

Congress here determined that making places available to facilitate drug use, supporting the drug market as crack houses and raves do, warranted moral condemnation and punishment. Congress has not had the opportunity to decide whether such moral condemnation and punishment should extend to consumption facilities that are components of medical efforts to facilitate drug treatment. By any objective measure, what Safehouse proposes is not some variation on a theme of drug trafficking or conduct that a reasonable person would instinctively identify as nefarious or destructive. Even if one believes it to be misguided, the nature and character of what it proposes is not prototypically criminal.

A consistent theme in the Government’s case is what it describes as the “hubris” of Safehouse in seeking to open its safe injection site without first securing some form of official approval from federal authorities. There is, however, no mechanism under the CSA for seeking review from any governmental entity for the activity that Safehouse proposes, which the Government conceded at oral argument. Tr. at 43. Physicians and researchers can seek exemptions from the prohibition against administering Schedule I and Schedule II drugs. Safehouse does not seek to administer prohibited drugs but rather to ameliorate the harm from their unlawful use. In the Government’s view, Safehouse literally needs an Act of Congress to proceed. But that begs the question. The question is whether current law criminalizes Safehouse’s proposed conduct. As Justice Rutledge memorably phrased a core tenet of federal law, “[b]lurred signposts to criminality will not suffice to create it.” *United States v. C.I.O.*, 355 U.S. 106, 143 (1968) (Rutledge, J., concurring).

Although irrelevant for the Court’s purposes, the numerous policy arguments raised by the parties and amici indicate that there is a vibrant debate to be had about the possible advantages, risks, and costs of safe consumption sites.⁴⁹ A narrow interpretation of § 856(a)(2)

⁴⁹ The Court received thirteen amicus briefs from various individuals and groups from around the nation. Brief of and by Professors of Religious Liberty Law as Amici Curiae; Brief of Amici Curiae Harrowgate Civic Association, Bridesburg Civic Association, Juniata Park Civic Association, Kensington Independent Civic Association, Port Richmond on Patrol and Civic, South Port Richmond Civic Association, and Fraternal Order of Police, Lodge 5; Brief of Amici Curiae Philadelphia-Area Community Organizations; Brief of Current and Former Prosecutors, Law Enforcement Leaders, And Former Department of Justice Officials and Leaders as Amici Curiae; Amicus Curiae Brief of Homeless Service Providers; Amicus Curiae Brief of Friends and Family of Victims of Opioid Addiction in Support of Defendant’s Safehouse and Jose Benitez; Proposed Brief of Amici Curiae Aids United, Association for Multidisciplinary Education and Research in Substance Use and Addiction, Association of Schools and Programs of Public Health, California Society of Addiction Medicine, Drug Policy Alliance, Harm Reduction Coalition, National Association of State and Territorial Aids Directors, The Foundation for Aids Research, Positive Women’s Network, Treatment Action Group, Vital; Amici Curiae Brief of Religious Leaders in the Philadelphia Community and Beyond; Amici Curiae Brief of Constitutional Law Scholar and Commerce Clause Expert Professor Randy Barnett; Brief of Amici Curiae King County, WA; New York, NY; San Francisco; Seattle, WA; Pittsburgh, PA; and Svante L. Myrick, Mayor of Ithaca, NY; Brief Amici Curiae of the American Civil Liberties Union and The American Civil Liberties Union of Pennsylvania; Brief of Amici Curiae Mayor Jim Kenney and Health Commissioner Dr. Thomas Farley.

appropriately defers to Congress to engage in this debate and determine whether and how it wants to criminalize the conduct of medical providers and recovery specialists who seek to manage safe consumption facilities. A narrow interpretation of § 856(a)'s purpose requirement and restrained application of that statute also protects the important separation of powers principles discussed above. Such principles are one of the foundations of the longstanding rule of lenity,⁵⁰ which Safehouse invokes here. I do not rely on the rule of lenity as the basis for this decision. Nonetheless, the separation of powers principles underlying the rule carry substantial weight in this case, where the Executive has invited the Judiciary to expand the reach of a criminal statute to include conduct that I am convinced was never contemplated by the Legislature.

VI. Application of (a)(1) to Safehouse

The Government has only brought this action under (a)(2), but in its Counterclaim Safehouse seeks a declaratory judgment as to § 856(a) as a whole. However, no motion for relief on that aspect of the Counterclaim is pending before me.

VII. Religious Freedom Restoration Act

Because I have determined that § 856(a)(2) does not apply to Safehouse's proposed conduct, I need not consider whether the Government's effort to enforce the statute violates Safehouse's rights under the Religious Freedom Restoration Act (RFRA), 42 U.S.C. § 2000bb. In connection with that claim, Safehouse sought: (1) a declaration that any prohibition or

⁵⁰ Another policy underlying the rule of lenity is that the law must provide fair notice of the punishment imposed "if a certain line is passed," and "[t]o make the warning fair, . . . the line should be clear." *Bass*, 404 U.S. at 348. This policy is somewhat less applicable here, where the Government seeks a declaratory judgment, which by definition will provide notice as to whether the law prohibits the conduct in question. It bears mention, however, that courts have applied the rule of lenity in declaratory judgment cases. *See, e.g., Bingham, Ltd. v. United States*, 724 F.2d 921, 924-25 (11th Cir. 1984) (noting the rule of lenity applies "even though we construe the [statute] in a declaratory judgment action, a civil context").

penalization of Safehouse would violate RFRA and (2) an injunction permanently enjoining the Third-Party Defendants from enforcing or threatening to enforce 21 U.S.C. § 856 against Safehouse. Defs.' Answer at 43-44. Because I have concluded that § 856(a)(2) does not criminalize Safehouse's proposed actions, the RFRA claim is now moot.

VIII. Conclusion

Both sides skillfully argue that Congress's meaning in § 856 is consistent with their own, and further argue that to conclude otherwise would be a judicial usurpation of legislative power. Here, however, the Government asks the Court to apply statutory language to a set of facts beyond the comprehension of Congress when the bill was passed. I find the most conservative, circumspect approach to favor the original, ordinary meaning of the statute. On the record before me, having applied multiple tools of construction, I find that the purpose at issue under § 856 must be a significant purpose to facilitate drug use, and that allowance of some drug use as one component of an effort to combat drug use will not suffice to establish a violation of § 856(a)(2). The ultimate goal of Safehouse's proposed operation is to reduce drug use, not facilitate it, and accordingly, § 856(a) does not prohibit Safehouse's proposed conduct.

The Government's Motion will be denied as to its claim for declaratory judgment as well as Safehouse's counterclaim for declaratory judgment. I need not consider Safehouse's Religious Freedom Restoration Act claim, which is now moot.

/s/ Gerald Austin McHugh
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

SAFEHOUSE, a Pennsylvania nonprofit
Corporation;
JOSE BENITEZ, as President and
Treasurer of Safehouse,
Defendants.

CIVIL ACTION
No. 19-0519

SAFEHOUSE, a Pennsylvania nonprofit
Corporation,

Counterclaim Plaintiff,

v.

UNITED STATES OF AMERICA,
Counterclaim Defendant,

and

U.S. DEPARTMENT OF JUSTICE;
WILLIAM P. BARR, in his official capacity
as Attorney General of the United States;
and WILLIAM M. McSWAIN, in his official
capacity as U.S. Attorney for the Eastern
District of Pennsylvania,

Third-Party Defendants.

ORDER

This 2nd day of October, 2019, upon consideration of the Government’s Motion for Judgment on the Pleadings (ECF No. 47), and Safehouse’s response, it is hereby **ORDERED** that the Motion is **DENIED**. Accepting the facts in the pleadings as true, as required under Rule 12 of the Federal Rules of Civil Procedure, 21 U.S.C. § 856 (a)(2) would not prohibit Safehouse

from establishing and operating an overdose prevention facility that provides medically supervised consumption services.

/s/ Gerald Austin McHugh
United States District Judge

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No. 19-0519

SAFEHOUSE, a Pennsylvania nonprofit
corporation;

JOSE BENITEZ, as President and
Treasurer of Safehouse,

Defendants.

SAFEHOUSE, a Pennsylvania nonprofit
corporation,

Counterclaim Plaintiff,

v.

UNITED STATES OF AMERICA,

Counterclaim Defendant,

and

U.S. DEPARTMENT OF JUSTICE; WILLIAM
P. BARR, in his official capacity as
Attorney General of the United States; and
WILLIAM M. McSWAIN, in his official
capacity as U.S. Attorney for the Eastern
District of Pennsylvania,

Third-Party Defendants.

THE PARTIES' STIPULATION OF FACTS

1. According to its website, Safehouse “seeks to open the first ‘safe injection site’ in the U.S.” in the City of Philadelphia and “is a privately funded, 501(c)(3) tax-exempt, Pennsylvania nonprofit corporation whose mission is to save lives by providing a range of overdose prevention services.” According to Safehouse, the overdose prevention

services it intends to offer are aimed at preventing the spread of disease, administering medical care, and encouraging drug users to enter treatment.

2. "Consumption" means the use, *e.g.*, via injection, oral ingestion, and/or nasal inhalation of illegal drugs including without limitation heroin and fentanyl.
3. Safehouse staff members will supervise participants' consumption and, if necessary, intervene with medical care, including reversal agents to prevent fatal overdose.
4. Jose Benitez is Safehouse's president and treasurer. He is also the executive director of Prevention Point Philadelphia (PPP).
5. PPP has been in operation for over 27 years. PPP offers clean syringe exchange services, primary medical care, an HIV clinic, a Hepatitis C clinic, wound care and education on safer injection techniques, overdose prevention education, overdose reversal kits and distribution, housing, meals, mail services, Medication-Assisted Treatment, and drug recovery and treatment services. PPP does not permit the use of controlled substances at its facility.
6. Safehouse plans to offer the same services that PPP currently provides. The only difference between what PPP currently offers and what Safehouse would offer is that Safehouse would allow participants to use its supervised consumption and observation rooms in which participants may engage in consumption and may remain under the supervision of Safehouse staff.
7. According to Safehouse's medical protocol, when a participant arrives at Safehouse, the first step is a registration process.
8. Safehouse intends to ask each participant to provide certain personal information and undergo a brief physical and behavioral health assessment.
9. Safehouse intends to offer each participant its services, which include use of supervised drug consumption and observation rooms, medical services, including wound care, on-site initiation of Medication-Assisted Treatment, recovery counseling, HIV and HCV counseling, testing and treatment, referral to primary care, and referrals to social services, legal services and housing opportunities. Safehouse intends to encourage every participant to enter drug treatment, which will include an offer to commence treatment immediately.
10. There is nothing in the medical protocol that suggests Safehouse will specifically caution against drug usage.
11. Safehouse participants may request access to all services, including the consumption room.

12. Safehouse plans to offer participants fentanyl test strips to test for the presence of fentanyl in their drugs.
13. Each Safehouse participant may be assigned an individual station where they may consume self-obtained drugs, including by injection, under the supervision of Safehouse staff.
14. "Safehouse [will] offer[] supervised consumption of self-obtained drugs that have the potential to cause serious adverse medical events for people who continue to use these drugs despite their known risks." *See* Safehouse Medical Protocol.
15. Safehouse staff will be directed not to provide, administer, or dispense any controlled substances, and Safehouse intends that its staff will not handle controlled substances.
16. Safehouse personnel will be available to advise participants on sterile injection techniques.
17. Safehouse staff members will supervise participants' consumption and, if necessary, intervene with medical care, including respiratory support and the administration of overdose reversal agents, such as naloxone.
18. Before leaving the supervised consumption room, Safehouse intends that its participants will safely dispose of used consumption equipment.
19. From the supervised consumption room, Safehouse staff will direct participants to the medically supervised observation room.
20. Safehouse's medical protocol does not require a participant to remain in the observation room for a specified period of time.
21. In the observation room, Safehouse plans to provide certified peer counselors, as well as recovery specialists, social workers, and case managers to offer services and encourage treatment. Safehouse plans to offer the same services to participants again at check out.
22. Safehouse believes that supervised consumption aids potential treatment in that its participants are more likely to engage in counseling and accept offers of medical care after they have consumed drugs and are not experiencing withdrawal symptoms.
23. Safehouse imposes no limits on the number of times that participants may use the consumption room and does not require participants to enter treatment or accept a treatment referral as a condition of using the consumption room.

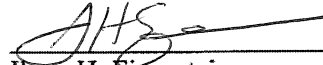
24. If the Court were to enter a declaratory judgment in its favor, Safehouse plans to open at least one facility in Philadelphia as soon as possible.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	CIVIL ACTION
	:	No. 19-0519
v.	:	
	:	
SAFEHOUSE, a Pennsylvania nonprofit	:	
Corporation; JOSE BENITEZ, as President	:	
and Treasurer of Safehouse,	:	
Defendants.	:	

SAFEHOUSE, a Pennsylvania nonprofit	:
Corporation,	:
Counterclaim Plaintiff,	:
	:
v.	:
	:
UNITED STATES OF AMERICA,	:
Counterclaim Defendant,	:
	:
and	:
	:
U.S. DEPARTMENT OF JUSTICE;	:
WILLIAM P. BARR, in his official capacity	:
as Attorney General of the United States;	:
and WILLIAM M. McSWAIN, in his official	:
capacity as U.S. Attorney for the Eastern	:
District of Pennsylvania,	:
Third-Party Defendants.	:

McHUGH, J.

FEBRUARY 25, 2020

MEMORANDUM

This case arises out of Defendant Safehouse’s proposal to open a safe injection site in Philadelphia to mitigate the harms resulting from unlawful opioid abuse, and the Government’s determination that opening such a site would be unlawful. Previously, I denied a motion for judgement on the pleadings filed by the United States. ECF 134. In doing so, I concluded that,

“[a]ccepting the facts in the pleadings as true, as required under Rule 12 of the Federal Rules of Civil Procedure, 21 U.S.C. § 856(a)(2) would not prohibit Safehouse from establishing and operating an overdose prevention facility that provides medically supervised consumption services.” ECF 134, at 1-2.

That ruling was a nonfinal interlocutory order because it represented nothing more than denial of a motion. Safehouse did not cross-move for relief, and thus the prior order did not “end[] the litigation on the merits and leave[] nothing for the court to do but execute the judgment.” *Catlin v. United States*, 324 U.S. 229, 233 (1945). Following consultation with the Court, the parties agreed to a stipulated set of facts, *see* ECF 137, Ex. A, and filed cross-motions intended to produce a final, appealable order. To that end, Safehouse moves for final declaratory judgment under Federal Rules of Civil Procedure 56 and 57, ECF 137, and the Government opposes and cross-moves for summary judgment, ECF 139.

The recent filings recapitulate the arguments previously advanced by the parties. Safehouse argues that the establishment and operation of its overdose prevention services model, which would include supervised consumption rooms, does not violate Section 856(a)(2), which makes it unlawful for any person to “manage or control any place . . . and knowingly and intentionally . . . make available for use, with or without compensation, the place for the purpose of unlawfully . . . using a controlled substance.” *See* ECF 137-3. Because Safehouse relies on a statutory argument, it suggests that the Court “need not reach Safehouse’s remaining claims under the Religious Freedom Restoration Act . . . and the Commerce Clause of the U.S. Constitution.” ECF 137, at 7 n.5. I agree that the Court can render a final judgment on the application of Section 856(a)(2) alone.¹

¹ Safehouse requests the Court dismiss without prejudice its counterclaim under the Religious Freedom Restoration Act as moot, *see* ECF 3, at 42-43 (pleading counterclaim); ECF 137-3, ¶ 3 (proposing dismissal without prejudice),

In response, the Government principally restates its “core contention” that Safehouse’s overdose prevention model “violate[s] § 856(a)(2).” ECF 139, at 3. To the Government, the plain text of Section 856(a)(2) demands this result—“(1) Safehouse would manage and control a place as either an owner or lessee, that (2) it would knowingly and intentionally make available, (3) for the purpose of unlawfully using a controlled substance.” ECF 139, at 5. I addressed those arguments in my prior opinion and, even accepting an evolved standard of review, nothing warrants revisiting them now. ECF 133, at 49-55.

The Government also seeks to inject some procedural uncertainty into the dispute. First, the Government argues that Safehouse’s motion for declaratory relief should be resolved pursuant to Rule 56 and not Rule 57 because “a motion for declaratory judgment under [Rule] 57 would be procedurally improper.” ECF 139, at 5 n.3. To support its contention that declaratory relief is improper, the Government cites to *Arizona v. City of Tucson*, 761 F.3d 1005 (9th Cir. 2014), for the proposition that “[r]equests for declaratory judgment are not properly before the court if raised . . . by motion.” ECF 139, at 5 n.3 (quoting *City of Tucson*, 761 F.3d at 1010). That misreads *City of Tucson*. In that case and the other cases relied upon by the Government for support, the movants sought declaratory relief by filing a Rule 57 motion without first seeking declaratory relief in their initial pleadings. Indeed, in *City of Tucson*, in the very sentence before the sentence quoted by the Government, the Court held that a “request for declaratory relief is properly before the court when it is pleaded in a complaint for declaratory judgment.” *Id.* Here, Safehouse sought a declaration pursuant to the Declaratory Judgment Act in its counterclaims and third-party

and, in doing so, seeks to “reserve[] the right to press those claims if this Court’s declaratory judgment on the underlying statutory question were vacated, reversed, or remanded by an appellate court or if changed circumstances otherwise established a ripe controversy as to those claims.” *Id.* The Government contends that by making this request Safehouse has “abandon[ed] its claim[s]” under RFRA and a related claim under the Commerce Clause. ECF 139, at 11-12, 12 n.8. I disagree. Given that Safehouse has won the declaratory judgment it seeks, there is no need to reach its additional claims, and its request that this Court dismiss the RFRA and Commerce Clause claims without prejudice is sensible. The claims are therefore deemed to be preserved.

complaint. *See* ECF 3, at 41; ECF 45, at 5. A final declaratory judgment under Rule 57 is the appropriate vehicle to conclusively resolve the immediate and actual legal controversy on the statutory question. *See* Fed. R. Civ. P. 57, Notes on Advisory Committee on Rules (1937). The parties maintain a live and actual legal controversy, have stipulated to all material facts, and have moved for declaratory relief as to the reach of Section 856(a)(2).

Such maneuvering by the Government at this late stage is not constructive. At no point until its latest filing did the Government suggest that consideration of a motion for declaratory judgment would be procedurally improper. From the inception of this case Safehouse requested a full trial on the merits to resolve whether its proposed operation comports with federal law, and with it the opportunity to develop a detailed factual record. And for just as long the Government has strenuously resisted such an approach. The Government has never argued there was a need for additional evidence, a fact of which they were reminded at oral argument. *See* ECF 133, at 6 n.4. The present motions were filed in consultation with the Court for the express purpose of creating a final appealable order, something sought by both sides. *See* ECF 137, at 3. And the parties' stipulation to specific facts—an approach first suggested by the Court to the parties in late August—was intended to complete the record to finally adjudicate a difficult and complex matter of first impression.

The Government further contends that inferences drawn in resolving a motion to dismiss under Rule 12 are not properly drawn in resolving the pending motions. Specifically, the Government protests that Safehouse “never said in its pleadings that it would reduce unlawful drug use, nor do the Stipulated Facts so state,” and that, because Safehouse has moved affirmatively for final relief, “the Court cannot make this factual inference in Safehouse’s favor.” ECF 139, at 11 n.4. In advancing this argument, the Government continues to confuse purpose

with outcome. The reach of Section 856(a)(2) did not then and does not now depend to any degree on whether Safehouse’s model actually “would reduce unlawful drug use.” Section 856(a)(2)’s applicability turns on the *objective* of the relevant actor, not on the *effectiveness* of a proposed intervention model. In fact, my opinion of October 2, 2019, explicitly declined to address “whether safe injection sites are an appropriate means of dealing with the opioid crisis.” ECF 133, at 2.

In any case, no inference is necessary at this stage because the parties have stipulated to various facts as recommended by the Court. These include that “Safehouse seeks to open the first safe injection site in the U.S. in the City of Philadelphia and is . . . [a] nonprofit corporation whose mission is to save lives by providing a range of overdose prevention services,” and that “the overdose prevention services it intends to offer are aimed at preventing the spread of disease, administering medical care, and encouraging drug users to enter treatment.” ECF 137, Ex. A, ¶ 1. Admittedly, that stipulation is prefaced by “according to Safehouse” or “according to [Safehouse’s] website,” but later stipulations remove any ambiguity. The parties agree that “Safehouse intends to offer each participant its services, which include use of supervised drug consumption and observation rooms, medical services, including wound care, onsite initiation of Medication-Assisted Treatment, recovery counseling, HIV and HCV counseling, testing and treatment, referral to primary care, and referrals to social services, legal services and housing opportunities.” *Id.* ¶ 9. The parties also agree that Safehouse “intends to encourage every participant to enter drug treatment, which will include an offer to commence treatment immediately.” *Id.* Given those stipulations, the analysis in my memorandum opinion of October 2, 2019, applies with equal validity to the record before me, and there is nothing procedurally improper in granting the declaratory relief sought by Safehouse.

The Government’s sudden focus on factual nuances overlooks the complexity of determining the proper application of the law. Safehouse does not hide that illegal substances will be used on its premises. To the Government, that alone is enough to resolve the statutory question. But that position depends upon an overly simplistic formulation of “purpose,” one that it struggled to defend at oral argument. For instance, the Government acknowledged that Safehouse could skirt the proscriptions of Section 856(a)(2) if it operated essentially the same overdose prevention model out of a mobile van instead of a fixed piece of real property so long as no user “c[a]me into the mobile unit.” ECF 131, at 42:4-43:5. And when confronted with a hypothetical about parents who instructed their child to use unlawful drugs in their home so that they could resuscitate the child if necessary, the Government—contrary to its previously avowed core reading of the statute—responded that Section 856(a)(2) would *not* apply to that conduct. It conceded the parents would not have an unlawful “purpose” in participating in such life-saving activity. ECF 133, at 41; *see also* ECF 131, at 38:17-42:3.

The Court’s objective in encouraging the parties to supplement the record by stipulation and agree upon a mechanism for entering final judgment was to eliminate any factual ambiguity and thereby facilitate appellate review of difficult and subtle issues, including the meaning of “purpose.” Such clarity and precision have particular importance here, where it is a criminal statute that the Government seeks to invoke in exercising its authority.

* * * * *

Given the history of this case, and the parties’ supplementation of the record, there is nothing procedurally improper in granting the declaratory relief sought by Safehouse. The analysis in my memorandum opinion of October 2, 2019, applies with equal validity to the expanded record. I will therefore grant Safehouse’s Motion for Final Declaratory Judgment and

deny the Government's Motion for Summary Judgment. An appropriate Order follows.

/s/ Gerald Austin McHugh
Gerald Austin McHugh
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	CIVIL ACTION
	:	No. 19-0519
v.	:	
	:	
SAFEHOUSE, a Pennsylvania nonprofit	:	
Corporation; JOSE BENITEZ, as President	:	
and Treasurer of Safehouse,	:	
Defendants.	:	

SAFEHOUSE, a Pennsylvania nonprofit	:
Corporation,	:
Counterclaim Plaintiff,	:
	:
v.	:
	:
UNITED STATES OF AMERICA,	:
Counterclaim Defendant,	:
	:
and	:
	:
U.S. DEPARTMENT OF JUSTICE;	:
WILLIAM P. BARR, in his official capacity	:
as Attorney General of the United States;	:
and WILLIAM M. McSWAIN, in his official	:
capacity as U.S. Attorney for the Eastern	:
District of Pennsylvania,	:
Third-Party Defendants.	:

ORDER

For the reasons set forth in the accompanying Memorandum, and in this Court’s previous memorandum opinion of October 2, 2019, upon consideration of Defendants’ Motion for Final Declaratory Judgment (ECF 137), the Government’s Motion for Summary Judgment and Opposition to Defendants’ Motion for Declaratory Judgment (ECF 139), and Defendants’ Memorandum of Law in Opposition to the Government’s Cross-Motion for Partial Summary

Judgment (ECF 140), this 25th day of February, 2020, it is hereby **ORDERED** that Defendants' motion is **GRANTED** and the Government's motion is **DENIED**, as follows:

1. Defendants' Motion for Declaratory Judgment is GRANTED.
2. JUDGMENT is ENTERED in favor of Safehouse and Jose Benitez and against the United States of America, U.S. Department of Justice, United States Attorney General William P. Barr, and United States Attorney for the Eastern District of Pennsylvania William M. McSwain on all of Plaintiff's claims and on Count I of Safehouse's counterclaim.
3. Count II of Defendants' counterclaim is DISMISSED WITHOUT PREJUDICE as moot.
4. It is DECLARED that the establishment and operation of Defendants' overdose prevention services model, including supervised consumption in accordance with the parties' stipulated facts (ECF 137, Ex. A), does not violate 21 U.S.C. § 856(a).

/s/ Gerald Austin McHugh
Gerald Austin McHugh
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SAFEHOUSE, a Pennsylvania nonprofit
corporation,
Counterclaim Plaintiff,

v.

UNITED STATES OF AMERICA,
Counterclaim Defendant,

U.S. DEPARTMENT OF JUSTICE; MERRICK B.
GARLAND, in his official capacity as Attorney
General of the United States; JACQUELINE C.
ROMERO, in her official capacity as U.S. Attorney
for the Eastern District of Pennsylvania,
Third-Party Counterclaim Defendants.

Civil Action No.: 2:19-cv-00519

**SAFEHOUSE’S SECOND AMENDED COUNTERCLAIMS FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Pursuant to Federal Rule of Civil Procedure 13, Counterclaim Plaintiff Safehouse asserts the following counterclaims against Counterclaim Defendant United States of America, and Third-Party Counterclaim Defendants U.S. Department of Justice; Merrick B. Garland, in his official capacity as Attorney General of the United States; and Jacqueline C. Romero, in her official capacity as United States Attorney for the Eastern District of Pennsylvania (collectively, “the DOJ”), and, by and through its counsel, alleges as follows:

INTRODUCTION

1. In this action, Safehouse seeks to have this Court declare 21 U.S.C. § 856 inapplicable to the establishment and carrying out of its overdose prevention services model, which includes medically supervised consumption and observation.

2. Safehouse further seeks a declaration by the Court that any prohibition on its operation of a medically supervised consumption room as part of its overdose prevention

services model would violate the Religious Freedom and Restoration Act, 42 U.S.C. § 2000bb *et seq.*, and the First Amendment to the U.S. Constitution by substantially burdening the exercise of its religious beliefs that call its Board Members and Directors to provide lifesaving medical treatment to a vulnerable population. The threatened enforcement of Section 856 to Safehouse, notwithstanding the multitude of federal exemptions from the Controlled Substances Act for similar, non-religiously motivated conduct, burdens Safehouse's religious exercise in a manner that is not generally applicable, thereby subjecting its position with respect to Safehouse to strict scrutiny under the Free Exercise Clause of the First Amendment. The DOJ cannot meet that rigorous standard here because it lacks any compelling interest in preventing Safehouse's proposed operation; nor would enforcement of Section 856 against Safehouse be the least restrictive means of advancing any such interest.

JURISDICTION AND VENUE

3. This action arises under 21 U.S.C. § 801 *et seq.* and 42 U.S.C. § 2000bb *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1346. Safehouse seeks remedies under 28 U.S.C. §§ 2201 and 2202.

4. Venue lies in the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 1391(b), as the relevant events took place in this District.

DECLARATORY JUDGMENT

5. There is an actual controversy of sufficient immediacy and concreteness relating to the legal rights and duties of Safehouse to warrant relief under 28 U.S.C. § 2201.

6. The harm to Safehouse as a direct result of the actions and threatened actions of the DOJ is sufficiently real and imminent to warrant the issuance of a conclusive declaratory judgment.

7. The DOJ and its officials have asserted that Safehouse's overdose prevention services model, which includes medically supervised consumption and observation, would violate federal criminal law. The DOJ has threatened to commence criminal and civil enforcement proceedings at any time to prevent Safehouse from opening and becoming operational, and brought the instant declaratory action resulting in this counterclaim.

8. Safehouse, as well as its leaders and personnel, are threatened with federal civil and criminal enforcement unless Safehouse refrains from engaging in entirely lawful conduct in pursuit of its lifesaving mission.

9. Under these circumstances, judicial intervention is warranted to resolve a genuine case or controversy within the meaning of Article III of the U.S. Constitution regarding the proper interpretation and application of Section 856.

10. A declaration that Safehouse would not violate Section 856 once it becomes operational would definitively resolve that controversy for the parties.

THE PARTIES

11. Counterclaimant Safehouse is a nonprofit corporation operating under the laws of the Commonwealth of Pennsylvania with a registered address at 1211 Chestnut Street, Suite 600, Philadelphia, Pennsylvania 19107.

12. Counterclaim Defendant is the United States of America.

13. Third-Party Counterclaim Defendant is the U.S. Department of Justice.

14. Third-Party Counterclaim Defendant Merrick B. Garland is sued in his official capacity as Attorney General of the United States.

15. Third-Party Counterclaim Defendant Jacqueline C. Romero is sued in her official capacity as the U.S. Attorney for the Eastern District of Pennsylvania.

I. FACTUAL ALLEGATIONS

16. Safehouse hereby incorporates and re-alleges the Preliminary Statement and each of the factual allegations in its Answer to Plaintiff’s Complaint. It further avers as follows:

The Opioid Epidemic in the City of Philadelphia

17. The City of Philadelphia is in the midst of an unprecedented public health emergency due to the opioid epidemic and the opioid overdose crisis.

18. In 2018-2019, more than 2,300 individuals died as a result of an opioid overdose in Philadelphia.¹ In 2020, fatal overdoses claimed the lives of 1,214 Philadelphians. On average, Philadelphia is losing three of its citizens each day to opioid overdoses.

19. On October 3, 2018, the Mayor of Philadelphia issued an Opioid Emergency Response Executive Order declaring that “Kensington and its surrounding neighborhoods are in the midst of a disaster” due to the opioid crisis, and empowering city agencies and officials to lead efforts to reduce opioid deaths and transmission of disease and to increase entry into drug treatment.²

20. Since 2011, most opioid-related deaths in Philadelphia have been caused by heroin. In the last several years, Philadelphia has experienced a dramatic increase in the number of deaths related to fentanyl.³

¹ See City of Phila., Dep’t of Pub. Health, *Opioid Misuse and Overdose Report* (Nov. 29, 2018), <https://www.phila.gov/media/20181129123743/Substance-Abuse-Data-Report-11.29.18.pdf>; City of Phila., *Combating the Opioid Epidemic*, <https://www.phila.gov/programs/combating-the-opioid-epidemic/reports-and-data/opioid-misuse-and-overdose-data/> (last visited Apr. 2, 2019); see also WHYY, *Fatal opioid overdoses expected to dip in Philly for first time in 5 years* (Dec. 24, 2018), <https://whyy.org/articles/fatal-opioid-overdoses-expected-to-dip-in-philly-for-first-time-in-5-years/>.

² City of Phila., Office of the Mayor, *Executive Order No. 3-18 – Opioid Emergency Response Executive Order* (Oct. 3, 2018), <https://www.phila.gov/ExecutiveOrders/Executive%20Orders/eo99318.pdf>.

³ See *id.*

21. Fentanyl is a synthetic opioid that is now found in many of the opioids sold on the street in Philadelphia. Fentanyl is often sold to people who use drugs mistakenly believing that they are purchasing less lethal drugs.

22. Fentanyl is 50-to-100 times more potent than heroin, and its effects are felt within the human body much faster. In the event of an overdose, a person may stop breathing within **2-to-3 minutes** after the consumption of fentanyl. Absent intervention, serious injury or death can occur as quickly as **3-to-5 minutes** from the time of consumption.

23. Every second counts in reversing an opioid overdose. When immediately available, the administration of Naloxone and similar opioid receptor antagonists provides lifesaving treatment. These interventions ***will resuscitate and keep a person alive with medical certainty.***

24. The time-sensitive nature of overdose prevention services is complicated by the fact that Philadelphia's Emergency Medical Services ("EMS") is inundated with calls to respond to overdoses, response times are variable, and for 46 percent of calls in 2017, more than nine minutes elapsed before EMS arrived at the scene.⁴

25. In 2017, Philadelphia's EMS personnel administered Naloxone to more than 5,400 overdose victims.⁵ This number has continued to increase in 2018 and 2019. Over 60,000 doses of Naloxone have been distributed by the City of Philadelphia in 2019.

26. Frequently, neither emergency rooms nor emergency responders are equipped to offer treatment or provide the wraparound services needed to overcome opioid addiction.⁶

⁴ Adam Thiel, Fire Comm'r, *Philadelphia Fire Department Fiscal Year 2018 Budget Testimony*, at 6, <http://phlcouncil.com/wp-content/uploads/2017/04/FY18-Fire-Budget-Testimony-final-version-4.12.17.pdf> (last visited Sept. 17, 2021).

⁵ See City of Phila., Dep't of Pub. Health, *Opioid Misuse and Overdose Report* (Nov. 29, 2018), <https://www.phila.gov/media/20181129123743/Substance-Abuse-Data-Report-11.29.18.pdf>; City of Phila., *Combating the Opioid Epidemic*, <https://www.phila.gov/programs/combating-the-opioid-epidemic/reports-and-data/opioid-misuse-and-overdose-data/> (last visited Sept. 17, 2021).

27. As part of this growing crisis, the Mayor of Philadelphia created the Task Force to Combat the Opioid Epidemic in Philadelphia (the “Task Force”). The final report issued by the Task Force recommended the implementation of overdose prevention services and expansion of treatment access and capacity.⁷

28. Safehouse would fulfill Philadelphia’s dire need for overdose prevention services.

Formation of Safehouse

29. Safehouse, a privately funded nonprofit corporation, was established in 2018 with the mission to save lives by providing a range of overdose prevention services. Its proposed model is part of a broader harm reduction strategy to mitigate the catastrophic losses resulting from the opioid epidemic and overdose crisis in Philadelphia.

30. “Substance use disorder” or “Opioid use disorder” are defined by the CDC to be a medical condition diagnosed “based on specific criteria such as unsuccessful efforts to cut down or control use, or use resulting in social problems and a failure to fulfill obligations at work, school, or home, among other criteria.”⁸ The Office of the U.S. Surgeon General has reported that more than eleven million Americans use illicit drugs or misuse prescription drugs, but that only one out of four of those people seek specialized treatment for opioid use disorder.⁹ In 2016, the Mayor’s Task Force reported that more than 14,000 Medicaid recipients in Philadelphia

⁶ Hoag Levins, *Optimizing Heroin Users’ Treatable Moments in the ER* (June 2017), <https://ldi.upenn.edu/news/optimizing-heroin-users-treatable-moments-er> (last visited Sept. 17, 2021).

⁷ See City of Phila., *The Mayor’s Task Force to Combat the Opioid Epidemic in Philadelphia: Final Report and Recommendations* (May 19, 2017), https://dbhids.org/wp-content/uploads/2017/04/OTF_Report.pdf (“*Task Force Report*”).

⁸ CDC, *Commonly Used Terms: Opioid Overdose*, <https://www.cdc.gov/drugoverdose/opioids/terms.html> (last visited Sept. 17, 2021).

⁹ HHS, *Facing Addiction in America: The Surgeon General’s Spotlight on Opioids 6* (Sept. 19, 2018), https://addiction.surgeongeneral.gov/sites/default/filesfiles/Spotlight-on-Opioids_09192018.pdf.

sought treatment for opioid use disorder—a small fraction of those actually suffering from that condition—and estimated that more than 70,000 Philadelphians are active heroin users.¹⁰

31. “Harm reduction” is an umbrella term for interventions that aim to reduce problematic or otherwise harmful effects of certain behaviors. In the context of substance and opioid use disorders, such interventions are necessary to reduce harm for individuals “who, for whatever reason, may not be ready, willing, or able to pursue full abstinence as a goal.” Harm reduction strategies are an essential aspect of public health initiatives. Harm reduction can include reducing the frequency of substance use, preventing diseases caused by substance use (such as HIV and Hepatitis C), providing syringe exchange, and offering medication-assisted treatments, overdose prevention, and wound care. Harm reduction strategies are necessary in light of the psychology of addiction and substance use disorder, and seek to help individuals engage in treatments to reduce, manage, and stop their substance use when appropriate.¹¹

32. Safehouse will combat the opioid crisis through the use of a comprehensive harm reduction strategy.

33. Safehouse’s overdose prevention services include the assessment of an individual’s physical and behavioral health status, provision of sterile consumption equipment, provision of drug testing (*i.e.*, fentanyl test strips), medically supervised consumption and observation, overdose reversal, wound care and other primary care services, on-site education and counseling, on-site MAT and recovery counseling, distribution of Naloxone, and access to wraparound services such as housing, public benefits, and legal services.

¹⁰ *Task Force Report* 7-8.

¹¹ See Diane E. Logan & G. Alan Marlatt, *Harm Reduction Therapy: A Practice-Friendly Review of Research*, 66 J. Clinical Psychol. 201 (2010).

34. Safehouse’s overdose prevention services model provides those at highest risk of an opioid overdose with immediate access to medical care, including overdose reversal agents. Under this model, Safehouse can offer assurance, to a medical certainty, that people within its care will not die of a drug overdose.

35. Safehouse will not provide any illicit drugs for consumption, nor will it tolerate any sale of illicit drugs or drug sharing at its facility.

36. Safehouse’s comprehensive services will encourage entry into drug treatment, reduce the burden on emergency services and first responders, prevent the transmission of infectious diseases, and create a safer community by reducing public consumption of illicit drugs and discarded needles and other consumption equipment.

37. Safehouse will save lives by preventing and averting overdose deaths. It will also save lives by preventing death and serious health complications caused by infections and disease transmitted by intravenous drug use.

38. Studies estimate that an overdose prevention site like Safehouse could reduce overdose deaths annually by 30% in the site’s immediate vicinity.¹²

Threat of Prosecution

39. On November 9, 2018, the U.S. Attorney for the Eastern District of Pennsylvania, William M. McSwain, sent a letter to Safehouse declaring the DOJ’s intent to pursue “appropriate legal remedies” for a purported “violation of the CSA.” A true and correct copy of the November 9, 2018 letter is attached as Exhibit B to the Complaint.

¹² Sharon Larson et al., *Supervised Consumption Facilities – Review of the Evidence* 20 (2017), https://dbhids.org/wp-content/uploads/2018/01/OTF_LarsonS_PHLReportOnSCF_Dec2017.pdf (“*Supervised Consumption Facilities*”).

40. Similarly, in a widely published op-ed, U.S. Deputy Attorney General Rod Rosenstein argued that safe injection facilities violate federal law and could result in “up to 20 years in prison.”¹³

41. On February 5, 2019, the DOJ filed a complaint for a declaratory judgment under 21 U.S.C. § 856(e) that Safehouse’s medically supervised consumption room would violate 21 U.S.C. § 856(a)(2).

42. Violation of 21 U.S.C. § 856(a)(1) or (a)(2) carries with it severe criminal and civil penalties, including fines of up to \$2,000,000 and imprisonment for up to twenty years. *See, e.g.*, 21 U.S.C. § 856(b) and (d).

II. SAFEHOUSE’S OVERDOSE PREVENTION SERVICES ARE ENTIRELY CONSISTENT WITH FEDERAL LAW AND POLICY

43. Efforts to expand drug treatment have been at the heart of the CSA, 21 U.S.C. § 801 *et seq.* since its passage in 1970. In its report supporting and explaining the CSA, the House Committee on Interstate and Foreign Commerce identified “increased efforts in drug abuse prevention and rehabilitation of users” as one of the Act’s three important objectives. *See* H.R. Rep. No. 91-1444, *as reprinted in* 1970 U.S.C.C.A.N. 4566, 4567; *see also* Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91-513, 84 Stat. 1236.

44. Under the CSA, health care practitioners licensed by the U.S. Drug Enforcement Administration (“DEA”) may lawfully dispense or prescribe controlled substance “in the course of professional practice.” 21 U.S.C. § 802(21); 21 C.F.R. § 1306.04. The CSA does not generally “regulate the practice of medicine,” except “insofar as it bars doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking as conventionally understood.” *Gonzales v. Oregon*, 546 U.S. 243, 270 (2006). Outside of those

¹³ *See* Rod J. Rosenstein, *Fight Drug Abuse, Don’t Subsidize It*, N.Y. Times (Aug. 27, 2018), <https://www.nytimes.com/2018/08/27/opinion/opioids-heroin-injection-sites.html>.

delineated spheres, the CSA does not limit the appropriate medical response to the risk of drug overdose.

45. Federal law permits, and indeed encourages, a facility like Safehouse to provide safe and clean equipment for intravenous drug users, notwithstanding 21 U.S.C. § 863, and to provide them with medical treatment, including immediate access to Naloxone and other opioid reversal agents. *See, infra*, ¶¶ 56-77.

46. Safehouse’s overdose prevention services model allows those at high risk of overdose death to stay within immediate reach of urgent, lifesaving medical care at the critical moment of consumption. Medical supervision and direct access to treatment can reverse an overdose with medical certainty and ensures that participants in Safehouse’s care will stay alive.

47. It would be entirely inconsistent with the CSA, recent Congressional changes to federal law, and federal agency policy to find that Section 856 requires doctors, nurses, and medically trained volunteers to turn their backs on patients at their most vulnerable moment. Section 856 does not prohibit overdose prevention services, including the medical supervision of drug consumption designed to provide immediate access to lifesaving care and to encourage entry into long-term drug treatment.

A. *The CSA Does Not Regulate Medical Treatment or Overdose Prevention Measures.*

48. Although the CSA creates a comprehensive statutory and regulatory regime regarding the manufacture, distribution, and possession of controlled substances, it does not regulate medical treatment or the practice of medicine. *See Oregon*, 546 U.S. at 270 (“[T]he statute manifests no intent to regulate the practice of medicine generally.”).

49. Under Subchapter I of the CSA, a medical professional licensed by the DEA is empowered to administer controlled substances in accordance with its schedules and regulations.

See 21 U.S.C. § 822 (setting forth registration requirements for manufacture and distribution of controlled substances). Moreover, DEA regulations implementing Subchapter I of the CSA permit the dispensing, prescribing, and administering of non-Schedule I controlled substances “for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” *See* 21 C.F.R. § 1306.04.

50. Neither the CSA nor the DEA regulates medical practitioners (or others providing wraparound services, counseling, or volunteer support) who are not dispensing, prescribing, or distributing controlled substances.

51. Section 856 does not dictate the appropriate means of preventing and treating opioid overdoses.

52. Safehouse’s health care professionals and other volunteers will not distribute, dispense, prescribe, or administer controlled substances as part of its medically supervised consumption service. Safehouse will not administer any illicit drugs. Safehouse’s health care professionals will supervise consumption with the singular goal of assessing and reversing overdoses using Naloxone and other opioid reversal agents (which are not prohibited or regulated by the CSA), with respiratory support, and by providing other lifesaving care.

53. In addition, Safehouse will provide comprehensive overdose prevention services including medical care, provision of sterile consumption equipment, education, counseling, and wraparound services such as housing, access to public benefits, and legal services. None of those activities is addressed by the CSA.

54. The CSA does not prohibit medical practitioners from supervising and remaining proximate to individuals at risk of overdose and death with the goal of providing immediate lifesaving care.

55. Section 856 accordingly does not prohibit Safehouse from providing urgent medical treatment through its proposed overdose prevention services, including medically supervised consumption.

B. *Federal Law Endorses and Funds Syringe Exchange Programs.*

56. Recent changes in federal law demonstrate official federal approval of certain harm reduction strategies to address the opioid crisis.

57. In 2011, amid growing evidence of the positive effect of syringe exchange programs in treating drug abuse, the U.S. Surgeon General issued a determination “that a demonstration needle exchange program . . . would be effective in reducing drug abuse and the risk of infection.”¹⁴

58. In pertinent part, the U.S. Surgeon General recognized that syringe exchange programs promote entry into treatment and can reduce a drug user’s injections. The determination relied upon a 2000 study, which concluded that:

[N]ot only were new [syringe services program] participants five times more likely to enter drug treatment than non-[syringe exchange program] participants, former [syringe exchange program] participants were more likely to report significant reduction in injection, to stop injecting altogether, and to remain in drug treatment.¹⁵

59. In 2012, the CDC implemented summary guidance to prevent HIV infection, viral hepatitis, sexually transmitted diseases, and tuberculosis for drug users. This guidance recommended the implementation of integrated prevention services that would enable drug users

¹⁴ *Determination that a Demonstration Needle Exchange Program Would Be Effective in Reducing Drug Abuse and the Risk of Acquired Immune Deficiency Syndrome Infection Among Intravenous Drug Users*, 76 Fed. Reg. 10038 (Feb. 23, 2011).

¹⁵ *Id.* (citing Holly Hagan et al., *Reduced injection frequency and increased entry and retention in drug treatment associated with needle-exchange participation in Seattle drug injectors*, 19 J. of Substance Abuse Treatment 247–252 (2000)).

to receive comprehensive care at the time they participate in clean syringe exchange.¹⁶ The CDC guidance provided that “a comprehensive service program” may include “[p]rovision of sterile needles, syringes and other drug preparation equipment (purchased with non-federal funds) and disposal services” and “[p]rovision of Naloxone to reverse opioid overdoses.”¹⁷

60. Federal law now permits federal funding of most elements of local- and state-sponsored syringe exchange programs, notwithstanding the criminalization of interstate distribution of drug paraphernalia in 21 U.S.C. § 863. In 2016, Congress drastically relaxed a nearly thirty-year ban on the use of federal funds for state and local programs that furnish “sterile needles or syringes for the hypodermic injection of any illegal drug.” *See* Appropriations Act of 2016, § 520, 129 Stat. 2652. That same year, HHS adopted the CDC’s 2012 Guidance to support the implementation of new federal funding for syringe exchange programs.¹⁸

61. Safehouse will provide comprehensive overdose protection services that are entirely consistent with the CDC and HHS guidelines, and will provide sterile syringes, other sterile consumption equipment, syringe disposal services, Naloxone, primary care, and wraparound services. Although Safehouse is not a local or state entity seeking federal funding, it is indisputable that its comprehensive syringe exchange and Naloxone services are entirely legal under, and indeed, encouraged by federal law.

62. Yet, under the DOJ’s rationale, a syringe exchange program is transformed from a legal, federally endorsed public health measure into a 20-year felony simply by allowing

¹⁶ *See* CDC, *Morbidity And Mortality Weekly Report: Integrated Prevention Services For Hiv Infection, Viral Hepatitis, Sexually Transmitted Diseases, and Tuberculosis for Persons Who Use Drugs Illicitly: Summary Guidance From CDC and the U.S. Department of Health and Human Services* (2012), <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr6105a1.utm> (last visited Sept. 17, 2021).

¹⁷ CDC, *Program Guidance for Implementing Certain Components of Syringe Services Programs* (2016), <https://www.cdc.gov/hiv/pdf/risk/cdc-hiv-syringe-exchange-services.pdf>.

¹⁸ *See* HHS, *Implementation Guidance to Support Certain Components of Syringe Services Programs* (Mar. 29, 2016), <https://www.hiv.gov/federal-response/policies-issues/syringe-services-programs>.

participants to remain within the same facility and under the supervision of its medical practitioners at the critical moment of consumption when death is most likely to occur. That is the very moment when proximity to urgent medical care may mean the difference between life and death.

63. It cannot be that compassionate and conscientious medical providers may establish a clinic, well-stocked with emergency overdose reversal medication, staff the clinic with trained medical practitioners, and provide individuals with sterile consumption equipment (all plainly permitted by federal law) only to confront a stark choice: cast those individuals away from lifesaving medical care or else suffer serious criminal liability. That is not a reasonable interpretation of any federal law.

64. The DOJ's interpretation of Section 856 cannot be reconciled with the medical facts recognized by Congress, the CDC, and federal health policy—syringe exchange programs and overdose prevention services save lives, decrease disease transmission, and reduce the harms of this opioid crisis.

65. Safehouse's modest extension of already-endorsed harm reduction measures will close a short, but critical gap in care at the time of drug consumption.

66. Medical supervision for those at risk of overdose advances federal policy and does not violate federal law.

C. The Federal Government and Pennsylvania State Law Encourage Access to Naloxone to Combat the Opioid Crisis.

67. Safehouse's overdose prevention model is entirely consistent with federal and state laws and policies that have expanded access to Naloxone and other opioid reversal agents.

68. Opioid receptor antagonists, like Naloxone, are highly effective—if given in time and in sufficient quantity, they will reverse an otherwise fatal overdose with medical certainty.

69. Naloxone can only work if someone is close by to administer it. A person experiencing an overdose loses consciousness and therefore cannot self-administer Naloxone. Once a person loses respiratory function, which can occur within minutes of consumption, time is of the essence in providing respiratory support and Naloxone. The more time that elapses, the greater the risk of serious injury and death.

70. Naloxone is designed to be easily administered as an intra-nasal spray. It has been widely dispensed, with the help of federal, state, and local funding. At times, however, a single dose of Naloxone is not sufficient to reverse an overdose. Multiple doses or intramuscular injections of Naloxone are sometimes required. Oxygen and respiratory support may also be beneficial, and can serve as an alternative first-line treatment. Outside of a medically supervised environment, even when help does arrive for an overdose victim, first responders, family members, and Good Samaritans sometimes lack sufficient doses of Naloxone or lack training in other respiratory support required to resuscitate that person.

71. Congress recognized the importance of Naloxone access when it enacted the Comprehensive Addiction and Recovery Act. *See* CARA § 101, 130 Stat. 697. CARA established a coordinated, public health-focused strategy to address the opioid crisis, including increased funding for education and awareness campaigns and improved access to overdose treatment.

72. CARA also amended the CSA to expand prescribing privileges for MAT, like buprenorphine and suboxone, to nurses and physicians assistants. *See* CARA § 303(a)(1)(C)(v)-(iv), 130 Stat. 720-723.

73. CARA includes several measures that expand and encourage access to opioid reversal agents such as Naloxone. Title I, Section 107 of CARA empowers HHS to award grants

to eligible entities providing overdose reversal treatment, including Naloxone. *See id.* § 107, 130 Stat. 703 (42 U.S.C. § 290dd-3). Section 703 of CARA requires evaluation of state Good Samaritan laws that provide civil and criminal immunity to individuals who administer Naloxone to an individual experiencing an overdose. *See id.* § 703, 130 Stat. 741. CARA also directs that “[t]he Secretary shall maximize the availability of opioid receptor antagonists, including [N]aloxone, to veterans.” *See id.* § 911, 130 Stat. 759 (38 U.S.C. § 1701).

74. Pennsylvania state law similarly recognizes the importance of Naloxone access. In light of the growing opioid crisis, in 2010, the Pennsylvania General Assembly amended its state drug law (the Controlled Substance, Drug, Device and Cosmetic Act, 35 Pa. Stat. § 780–101 *et seq.*) by enacting the Drug Overdose Response Immunity statute (“the Good Samaritan Statute”). That statute provides immunity from prosecution for persons who call authorities to seek medical care for a suspected overdose victim. *See id.* § 780–113.7. The Good Samaritan Statute also provides criminal, civil, and professional immunity to anyone who, in good faith, administers Naloxone to an individual experiencing an overdose.¹⁹ Former Governor of Pennsylvania, Tom Corbett, stated the Good Samaritan statute “will save lives and ensure those who help someone in need aren’t punished for doing so.”²⁰

75. On April 18, 2018, the Pennsylvania Physician General issued Standing Order DOH-002-2018, providing a statewide prescription for eligible persons to obtain Naloxone. The purpose of the Order is to “ensure that residents of the Commonwealth of Pennsylvania who are at risk of experiencing an opioid-related overdose, or who are family members, friends or other

¹⁹ To date, forty States and the District of Columbia have enacted some form of a Good Samaritan statute or law that provides criminal immunity when an individual experiencing an opioid-related overdose or witnesses an opioid-related overdose calls 911, administers Naloxone, or seeks medical assistance. *See Nat’l Conf. of State Legis., Drug Overdose Immunity and Good Samaritan Laws* (June 5, 2017), <http://www.ncsl.org/research/civil-and-criminal-justice/drug-overdose-immunity-good-samaritan-laws.aspx>.

²⁰ *See* David Wenner, *Pa. Painkiller-Heroin Crisis: Corbett Signs Bill Intended To Save Lives*, PennLive (Sept. 30, 2014), https://www.pennlive.com/midstate/2014/09/corbett_heroin_good_samaritan.html.

persons who are in a position to assist a person at risk of experiencing an opioid-related overdose . . . , are able to obtain Naloxone.”²¹ The Pennsylvania Physician General has continued to renew this Standing Order, consistent with Pennsylvania Governor Tom Wolf’s Proclamation and as the opioid crisis continues in Pennsylvania. The Standing Order was most recently updated on March 29, 2021. Governor Wolf signed the 14th renewal of the Opioid Disaster Declaration on May 7, 2021.

76. Safehouse’s medically supervised consumption spaces will be staffed at all times by medically trained practitioners supplied with sufficient doses of Naloxone and able to provide other forms of respiratory support. This model permits proximity and access to Naloxone during and immediately after the time of use—which is the moment when Naloxone is most needed.

77. The Safehouse model is entirely consistent with CARA, federal policy, and Pennsylvania state law, all of which include strong measures to increase Naloxone access.

III. SECTION 856 DOES NOT PROHIBIT SAFEHOUSE’S PROPOSED OVERDOSE PREVENTION MODEL

78. Despite the federal endorsement of a public health-focused strategy to combat the opioid crisis, the DOJ seeks to prohibit Safehouse’s overdose prevention services model under 21 U.S.C. § 856. The history, purpose, and text of Section 856 confirm that it has no application to Safehouse’s proposed medical and public health response to the opioid crisis.

A. *Section 856 Was Enacted to Target Crack Houses and Rave Parties, Not Legitimate Medical Interventions to Prevent Drug Overdoses.*

79. The DOJ’s proposed application of Section 856 to Safehouse’s overdose prevention services model would be an unprecedented expansion of that discrete statutory provision.

²¹ Pa. Dep’t of Health, Standing Order DOH-002-2016: Naloxone Prescription for Overdose Protection, [https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Documents/SN%20-%20Naloxone%20Prescription%20for%20Overdose%20Prevention%20\(Standing%20Order%20DOH-002-2016\).pdf](https://www.dos.pa.gov/ProfessionalLicensing/BoardsCommissions/Documents/SN%20-%20Naloxone%20Prescription%20for%20Overdose%20Prevention%20(Standing%20Order%20DOH-002-2016).pdf).

80. Congress enacted Section 856 to target drug dealers and party promoters who established locations for manufacture, distribution, and use of illicit drugs to facilitate their for-profit enterprises.

81. The federal government has never sought to use Section 856 to prosecute or enjoin any public health measure or legitimate medical activity remotely analogous to Safehouse’s proposed overdose prevention model.

82. In 1986, Congress enacted Section 856 as part of the Anti-Drug Abuse Act of 1986 (“1986 Act”), Pub. L. No. 99-570, 100 Stat. 3207. The 1986 Act established a comprehensive scheme that not only expanded federal drug enforcement and interdiction measures, but also sought “to provide strong Federal leadership in establishing effective drug abuse prevention and education programs,” and “to expand Federal support for drug abuse treatment and rehabilitation effort[t]s.” 132 Cong. Rec. S26473 (daily ed. Sept. 26, 1986).

83. The passage of Section 856 was intended to authorize federal prosecution of “crack houses” and similar premises. The Senate Report stated that Congress’s purpose in enacting Section 856 was to “[o]utlaw[] operation of houses or buildings, so-called ‘crack houses’, where ‘crack’ cocaine and other drugs are manufactured and used.” See 132 Cong. Rec. at S26474. In legislative debate on the 1986 Act, sponsoring Senator Lawton Chiles noted that this provision would address law enforcement’s difficulties in arresting “crack house” operators: “When police raid these crack houses, the dealers and users can easily dispose of the drugs, thus avoiding arrest. This bill makes it a felony to operate such a house, to be present at the house.” See 132 Cong. Rec. at S26447 (statement of Sen. Chiles).

84. Likewise, in 2003, Congress amended Section 856 to add subsection (a)(2), “after holding a series of hearings regarding the dangers of Ecstasy [*i.e.*, MDMA, a synthetic drug with

combined stimulant and hallucinogenic effects] and the rampant drug promotion associated with some raves.” 149 Cong. Rec. S10606 (daily ed. July 31, 2003) (statement of Sen. Biden); Illicit Drug Anti-Proliferation Act of 2003 (“2003 Amendment”), Pub. L. No. 108-21, 117 Stat. 691. (“Rave,” in this context, refers to commercial dance parties, popular in the 1990s, featuring electronic “club” music and often involving widespread drug use, in particular MDMA.) Then-Senator Biden, who sponsored the 2003 Amendment, noted that the new provision clarified that Section 856 prohibited not only the operation of premises with ongoing drug distribution activities, but also “‘single-event’ activities, including an event where the promoter has as his primary purpose the sale of Ecstasy or other illegal drugs.” *Id.* Thus, Senator Biden stated that it was appropriate under the amendment “to prosecute rogue rave promoters who profit off of putting kids at risk,” by “knowingly and intentionally hold[ing] an event for the purpose of drug use, distribution or manufacturing.” *See id.*

85. Plainly, Safehouse’s lifesaving medical and public health mission is far from the concerns that led Congress to originally enact Section 856 or the 2003 amendment. Nothing in Section 856’s legislative history suggests Congress ever contemplated that Section 856 would be used to prosecute medical professionals, public health workers, and volunteers who seek to prevent opioid overdoses, reduce disease transmission, encourage drug treatment, and provide urgent lifesaving care, as Safehouse now proposes to do.

B. *Section 856 Does Not Apply Where Conduct Is “Authorized by this Subchapter,” Which Permits Legitimate Medical Practice.*

86. Section 856 expressly exempts conduct “authorized by [Subchapter I]” from its criminal and civil penalties. Section 856 does not regulate the practice of medicine nor does it dictate the appropriate means of preventing and treating opioid overdoses. Neither the CSA nor

the DEA regulate medical practitioners (or others providing wraparound services, counseling, or volunteer support) who are not dispensing, prescribing, or distributing controlled substances.

87. In any event, DEA regulations implementing Subchapter I of the CSA expressly permit the dispensing, prescribing, and administering of non-Schedule I controlled substances “for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” *See* 21 C.F.R. § 1306.04.

88. Safehouse’s overdose prevention services are a legitimate medical and public health measure that have been recognized and endorsed by prominent national and international medical and public health associations including American Medical Association, the American Public Health Association, AIDS United, the European Monitoring Center for Drugs and Drug Addiction, the Infectious Diseases Society of America, the HIV Medical Association, the International Drug Policy Consortium, and innumerable public health experts, physicians, and addiction researchers.

89. Safehouse’s overdose prevention model has been endorsed and encouraged by Philadelphia’s previous and current acting Public Health Commissioner and its current and previous Commissioner of the Department of Behavioral Health and Intellectual disAbility Services. Both Commissioners believe overdose prevention, including supervised consumption, is a critical medical and public-health intervention.

90. Safehouse’s overdose prevention services are legitimate medical services that fall under Section 856’s express exemption.

C. ***Section 856 Does Not Apply to Safehouse Because It Will Not Operate “For The Purpose Of” Illegal Drug Use.***

91. The CSA, 21 U.S.C. § 856(a) states:

Except as authorized by this subchapter, it shall be unlawful to—

(1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, ***for the purpose of*** manufacturing, distributing, or using any controlled substance;

(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place ***for the purpose of*** unlawfully manufacturing, storing, distributing, or using a controlled substance.

Id. (emphasis added).

92. Safehouse’s singular purpose is to provide lifesaving medical treatment, primary care, and wraparound services to a vulnerable population at high risk of overdose death and complications from opioid use disorder.

93. Safehouse will not provide these services “for the purpose” of unlawful drug use within the meaning of Section 856—they are for the purpose of providing immediate, proximate access to lifesaving medical care to those at high risk of overdose death.

94. Safehouse’s legitimate and urgent medical and public health mission and purpose removes its proposed activities from Section 856’s scope.

D. ***The CSA Does Not Define “Unlawful . . . Use” of Controlled Substances.***

95. Section 856(a)(2) prohibits management or control of a place for the purpose of “***unlawfully*** manufacturing, storing, distributing, or ***using a controlled substance.***” 21 U.S.C. § 856(a)(2) (emphases added). Although the CSA elsewhere expressly defines and prohibits the

unauthorized manufacture, storage, or distribution of controlled substances (*see generally id.* §§ 802 (definitions), 841(a) (prohibition of manufacture, possession and distribution)), nowhere does it define or proscribe “unlawful[] . . . us[e].” It is unclear from either Section 856 or the CSA as a whole what “unlawful[] . . . us[e]” means.

96. Safehouse will not manufacture, store, or distribute any controlled substances. The only possible portion of Section 856(a)(2) that could apply is the prohibition against providing a place for “unlawful[] . . . us[e]”—an undefined term that does not plainly encompass Safehouse’s medically supervised consumption services model, which allows drug use in its facility only for the purpose of enabling access to a critical medical intervention.

E. *The Rule of Lenity Forecloses the DOJ’s Expansive Interpretation of Section 856.*

97. The DOJ’s unprecedented interpretation of Section 856 cannot be reconciled with several canons of construction, including the rule of lenity and the clear statement canon.

98. If the Court is left with “any doubt about the meaning of” Section 856, it should invoke the rule that “ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity”—*i.e.*, in favor of a criminal defendant. *Yates v. United States*, 574 U.S. 528, 547–48 (2015) (citation omitted); *see United States v. Flemming*, 617 F.3d 252 (3d Cir. 2010).

99. The rule of lenity favors adopting Safehouse’s interpretation of a criminal statute where both interpretations of the government and the defendant are “plausible.” *Flemming*, 617 F.3d at 270. Similarly, when a “choice has to be made between two readings of what conduct Congress has made a crime, it is appropriate, before we choose the harsher alternative, to require that Congress should have spoken in language that is clear and definite.” *United States v. Universal C.I.T. Credit Corp.*, 344 U.S. 218, 221–22 (1952); *Yates*, 574 U.S. at 548.

100. The phrases “except as authorized by,” “for the purpose of,” and “unlawful[. . . us[e]” in Section 856 are ill-defined and cast substantial doubt on the statute’s application to Safehouse’s proposed overdose prevention services.

101. That doubt is only magnified when Section 856 is examined in the context of the CSA as a whole. Because a court’s “duty . . . is ‘to construe statutes, not isolated provisions,’” the Supreme Court instructs that “when deciding whether the language is plain, we must read the words ‘in their context and with a view to their place in the overall statutory scheme.’” *King v. Burwell*, 576 U.S. 473, 474 (2015) (citations omitted). The Supreme Court thus observed that “oftentimes the ‘meaning—or ambiguity—of certain words or phrases may only become evident when placed in context.’” *Id.* (citation omitted).

102. Here, the words of Section 856 must be read in the context of the CSA as a whole, its purpose, and its history, which evince no intent to criminalize Safehouse’s medical and public health intervention to prevent overdose deaths, much less do so unambiguously.

103. Section 856 must also be interpreted in harmony with other federal statutes, including CARA and the Appropriations Act of 2016, which endorse and provide federal funding to a continuum of overdose prevention and harm reduction services. *See Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 133 (2000) (“A court must . . . interpret [a] statute ‘as a symmetrical and coherent regulatory scheme,’ and ‘fit, if possible, all parts into an harmonious whole.’ Similarly, the meaning of one statute may be affected by other Acts, particularly where Congress has spoken subsequently and more specifically to the topic at hand.” (citations omitted)).

104. The DOJ’s incongruous interpretation of Section 856 would criminalize the provision of medical care in the short gap between otherwise legal and federally endorsed

syringe exchange services and overdose reversal administration. That result would be entirely inconsistent with the federal scheme established by the CSA, CARA, and HHS and CDC federal guidance and policy.

105. The rule of lenity therefore strongly counsels in favor of Safehouse’s proposed interpretation of Section 856.

IV. APPLICATION OF SECTION 856 TO REGULATE LOCAL, NON-COMMERCIAL CONDUCT WOULD EXCEED THE AUTHORITY GRANTED BY THE COMMERCE CLAUSE AND UNCONSTITUTIONALLY UPSET THE BALANCE BETWEEN FEDERAL AND STATE AUTHORITY

106. The DOJ’s proposed interpretation of Section 856, as applied to Safehouse, exceeds the bounds of Congress’s constitutional authority to regulate interstate commerce.

107. Congress lacks a general police power. *See United States v. Morrison*, 529 U.S. 598, 618–19 (2000); *Jones v. United States*, 529 U.S. 848, 850 (2000). Such power is granted only to the States. *See* U.S. Const., amend. X. While “[t]he States have broad authority to enact legislation for the public good” through their “police power,” the “Federal Government, by contrast, has no such authority.” *Bond v. United States*, 572 U.S. 844, 854 (2014).

108. “[T]he regulation of health and safety matters is primarily, and historically, a matter of local concern.” *Hillsborough Cty. v. Automated Med. Labs., Inc.*, 471 U.S. 707, 719 (1985); *Bond*, 572 U.S. at 853–54.

109. In light of those limits on federal authority, the Supreme Court found that the CSA “manifests no intent to regulate the practice of medicine generally,” and observed, “[t]he silence is understandable given the structure and limitations of federalism, which allow the States ‘great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons.’” *Oregon*, 546 U.S. at 269–70 (quoting *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475 (1996)).

110. Through this action, however, the DOJ interprets Section 856 in a way that would create a general police power for Congress.

111. Safehouse’s proposed conduct has no substantial effect on interstate commerce. It is not activity that is economic in nature.

112. Safehouse is a non-profit corporation. Its operation will charge no fees, and will produce no revenue. Safehouse’s facility will be entirely local and will not be engaged in commerce of any kind. Safehouse will not charge participants for its harm reduction and overdose prevention services; will not manufacture, sell, or administer unlawful drugs; will not permit the distribution or sale of drugs on site; will not provide any of its services across state lines; will not permit the exchange of any currency; will not allow participants to share consumption equipment or help another person consume drugs; and will not allow staff to handle illegal drugs or help participants consume drugs. No link therefore exists between Safehouse’s proposed conduct and interstate commerce.

113. The operation of Safehouse’s overdose prevention services will have no adverse impact on the legitimate CSA goal of suppressing the interstate market for illegal drugs. In fact, studies show that medically supervised consumption sites actually reduce drug use.

114. Section 856 lacks a jurisdictional element to ensure that the reach of the law has an explicit connection with or effect on interstate commerce.

115. Congress has never found that any conduct remotely similar to Safehouse’s proposed model affects interstate commerce. In particular, while Congress found in 21 U.S.C. § 801(2) that “illegal importation, manufacture, distribution, and possession *and improper use* of controlled substances have a substantial and detrimental effect on *the health and general welfare* of the American people,” its finding in Section 801(3) with respect to the effect on interstate

commerce of local drug activities extends only to “manufacture, local distribution, and possession,” *not* “use.” *See id.* § 801(3) (emphases added). Similarly, the findings in Sections 801(4), (5) and (6) concerning the interstate impact of local drug activities conspicuously omit “use” from the listed activities. The application of Section 856 to entirely local and noncommercial “use” of controlled substances is therefore of doubtful constitutionality.

116. States and localities, under our constitutional regime, are laboratories of experimentation that may develop new and innovative solutions to pressing issues of public health and policy. Safehouse attempts to employ such a solution to a pressing local health crisis.

117. Local officials, including Philadelphia’s Mayor, previous and current acting Public Health Commissioner, previous and current Director of the Department of Behavioral Health, and District Attorney, support Safehouse’s efforts to mitigate the opioid crisis.

118. Similar overdose prevention efforts have proven to be effective in other countries and by clinically sound data.

119. Serious federalism concerns are raised by the DOJ’s extension of federal law to interfere with traditionally local activities and to exercise powers traditionally reserved to the States, such as the regulation of volunteer medical treatment.

120. This Court should avoid an interpretation of Section 856 that implicates these serious constitutional concerns. “[S]o long as the statute is found to be susceptible of more than one construction”—one of which “raises a serious doubt as to its constitutionality”—the constitutional avoidance canon applies. *Guerrero-Sanchez v. Warden York Cty. Prison*, 905 F.3d 208, 223 (3d Cir. 2018) (citation and internal quotation marks omitted). But the DOJ seeks to disrupt the traditional balance of federal and state authority over public health initiatives, without

any clear indication that Congress intended to thwart the traditional rights of States and localities.

121. To preserve these principles of federalism, “it is incumbent upon the federal courts to be *certain* of Congress’ intent before finding that federal law overrides the usual constitutional balance of federal and state powers.” *Bond*, 572 U.S. at 858 (citation and internal quotation marks omitted). No such certainty exists with respect to Section 856, however, because the CSA “manifests no intent to regulate the practice of medicine generally.” *Oregon*, 546 U.S. at 270.

122. Because the government’s proposed interpretation of Section 856 would significantly disrupt the traditional balance of state and federal authority in the realm of public health, this Court should reject the government’s unprecedented interpretation of Section 856. *See Jones*, 529 U.S. at 858 (explaining that, where Congress enacts criminal law that touches on areas traditionally falling within the authority of the States, courts will assume—“unless Congress conveys its purpose clearly”—that Congress “will not be deemed to have significantly changed the federal-state balance in the prosecution of crimes.” (citation and internal quotation marks omitted)).

123. This Court could avoid these constitutional concerns about federalism and the scope of Congress’s power to regulate commerce by rejecting the DOJ’s interpretation of Section 856 and declaring that Section 856 does not prohibit Safehouse’s provision of urgent, lifesaving medical treatment.

V. SAFEHOUSE’S LIFESAVING MISSION IS AN EXERCISE OF ITS FOUNDERS’ AND DIRECTORS’ RELIGIOUS BELIEFS

124. Safehouse’s board members are adherents of religions in the Judeo-Christian tradition. For example:

i. Dr. Frank A. James III is past President of Missio Seminary (formerly known as Biblical Theological Seminary).

ii. Rev. Erica Poellot is a Minister of Harm Reduction and Overdose Prevention Ministries of the United Church of Christ.

iii. Pastor Adarrel Omar Fisher is a Philadelphia Police Chaplain and the pastor of Geiger Memorial Church of the Brethren.

iv. Board President José Benitez was raised and educated as a Roman Catholic; his entire professional life, including as Director of Prevention Point, has been an exercise in living out that faith and those teachings.

125. The board members' religious beliefs have been ingrained in them by their religious schooling and their practices of worship.

126. At the core of all board members' faith is the principle that the preservation of human life is paramount and overrides any other considerations. Although Safehouse is not itself a religious entity or organization, its founders' and leaders' beliefs are those of the corporation, and the pursuit of its mission and conduct of its business will implement those beliefs. *See Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).

127. This principle is rooted in scripture, and appears throughout the Old and New Testaments. For example:

i. In the Gospel of John, Jesus refused to condemn to death a woman who had sinned, and cautioned fellow believers, “[l]et any one of you who is without sin be the first to cast a stone.” John 8:7-11

ii. The Gospel of John also counsels Christians: “The way we came to know love was that [Jesus] laid down his life for us; so we ought to lay down our lives for our

brothers. If someone who has worldly means sees a brother in need and refuses him compassion, how can the love of God remain in him? Children, let us love not in word or speech but in deed and truth.” 1 John 3:16-18.

iii. Matthew 25:34-40 directs believers to take in and care for the sick: “Then the king [*i.e.*, Jesus Christ] will say to those on his right, ‘Come, you who are blessed by my Father. Inherit the kingdom prepared for you from the foundation of the world. For I was . . . ill and you cared for me. . . . Amen, I say to you, whatever you did for one of the least brothers of mine, you did for me.’”

iv. In his Epistle to the Galatians, Paul the Apostle instructs Christians to “[b]ear one another’s burdens, and so fulfill the law of Christ.” Galatians 6:2.

v. According to the Shulchan Aruch, the Code of Jewish Law, “the Torah has granted the physician permission to heal, and it is a religious duty which comes under the rule of saving an endangered life. If he withholds treatment, he is regarded as one who sheds blood.” Shulchan Aruch, Yoreh De’ah 336:1.

vi. The Book of Leviticus contains the clear commandment: “You shall not go up and down as a talebearer among your people; neither shall you stand idly by the blood of your neighbor: I am the Lord.” Leviticus 19:16.

vii. In Deuteronomy, Moses conveys God’s commandment: “You shall open wide your hand to your brother, to the needy and to the poor, in your land.” Deuteronomy 15:11.

viii. The Talmud teaches: “It was for this reason that man was first created as one person [Adam], to teach you that anyone who destroys a life is considered by

Scripture to have destroyed an entire world; and anyone who saves a life is as if he saved an entire world.” Mishnah Sanhedrin 4:5.

ix. Mark 12:28:31, Jesus Christ responds as follows to the question of which “commandment is the most important of all?”: “The most important is, ‘Hear, O Israel: The Lord our God, the Lord is one. And you shall love the Lord your God with all your heart and with all your soul and with all your mind and with all your strength.’ The second is this: ‘You shall love your neighbor as yourself.’ There is no other commandment greater than these.”

128. The principle that the preservation of human life is paramount and overrides any other considerations is not only consistent with these scriptures, but also arises from the sincerely held religious belief that human life has inherent value because God created all living things.

129. The board members’ religious beliefs obligate them to take action to save lives in the current overdose crisis, and thus to establish and run Safehouse in accordance with these tenets. Specifically, the board members believe that the provision of overdose prevention services effectuates their religious obligation to preserve life, provide shelter to our neighbors, and to do everything possible to care for the sick.

130. The DOJ’s threats and the initiation of a lawsuit against Safehouse burdens Safehouse by forcing it to choose between the exercise of its founders’ and directors’ religious beliefs and conformity with the DOJ’s interpretation of Section 856.

131. In particular, because of the DOJ’s threatened prosecution of Safehouse, Safehouse and its board members have been unable to offer the lifesaving overdose prevention services that it seeks to provide. Its board members, including Safehouse Board President José Benitez, have been threatened with criminal prosecution if they allow those suffering from

addiction to remain under their care and supervision and within their shelter at the time of consumption of opioids, when those individuals are at greatest risk of overdose death. Instead, contrary to their sincere religious beliefs, Safehouse and its board members have been compelled to cast these vulnerable individuals outside of their facilities and have been unable to fulfill their deeply held religious obligation to do everything possible to provide them with critical lifesaving care.

132. Since 2017, this burden has been particularly heavy because Safehouse and its Board Members have been compelled not to provide overdose prevention services while over 7,200 members of its Philadelphia community have died of fatal overdoses and tens of thousands of others continue to suffer in the grips of opioid addiction and substance use disorder. The people lost to fatal overdose include those that Safehouse Board Members personally have cared for in their work treating those suffering from addiction and those that were beloved members of Board Members' congregations. Safehouse Board Members grieve for every life that was lost to overdose. They believe, based on their deeply held religious convictions, that they should have done everything possible to have kept those individuals alive, even for one more day.

IV. THE GOVERNMENT LACKS A COMPELLING INTEREST IN DENYING SAFEHOUSE A RELIGIOUS EXEMPTION FROM ENFORCEMENT OF SECTION 856

133. “A law burdening religious practice that is . . . not of general application must undergo the most rigorous of scrutiny.” *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 546 (1993). The DOJ’s decision to seek to apply Section 856 to Safehouse does not implement a law of general application.

134. As the Supreme Court recently reiterated, “[a] law is not generally applicable if it ‘invite[s]’ the government to consider the particular reasons for a person’s conduct by providing ‘a mechanism for individualized exemptions.’” *Fulton v. City of Phila.*, 593 U.S. —, 141 S.Ct.

1868, 1877 (2021) (quoting *Employment Div., Dept. of Human Resources of Ore. v. Smith*, 494 U.S. 872, 884 (1990)). “A law also lacks general applicability if it prohibits religious conduct while permitting secular conduct that undermines the government’s asserted interests in a similar way.” *Fulton*, 141 S. Ct. at 1877.

135. Thus, where the government creates exemptions from a law for those engaged in *non-religious* activity, as here, it “may not refuse to extend that system to cases of ‘religious hardship’ without compelling reason.” *Id.* at 1878 (quoting *Smith*, 494 U.S. at 884).

136. “The Government’s mere invocation of the general characteristics of Schedule I substances, as set forth in the Controlled Substances Act, cannot carry the day.” *Gonzales v. O Centro Espirita Beneficente União do Vegetal*, 546 U. S. 418, 432 (2006) (observing that “Congress’ determination that DMT should be listed under Schedule I simply does not provide a categorical answer that relieves the Government of the obligation to shoulder its burden under RFRA”). And, as in *O Centro*, which involved religious use of *hoasca*, “there is no indication that Congress,” in enacting Section 856, “considered the harms posed by the particular use at issue here” (*id.* at 432-33)—*i.e.*, a religiously motivated non-profit’s establishment of a medically supervised consumption site in which people can consume opioids in immediate proximity to medical professionals who can provide life-saving assistance in the event of an overdose.

137. The CSA contains discretionary and highly individualized exemptions from enforcement of the CSA, including (a) for “persons engaged in research,” 21 U.S.C. § 872(e); (b) in the Attorney General’s discretion to “waive the requirement for registration of certain manufacturers, distributors, or dispensers *if he finds it consistent with the public health and safety.*” 21 U.S.C. § 822(d); (c) for religious use of peyote by Native Americans, 21 C.F.R.

§ 1307.31; and (d) for possession offenses, for the Attorney General to decide in his discretion to “compromise, modify, or remit, with or without conditions, any civil penalty” imposed for simple possession, 21 U.S.C. § 844a.

138. The CSA itself provides that “[t]he Attorney General, on his own motion or at the request of the Secretary, may authorize the possession, distribution, and dispensing of controlled substances by persons engaged in research. *Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Attorney General.*” 21 U.S.C. § 872(e) (emphasis added). That exemption would be vitiated if Section 856 penalized such persons for maintaining a place to engage in authorized activities. Indeed, use of lawfully dispensed substances could not constitute “unlawful” use under Section 856.

139. The implementing regulations build on this “[e]xemption from prosecution for researchers.” 21 C.F.R. § 1316.24 (catchline). In particular, they provide that, “[u]pon registration of an individual to engage in research in controlled substances under the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801), the Administrator of the Drug Enforcement Administration, on his own motion or upon request in writing from the Secretary or from the researcher or researching practitioner, *may exempt the registrant when acting within the scope of his registration, from prosecution under Federal, State, or local laws for offenses relating to possession, distribution or dispensing of those controlled substances within the scope of his exemption.*” 21 C.F.R. § 1316.24 (emphasis added).

140. Moreover, the CSA permits the Attorney General to “waive the requirement for registration of certain manufacturers, distributors, or dispensers *if he finds it consistent with the public health and safety.*” 21 U. S. C. §822(d); *see also* 21 C.F.R. § 1307.03 (permitting the

DEA to “grant an exception” from “to the application of any provision of this chapter” to a qualified application). As the Supreme Court observed in *O Centro*, “The fact that the Act itself contemplates that exempting certain people from its requirements would be ‘consistent with the public health and safety’ indicates that congressional findings with respect to Schedule I substances should not carry the determinative weight, for RFRA purposes, that the Government would ascribe to them.” *Id.*

141. In fact, the CSA itself contains a provision exempting certain drug use for religious purposes from prosecution. Since 1970, “there has been a regulatory exemption for use of peyote—a Schedule I substance—by the Native American Church.” *Id.* The CSA’s implementing regulations provide that “[t]he listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the Native American Church, however, is required to obtain registration annually and to comply with all other requirements of law.” 21 C.F.R. § 1307.31.

142. The government also has discretion under the CSA to prosecute (or refrain from prosecution of) both the conduct of Safehouse and the types of drug-related offenses that would occur on Safehouse’s property—that is, simple possession of controlled substances for personal, use under the supervision of medical professionals. (Possession is the only potentially relevant offense because drug “use” is not regulated by the CSA or any federal law whatsoever.) The range of punishment available for simple possession offenses under the CSA ranges from a maximum of one year of imprisonment to no penalty at all.

143. The government has, in the past, exercised authority to decline to prosecute activities that technically violate the CSA, but do not “undermine federal enforcement priorities.” *E.g.*, W. Ogden, Deputy Att’y Gen., *Memorandum for Selected United States Attorneys: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana* (Oct. 19, 2009).²²

144. Section 844 provides that simple possession (absent any prior convictions) is punishable by a “term of imprisonment of not more than 1 year.” 21 U.S.C. § 844. The CSA provides for *alternative civil* penalties for such offenses, moreover, permitting the government to impose a civil penalty of up to \$10,000 instead of prosecuting criminally. 21 U.S.C. § 844a. The CSA then permits the Attorney General to “compromise, modify, or remit, with or without conditions, any civil penalty” imposed for simple possession.

145. In fact, the government in general does not prosecute under Section 856 for maintaining, controlling, or making available a place where controlled substances are simply possessed or used but not stored, distributed, or manufactured, despite the statute’s reference to “using”; instead, it exempts these offenses from prosecution as a matter of course and on an individualized basis. Indeed, in the 33 years since Section 856 was first enacted, the government has cited no examples of a criminal prosecution under Section 856 involving only simple possession or use—much less prosecutions involving public health interventions similar to Safehouse.

²² James M. Cole, Deputy Att’y Gen., *Memorandum for United States Attorneys: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use* (June 29, 2011); James M. Cole, Deputy Att’y Gen., *Memorandum for United States Attorneys: Guidance Regarding Marijuana Enforcement* (Aug. 29, 2013); James M. Cole, Deputy Att’y Gen., *Memorandum for United States Attorneys: Guidance Regarding Marijuana Related Financial Crimes* (Feb. 14, 2014); Monty Wilkinson, Director of the Executive Office for United States Att’ys, *Policy Statement Regarding Marijuana Issues in Indian Country* (Oct. 28, 2014).

146. “The question, then, is not whether the [government] has a compelling interest in enforcing its . . . policies generally, but whether it has such an interest in denying an exception” to Safehouse. *Fulton v. City of Phila.*, 141 S. Ct. at 1881.

147. The DOJ’s interest in enforcement of Section 856 against Safehouse furthers no legitimate interest—much less a compelling interest—and the DOJ will be unable to meet its burden to prove that it does. To the contrary, enforcement of Section 856 against Safehouse will and has resulted in preventable deaths.

148. The DOJ cannot establish a compelling interest in denying an exemption by relying on “broadly formulated interests” that are defined “at a high level of generality” *Id.* (citing *O Centro*, 546 U. S. at 430–432). “[T]he First Amendment demands a more precise analysis”—*i.e.*, one that “scrutinizes the asserted harm of granting specific exemptions to particular religious claimants.” *Id.* (quoting *O Centro*, 546 U.S. at 431). Put differently, “RFRA requires the Government to demonstrate that the compelling interest test is satisfied *through application of the challenged law ‘to the person’*—the particular claimant whose sincere exercise of religion is being substantially burdened.” *O Centro*, 546 U.S. at 431-32.

149. As the Court in *O Centro* further stated, RFRA “plainly contemplates that courts would recognize exceptions” to the CSA on religious grounds—“that is how the law works.” *Id.* (rejecting the government’s “bold argument that there can be no RFRA exceptions at all to the Controlled Substances Act”).

150. The DOJ will also not be able to meet its burden of proving that preventing Safehouse from opening is the least restrictive means of fostering any compelling interest it may invoke.

151. Declaring Safehouse to be illegal will not reduce the manufacture, distribution, or possession of illegal drugs. Rather, when Safehouse does open, the demand for illegal drugs will decrease because some of its participants will seek and be provided with drug treatment.

CAUSES OF ACTION

COUNT I

Declaratory Judgment Regarding the Application of Section 856 to Safehouse²³

152. Safehouse repeats and re-alleges Paragraphs 1 through 150 as if fully set forth herein.

153. The CSA provides, in pertinent part:

Except as authorized by this subchapter, it shall be unlawful to—

(1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, *for the purpose of* manufacturing, distributing, or *using* any controlled substance;

(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place *for the purpose of unlawfully* manufacturing, storing, distributing, or *using* a controlled substance.

21 U.S.C. § 856(a) (emphases added).

154. Safehouse will not make its premises available “for the purpose of unlawfully . . . using a controlled substance.”

155. Safehouse will operate only for the purpose of providing lifesaving medical treatment and critical wraparound services to a vulnerable population at risk of overdose death and complications from substance use disorder.

²³ Safehouse is not seeking to relitigate this Counterclaim before this Court. Rather, Safehouse has retained it in this amended pleading for the sake of completeness and for purposes of preserving the issue in this ongoing litigation.

156. Safehouse will furnish legitimate and urgent medical services, which are not prohibited under 21 U.S.C. § 856.

157. Accordingly, pursuant to 28 U.S.C. § 2201, Safehouse is entitled to a declaration that it will not violate 21 U.S.C. § 856(a) by operating in accordance with its overdose prevention services model.

158. Safehouse is also entitled to a permanent injunction preventing the U.S. Attorney General from enforcing 21 U.S.C. § 856 against Safehouse.

COUNT II

Violation of the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb *et seq.*

159. Safehouse repeats and re-alleges Paragraphs 1 through 157 as if fully set forth herein.

160. Allowing individuals at risk of an overdose to remain under medical supervision and in close proximity to urgent medical care is an exercise of the religious belief of Safehouse and its board members that the preservation of human life is paramount and overrides other considerations. In the exercise of their religion, Safehouse and its principals intend to open and operate Safehouse as described above in this Counterclaim, as they are called to do.

161. The DOJ's interpretation of 21 U.S.C. § 856, and in particular, its present effort to enforce that interpretation, substantially burdens Safehouse's exercise of its religious commitments.

162. The DOJ's threat to prosecute Safehouse substantially burdens Safehouse's exercise of religion.

163. The DOJ's ongoing litigation against Safehouse substantially burdens Safehouse's exercise of religion.

164. Counterclaim Defendants will not be able to carry its burden of proof to show that their attempts to prevent Safehouse’s religious exercise are in furtherance of a compelling governmental interest.

165. Counterclaim Defendants will not be able to carry their burden of proof to show that these attempts are the least restrictive means of furthering any compelling governmental interest.

166. The DOJ’s actions violate Safehouse’s right to free religious exercise guaranteed by RFRA, 42 U.S.C. § 2000bb *et seq.*

167. Without injunctive and declaratory relief against the government, Safehouse has been and will continue to be harmed.

COUNT III

Violation of the First Amendment to the U.S. Constitution

168. Safehouse repeats and re-alleges Paragraphs 1 through 166 as if fully set forth herein.

169. Allowing individuals at risk of an overdose to remain under medical supervision and in close proximity to urgent medical care is an exercise of the religious belief of Safehouse and its board members that the preservation of human life is paramount, that they should do everything possible to save and preserve life, and that they should provide shelter and care to the most vulnerable among us, including those suffering from addiction. In the exercise of their religion, Safehouse and its principals intend to open and operate Safehouse as described above in this Counterclaim, as they are called to do.

170. The DOJ’s interpretation of 21 U.S.C. § 856, and, in particular, its present effort to enforce that interpretation, substantially burdens Safehouse’s exercise of its religious

commitments. And the DOJ's ongoing litigation against Safehouse substantially burdens Safehouse and Safehouse Board Member's exercise of religion.

171. "A law burdening religious practice that is . . . not of general application must undergo the most rigorous of scrutiny." *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 546 (1993).²⁴ The DOJ's decision to seek to apply Section 856 to Safehouse does not implement a law of general application.

172. Section 856 runs afoul of this general applicability requirement because the government grants exemptions from prosecution for certain individuals engaged in non-religious conduct that otherwise violates the CSA.

173. DOJ has never enforced the CSA in the manner DOJ currently threatens against Safehouse. The CSA confirms that the DOJ is given express statutory authority to allow exceptions for similar, secular activity in some instances, and DOJ has exercised that authority including by regulations providing an exemption for particular religious use of a Schedule I substance and by authorizing DEA to grant exemptions from the statute's prohibitions.

174. Where the government creates exemptions from a law for those engaged in *non-religious* activity, as here, it "it may not refuse to extend that system to cases of 'religious hardship' without compelling reason." *Fulton*, 141 S. Ct. at 1877 (quoting *Smith*, 494 U.S. at 884).

175. The DOJ will not be able to carry its burden of proof to show that their attempts to prevent Safehouse's religious exercise are in furtherance of a compelling governmental interest.

²⁴ This standard is derived from the Supreme Court's decision in *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872, 884 (1990)). While this Court is bound by that decision, Safehouse reserves the right to assert in the appropriate forum that *Smith* was wrongly decided and should be overturned.

176. The DOJ will not be able to carry their burden of proof to show that these attempts are the least restrictive means of furthering any compelling governmental interest. They do not have a compelling reason for their actions, and they have not selected the means least restrictive of religious exercise in order to further their interests.

177. The DOJ's actions violate Safehouse's right to free religious exercise guaranteed by the First Amendment to the U.S. Constitution.

AMENDMENT TO AFFIRMATIVE DEFENSES IN SAFEHOUSE'S ANSWER

In amending its counterclaims, Safehouse also stands on its Answer to the DOJ's Amended Complaint. Safehouse asserts an additional Affirmative Defense that prosecution of Safehouse would violate Safehouse's rights under the First Amendment to the U.S. Constitution. Safehouse requests that its Answer be deemed constructively amended to incorporate this affirmative defense.

PRAYER FOR RELIEF

Safehouse respectfully requests that this Court enter judgment in its favor and grant the following relief:

- i. A declaration that Safehouse's establishment and proposed operation of its overdose prevention services model will not violate 21 U.S.C. § 856;
- ii. A declaration that a prohibition or penalizing of Safehouse's establishment and proposed operation of its overdose prevention services model will violate 42 U.S.C. § 2000bb;
- iii. A declaration that a prohibition or penalizing of Safehouse's establishment and proposed operation of its overdose prevention services model will violate the Free Exercise Clause of First Amendment to the U.S. Constitution;

- iv. A declaration that 21 U.S.C. § 856, as applied to Safehouse, violates the Commerce Clause of Article I of the U.S. Constitution;
- v. An injunction permanently enjoining the Third-Party Counterclaim Defendants from enforcing or threatening to enforce 21 U.S.C. § 856 against Safehouse;
- vi. An order awarding such additional relief as the Court may deem appropriate and just under the circumstances.

Dated: June 27, 2023

Respectfully submitted,

DLA PIPER LLP (US)

By: */s/ Ilana H. Eisenstein*

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Entity#: 6755825
 Date Filed : 08/09/2018
 Pennsylvania Department of State

**PENNSYLVANIA DEPARTMENT OF STATE
 BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

<p>M. BURR KEIM COMPANY Electronic Return info@mburkeim.com</p>	<p>Articles of Incorporation - Nonprofit DSCB:15-5306/7102</p>  <p>TCO180810JD0085</p>
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Read all instructions prior to completing. This form may be submitted online at <https://www.corporations.pa.gov/>.

Fee: \$125 I qualify for a veteran/reservist-owned small business fee exemption (see instructions)
 Check one: Domestic Nonprofit Corporation (§ 5306) Nonprofit Cooperative Corporation (§ 7102)

In compliance with the requirements of the applicable provisions (relating to articles of incorporation or cooperative corporations generally), the undersigned, desiring to incorporate a nonprofit/nonprofit cooperative corporation, hereby state(s) that:

1. The name of the corporation is:
 SAFEHOUSE

2. Complete part (a) or (b) – not both:

(a) The address of this corporation's current registered office in this Commonwealth is:
 (post office box alone is not acceptable)

SEE EXHIBIT A (ATTACHED HERETO).

Number and Street	City	State	Zip	County
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(b) The name of this corporation's commercial registered office provider and the county of venue is:

c/o:

Name of Commercial Registered Office Provider	County
---	--------

3. The corporation is incorporated under the Nonprofit Corporation Law of 1988 for the following purpose or purposes.
 SEE EXHIBIT A (ATTACHED HERETO).

4. The corporation does not contemplate pecuniary gain or profit, incidental or otherwise.

5. Check and complete one: The corporation is organized on a nonstock basis.
 The corporation is organized on a stock share basis and the aggregate number of shares authorized is _____.

2018-08-09 11:42
 PA. DEPT. OF STATE

DSCB:15-5306/7102-2

6. For unincorporated association incorporating as a nonprofit corporation only. Check if applicable:
_____ The incorporators constitute a majority of the members of the committee authorized to incorporate such association by the requisite vote required by the organic law of the association for the amendment of such organic law.

7. For Nonprofit Corporation Only:
Check one: X The corporation shall have no members.
_____ The corporation shall have members.

8. For Nonprofit Cooperative Corporation Only:
Check and complete one:
_____ The corporation is a cooperative corporation and the common bond of membership among its members is: _____
_____ The corporation is a cooperative corporation and the common bond of membership among its shareholders is: _____

9. The name(s) and address(es) of each incorporator(s) is (are) (all incorporators must sign below):
Name(s) Address(es)
EDWARD G. RENDELL C/O AIDS LAW PROJECT OF PENNSYLVANIA
1211 CHESTNUT STREET, SUITE 600, PHILADELPHIA, PA 19107

10. The specified effective date, if any, is:
_____ month _____ day _____ year _____ hour, if any

11. Additional provisions of the articles, if any, attach an 8 1/2 x 11 sheet.

IN TESTIMONY WHEREOF, the incorporator(s) has/have signed these Articles of Incorporation this
 6th day of AUGUST , 2018
 Edward G Rendell

Signature

Signature

Signature

EXHIBIT A

ARTICLES OF INCORPORATION

of

SAFEHOUSE

In compliance with the requirements of the applicable provisions (relating to Articles of Incorporation generally), the undersigned, desiring to incorporate a nonprofit corporation, hereby states that:

ARTICLE I. The name of the corporation is SAFEHOUSE (the "Corporation").

ARTICLE II. The address of the Corporation's registered office in this Commonwealth is:

c/o AIDS Law Project of Pennsylvania
1211 Chestnut Street, Suite 600
Philadelphia, PA 19107, Philadelphia County

ARTICLE III. The Corporation is incorporated under Chapter 53 of the Pennsylvania Nonprofit Corporation Law of 1988 (the "Act"), as amended.

ARTICLE IV. The Corporation is a nonprofit organization organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), specifically for the purposes of reducing the harms associated with drug use by providing a range of public health and social services. The Corporation shall at all times be operated exclusively for charitable purposes and may take any and all actions necessary, proper, advisable, or convenient for the accomplishment of these purposes consistent with the limitations set forth in this Article IV and the provisions of Articles XI and XII below. In furtherance of the foregoing, the Corporation shall have the power to do any acts and carry on any business and affairs that are not prohibited by the Act, as amended, by the Code, or by any other law.

ARTICLE V. The Corporation does not contemplate pecuniary gain or profit, incidental or otherwise.

ARTICLE VI. The Corporation is organized on a non-stock basis.

ARTICLE VII. The Corporation shall not have a member or members.

ARTICLE VIII. The name and address of the incorporator is:

EDWARD G. RENDELL
c/o AIDS Law Project of Pennsylvania
1211 Chestnut Street, Suite 600
Philadelphia, PA 19107, Philadelphia County

ARTICLE IX. The term for which the Corporation is to exist is perpetual.

ARTICLE X. These Articles of Incorporation ("Articles") shall be effective upon filing.

ARTICLE XI. Notwithstanding any other provision of these Articles, the powers and activities of the Corporation shall be subject to the following restrictions and limitations:

- a. The Corporation shall not carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501(a) of the Code and described in Section 501(c)(3) of the Code, or by an organization described under Section 170(c)(2) of the Code, contributions to which are deductible under Sections 170(a), 2055(a)(2), and 2522(a)(2) of the Code, nor shall the Corporation engage in any year in which it may be a "private foundation," as defined in Section 509 of the Code, in any act prohibited by Section 4941(d) or 4943(c) of the Code, or do any act, or fail to do any acts, that will result in the imposition of tax on the Corporation under Sections 4942, 4944, or 4945 of the Code, specifically:
 1. The Corporation will distribute its income for each tax year at a time and in a manner as to not become subject to the tax on undistributed income imposed by section 4942 of the Code, or the corresponding section of any future tax code, or, as a private operating foundation, will make qualifying distributions directly for the active conduct of activities constituting its charitable and educational purposes in accordance with section 4942(j)(3) of the Code, or the corresponding section of any future tax code;
 2. The Corporation will not engage in any act of self dealing as defined in section 4941(d) of the Code, or the corresponding section of any future federal tax code;
 3. The Corporation will not retain any excess business holdings as defined in section 4943(c) of the Code, or the corresponding section of any future federal tax code;
 4. The Corporation will not make any investments that would jeopardize the carrying out of any of its exempt purposes so as to subject it to tax under section 4944 of the Code, or the corresponding section of any future federal tax code; and
 5. The Corporation will not make any taxable expenditures as defined in section 4945 of the Code, or the corresponding section of any future federal tax code.
- b. The Corporation is not authorized, and no amendment, alteration, change, or repeal of any provisions of the Articles shall authorize the Corporation or its directors or officers, to conduct the affairs of the Corporation in any manner or for any purpose that would cause the Corporation to lose its tax-exempt status under the provisions of the Code.
- c. No part of the net earnings of this Corporation shall ever inure to the benefit of, or be distributable to, any of its directors or officers or any other private person, except that reasonable compensation may be paid for services rendered to or for the Corporation in carrying out its purposes.
- d. Except as authorized by Section 501(h) of the Code and a proper election filed thereunder, no substantial part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate or intervene in any political campaign on behalf of (or in opposition to) any

candidate for public office (i.e., federal, state, or local), whether by the publication or distribution of statements or otherwise.

ARTICLE XII. In the event of the liquidation, dissolution, or winding up of this Corporation, the assets or property of the Corporation shall be distributed by the Board of Directors to one or more organizations that are organized and operated for the purposes aligned with the Corporation and exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code, or any successor provisions thereto, and in accordance with the Act, as amended. Any assets not so distributed shall be distributed by the Court of Common Pleas of Philadelphia exclusively for such purposes, and in accordance with the Act, as amended. No director or officer of the Corporation or any other private person shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
	:	
v.	:	
	:	
SAFEHOUSE, a Pennsylvania nonprofit	:	
corporation; JOSE BENITEZ, as President	:	
and Treasurer of Safehouse,	:	CIVIL ACTION
Defendants,	:	No. 19-519
	:	

SAFEHOUSE, a Pennsylvania nonprofit	:	
corporation,	:	
Counterclaim Plaintiff,	:	
	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
Counterclaim Defendant.	:	

ORDER

This 25th day of March, 2024, it is hereby **ORDERED** that Safehouse shall provide to the Court a copy of its Form 1023, the completed application for recognition of its exemption from federal income tax under Internal Revenue Code Section 501(c)(3).¹

/s/ Gerald Austin McHugh
United States District Judge

¹ Safehouse may either submit the application via ECF or via email to: Chambers_of_Judge_Gerald_McHugh@paed.uscourts.gov.



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March 29, 2024

VIA ECF

Honorable Gerald A. McHugh
U.S. District Court for the Eastern District of Pennsylvania
9613 United States Courthouse
601 Market Street, Philadelphia, PA 19106

Dear Judge McHugh,

In response to this Court’s March 25 order (Dkt. 234), attached please find an authentic copy of Safehouse’s IRS Form 1023.

Safehouse explains in the narrative section of its IRS Form 1023, Part IV, that it is organized and operated exclusively for charitable purposes within the meaning of Internal Revenue Code Section 501(c)(3). In this context, the term “charitable” is a broad umbrella term that encompasses other tax-exempt purposes, including the advancement of religion. Indeed, the corresponding governing Treasury regulations provide that “charitable is ... not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the broad outlines of charity as developed by judicial decisions.” 26 C.F.R. §1.501(c)(3)-1(d)(2). As the IRS explains: (i) “an exempt organization may qualify for exemption under more than one purpose and/or activity,” and (ii) “[c]haritable purposes and/or activities will, oftentimes, be combined with religious” purposes. *See* Publication 5781, TG 3-3: Exempt Purposes - Charitable IRS Section 501(c)(3) ([link](#)), Section I.A(5) at page 5. Safehouse exercises its fundamental religious beliefs through charitable activities.

Further, Safehouse’s corporate bylaws—a copy of which were filed with its IRS Form 1023 (*see* Attachment #3, Tab A)—grant the board members full authority to manage Safehouse’s “business and affairs” and “all powers to act” on Safehouse’s behalf. *See* Safehouse Bylaws Art. 3.1. Safehouse’s board members are authorized by its bylaws to exercise their religious commitments by providing care for vulnerable people.

Whether Safehouse is motivated by religion is an inherently fact-bound question that cannot be resolved at the pleading stage. Safehouse Opp. Br. at 18-20, Dkt. 215. Safehouse has pled that its beliefs are the beliefs of its board members, who sincerely believe that providing overdose-prevention services effectuates their religious obligation to preserve life and that running Safehouse in accordance with that tenet is an expression of their faith. *Id.* at 5-6, 8-9; *see* Second Am. Counterclaim ¶¶ 125-32, Dkt. 209. The government’s own complaint refers to Safehouse’s website, which similarly states that “[t]he leaders and organizers of Safehouse are motivated by the Judeo-Christian beliefs ingrained in us from our religious schooling, our devout families and our practices of worship. Dkt. 1-2. These facts must be accepted as true at the pleading stage.

We respectfully request that you consider these points when reviewing the IRS Form 1023 attached to this letter.

Respectfully submitted,

DLA Piper LLP (US)

A handwritten signature in blue ink, appearing to read 'IHE', with a horizontal line extending to the right.

Ilana H. Eisenstein

Form **1023**
(Rev. December 2017)
Department of the Treasury
Internal Revenue Service

**Application for Recognition of Exemption
Under Section 501(c)(3) of the Internal Revenue Code**

▶ **Do not enter social security numbers on this form as it may be made public.**
▶ **Go to www.irs.gov/Form1023 for instructions and the latest information.**

OMB No. 1545-0056
Note: If exempt status is approved, this application will be open for public inspection.

Use the instructions to complete this application and for a definition of all **bold** items. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at www.irs.gov for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I – XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

Part I Identification of Applicant

1 Full name of organization (exactly as it appears in your organizing document)		2 c/o Name (if applicable)	
Safehouse		AIDS Law Project of Pennsylvania	
3 Mailing address (Number and street) (see instructions)		Room/Suite	4 Employer Identification Number (EIN)
1211 Chestnut Street		Suite 600	83-1624339
City or town, state or country, and ZIP + 4		5 Month the annual accounting period ends (01 – 12)	
Philadelphia, Pennsylvania 19107		06	
6 Primary contact (officer, director, trustee, or authorized representative)		b Phone: 267-331-4157	
a Name:		c Fax: (optional)	
Morgen Cheshire, Esq., See Attachment #1, IRS Form 2848			
7 Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, <i>Power of Attorney and Declaration of Representative</i> , with your application if you would like us to communicate with your representative.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		SEE ATTACHMENT #1	
8 Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
9a Organization's website: NONE			
b Organization's email: (optional)			
10 Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
11 Date incorporated if a corporation, or formed, if other than a corporation. (MM/DD/YYYY)		08 / 09 / 2018	
12 Were you formed under the laws of a foreign country ? If "Yes," state the country.		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 17133K

Form **1023** (Rev. 12-2017)

Part II Organizational Structure

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt. See instructions. **DO NOT file this form unless you can check "Yes" on lines 1, 2, 3, or 4.**

- 1 Are you a **corporation**? If "Yes," attach a copy of your articles of incorporation showing **certification of filing** with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification. **Yes** **No** SEE ATTACHMENT #2
- 2 Are you a **limited liability company (LLC)**? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application. **Yes** **No**
- 3 Are you an **unincorporated association**? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments. **Yes** **No**
- 4a Are you a **trust**? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments. **Yes** **No**
- b Have you been funded? If "No," explain how you are formed without anything of value placed in trust. **Yes** **No**
- 5 Have you adopted **bylaws**? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected. **Yes** **No** SEE ATTACHMENT #3, TAB A

Part III Required Provisions in Your Organizing Document

The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT file this application until you have amended your organizing document.** Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1 Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language.
Location of Purpose Clause (Page, Article, and Paragraph): ATTACHMENT #2, ARTICLE IV
- 2a Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c.
- b If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. ATTACHMENT #2, ARTICLE XII
- c See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state:

Part IV Narrative Description of Your Activities SEE ATTACHMENT #4

Using an attachment, describe your *past*, *present*, and *planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors

- 1a List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual **compensation**, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures, if available. Enter "none" if no compensation is or will be paid. If additional space is needed, attach a separate sheet. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
SEE ATTACHMENT #5			

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

b List the names, titles, and mailing addresses of each of your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation. Do not include officers, directors, or trustees listed in line 1a.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
NONE			

c List the names, names of businesses, and mailing addresses of your five highest compensated **independent contractors** that receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
NONE			

The following "Yes" or "No" questions relate to *past, present, or planned* relationships, transactions, or agreements with your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, and 1c.

2a Are any of your officers, directors, or trustees **related** to each other through **family** or **business relationships**? If "Yes," identify the individuals and explain the relationship. Yes No

b Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees. Yes No

c Are any of your officers, directors, or trustees related to your highest compensated employees or highest compensated independent contractors listed on lines 1b or 1c through family or business relationships? If "Yes," identify the individuals and explain the relationship. Yes No

3a For each of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked, and duties.

b Do any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c receive compensation from any other organizations, whether tax exempt or taxable, that are related to you through **common control**? If "Yes," identify the individuals, explain the relationship between you and the other organization, and describe the compensation arrangement. Yes No

4 In establishing the compensation for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, and 1c, the following practices are recommended, although they are not required to obtain exemption. Answer "Yes" to all the practices you use. SEE ATTACHMENT #3, TAB C

a Do you or will the individuals that approve compensation arrangements follow a conflict of interest policy? Yes No

b Do you or will you approve compensation arrangements in advance of paying compensation? Yes No

c Do you or will you document in writing the date and terms of approved compensation arrangements? Yes No

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

- d** Do you or will you record in writing the decision made by each individual who decided or voted on compensation arrangements? **Yes** **No**
- e** Do you or will you approve compensation arrangements based on information about compensation paid by **similarly situated** taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms, or actual written offers from similarly situated organizations? Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. **Yes** **No**
- f** Do you or will you record in writing both the information on which you relied to base your decision and its source? **Yes** **No**
- g** If you answered "No" to any item on lines 4a through 4f, describe how you set compensation that is **reasonable** for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c.
-
- 5a** Have you adopted a **conflict of interest policy** consistent with the sample conflict of interest policy in Appendix A to the instructions? If "Yes," provide a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," answer lines 5b and 5c. **Yes** **No** SEE ATTACHMENT #3, TAB B
- b** What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you for setting their own compensation?
- c** What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you regarding business deals with themselves?
Note: A conflict of interest policy is recommended though it is not required to obtain exemption. Hospitals, see Schedule C, Section I, line 14.
-
- 6a** Do you or will you compensate any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, or 1c through **non-fixed payments**, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are determined, who is eligible for such arrangements, whether you place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. **Yes** **No**
- b** Do you or will you compensate any of your employees, other than your officers, directors, trustees, or your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year, through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are or will be determined, who is or will be eligible for such arrangements, whether you place or will place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation. **Yes** **No**
-
- 7a** Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such purchase that you made or intend to make, from whom you make or will make such purchases, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine that you pay no more than **fair market value**. Attach copies of any written contracts or other agreements relating to such purchases. **Yes** **No**
- b** Do you or will you sell any goods, services, or assets to any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such sales that you made or intend to make, to whom you make or will make such sales, how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you are or will be paid at least fair market value. Attach copies of any written contracts or other agreements relating to such sales. **Yes** **No**
-
- 8a** Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f. **Yes** **No** SEE ATTACHMENT #5
- b** Describe any written or oral arrangements that you made or intend to make.
- c** Identify with whom you have or will have such arrangements.
- d** Explain how the terms are or will be negotiated at arm's length.
- e** Explain how you determine you pay no more than fair market value or you are paid at least fair market value.
- f** Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.
-
- 9a** Do you or will you have any leases, contracts, loans, or other agreements with any organization in which any of your officers, directors, or trustees are also officers, directors, or trustees, or in which any individual officer, director, or trustee owns more than a 35% interest? If "Yes," provide the information requested in lines 9b through 9f. **Yes** **No**

Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)

- b Describe any written or oral arrangements you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine or will determine you pay no more than fair market value or that you are paid at least fair market value.
- f Attach a copy of any signed leases, contracts, loans, or other agreements relating to such arrangements.

Part VI Your Members and Other Individuals and Organizations That Receive Benefits From You

The following "Yes" or "No" questions relate to goods, services, and funds you provide to individuals and organizations as part of your activities. Your answers should pertain to *past*, *present*, and *planned* activities. See instructions.

- 1a In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If "Yes," describe each program that provides goods, services, or funds to individuals. Yes No
SEE ATTACHMENT #6
- b In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If "Yes," describe each program that provides goods, services, or funds to organizations. Yes No
- 2 Do any of your programs limit the provision of goods, services, or funds to a specific individual or group of specific individuals? For example, answer "Yes," if goods, services, or funds are provided only for a particular individual, your members, individuals who work for a particular employer, or graduates of a particular school. If "Yes," explain the limitation and how recipients are selected for each program. Yes No
- 3 Do any individuals who receive goods, services, or funds through your programs have a family or business relationship with any officer, director, trustee, or with any of your highest compensated employees or highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c? If "Yes," explain how these related individuals are eligible for goods, services, or funds. Yes No

Part VII Your History

The following "Yes" or "No" questions relate to your history. See instructions.

- 1 Are you a **successor** to another organization? Answer "Yes," if you have taken or will take over the activities of another organization; you took over 25% or more of the fair market value of the net assets of another organization; or you were established upon the conversion of an organization from for-profit to nonprofit status. If "Yes," complete Schedule G. Yes No
- 2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E. Yes No

Part VIII Your Specific Activities

The following "Yes" or "No" questions relate to specific activities that you may conduct. Check the appropriate box. Your answers should pertain to *past*, *present*, and *planned* activities. See instructions.

- 1 Do you support or oppose candidates in **political campaigns** in any way? If "Yes," explain. Yes No
- 2a Do you attempt to **influence legislation**? If "Yes," explain how you attempt to influence legislation and complete line 2b. If "No," go to line 3a. Yes No
- b Have you made or are you making an **election** to have your legislative activities measured by expenditures by filing Form 5768? If "Yes," attach a copy of the Form 5768 that was already filed or attach a completed Form 5768 that you are filing with this application. If "No," describe whether your attempts to influence legislation are a substantial part of your activities. Include the time and money spent on your attempts to influence legislation as compared to your total activities. Yes No
- 3a Do you or will you operate bingo or **gaming** activities? If "Yes," describe who conducts them, and list all revenue received or expected to be received and expenses paid or expected to be paid in operating these activities. **Revenue and expenses** should be provided for the time periods specified in Part IX, Financial Data. Yes No
- b Do you or will you enter into contracts or other agreements with individuals or organizations to conduct bingo or gaming for you? If "Yes," describe any written or oral arrangements that you made or intend to make, identify with whom you have or will have such arrangements, explain how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you pay no more than fair market value or you will be paid at least fair market value. Attach copies or any written contracts or other agreements relating to such arrangements. Yes No
- c List the states and local jurisdictions, including Indian Reservations, in which you conduct or will conduct gaming or bingo. N/A

Part VIII Your Specific Activities (Continued)

4a Do you or will you undertake **fundraising**? If "Yes," check all the fundraising programs you do or will conduct. See instructions. **Yes** **No**

- mail solicitations
- email solicitations
- personal solicitations
- vehicle, boat, plane, or similar donations
- foundation grant solicitations
- phone solicitations
- accept donations on your website
- receive donations from another organization's website
- government grant solicitations
- Other

Attach a description of each fundraising program. SEE ATTACHMENT #8

b Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you? If "Yes," describe these activities. Include all revenue and expenses from these activities and state who conducts them. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Also, attach a copy of any contracts or agreements. **Yes** **No**

c Do you or will you engage in fundraising activities for other organizations? If "Yes," describe these arrangements. Include a description of the organizations for which you raise funds and attach copies of all contracts or agreements. **Yes** **No**

d List all states and local jurisdictions in which you conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you. SEE ATTACHMENT #8

e Do you or will you maintain separate accounts for any contributor under which the contributor has the right to advise on the use or distribution of funds? Answer "Yes" if the donor may provide advice on the types of investments, distributions from the types of investments, or the distribution from the donor's contribution account. If "Yes," describe this program, including the type of advice that may be provided and submit copies of any written materials provided to donors. **Yes** **No**

5 Are you **affiliated** with a governmental unit? If "Yes," explain. **Yes** **No**

6a Do you or will you engage in **economic development**? If "Yes," describe your program. **Yes** **No**

b Describe in full who benefits from your economic development activities and how the activities promote exempt purposes.

7a Do or will persons other than your employees or volunteers **develop** your facilities? If "Yes," describe each facility, the role of the developer, and any business or family relationship(s) between the developer and your officers, directors, or trustees. **Yes** **No**

b Do or will persons other than your employees or volunteers **manage** your activities or facilities? If "Yes," describe each activity and facility, the role of the manager, and any business or family relationship(s) between the manager and your officers, directors, or trustees. **Yes** **No**

c If there is a business or family relationship between any manager or developer and your officers, directors, or trustees, identify the individuals, explain the relationship, describe how contracts are negotiated at arm's length so that you pay no more than fair market value, and submit a copy of any contracts or other agreements.

8 Do you or will you enter into **joint ventures**, including partnerships or **limited liability companies** treated as partnerships, in which you share profits and losses with partners other than section 501(c)(3) organizations? If "Yes," describe the activities of these joint ventures in which you participate. **Yes** **No**

9a Are you applying for exemption as a childcare organization under section 501(k)? If "Yes," answer lines 9b through 9d. If "No," go to line 10. **Yes** **No**

b Do you provide childcare so that parents or caretakers of children you care for can be **gainfully employed** (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k). **Yes** **No**

c Of the children for whom you provide childcare, are 85% or more of them cared for by you to enable their parents or caretakers to be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k). **Yes** **No**

d Are your services available to the general public? If "No," describe the specific group of people for whom your activities are available. Also, see the instructions and explain how you qualify as a childcare organization described in section 501(k). **Yes** **No**

10 Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other **intellectual property**? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed. **Yes** **No** SEE ATTACHMENT #8

Part VIII Your Specific Activities (Continued)

- 11** Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution. **Yes** **No** SEE ATTACHMENT #8
-
- 12a** Do you or will you operate in a **foreign country or countries**? If "Yes," answer lines 12b through 12d. If "No," go to line 13a. **Yes** **No**
- b** Name the foreign countries and regions within the countries in which you operate.
- c** Describe your operations in each country and region in which you operate.
- d** Describe how your operations in each country and region further your exempt purposes.
-
- 13a** Do you or will you make grants, loans, or other distributions to organization(s)? If "Yes," answer lines 13b through 13g. If "No," go to line 14a. **Yes** **No**
- b** Describe how your grants, loans, or other distributions to organizations further your exempt purposes.
- c** Do you have written contracts with each of these organizations? If "Yes," attach a copy of each contract. **Yes** **No**
- d** Identify each recipient organization and any **relationship** between you and the recipient organization.
- e** Describe the records you keep with respect to the grants, loans, or other distributions you make.
- f** Describe your selection process, including whether you do any of the following.
- (i)** Do you require an application form? If "Yes," attach a copy of the form. **Yes** **No**
- (ii)** Do you require a grant proposal? If "Yes," describe whether the grant proposal specifies your responsibilities and those of the grantee, obligates the grantee to use the grant funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges your authority to withhold and/or recover grant funds in case such funds are, or appear to be, misused. **Yes** **No**
- g** Describe your procedures for oversight of distributions that assure you the resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.
-
- 14a** Do you or will you make grants, loans, or other distributions to foreign organizations? If "Yes," answer lines 14b through 14f. If "No," go to line 15. **Yes** **No**
- b** Provide the name of each foreign organization, the country and regions within a country in which each foreign organization operates, and describe any relationship you have with each foreign organization.
- c** Does any foreign organization listed in line 14b accept contributions earmarked for a specific country or specific organization? If "Yes," list all earmarked organizations or countries. **Yes** **No**
- d** Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes? If "Yes," describe how you relay this information to contributors. **Yes** **No**
- e** Do you or will you make pre-grant inquiries about the recipient organization? If "Yes," describe these inquiries, including whether you inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information. **Yes** **No**
- f** Do you or will you use any additional procedures to ensure that your distributions to foreign organizations are used in furtherance of your exempt purposes? If "Yes," describe these procedures, including site visits by your employees or compliance checks by impartial experts, to verify that grant funds are being used appropriately. **Yes** **No**

Part VIII Your Specific Activities (Continued)

- | | | | |
|-----------|--|--|---|
| 15 | Do you have a close connection with any organizations? If "Yes," explain. SEE ATTACHMENT #8 | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 16 | Are you applying for exemption as a cooperative hospital service organization under section 501(e)? If "Yes," explain. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 17 | Are you applying for exemption as a cooperative service organization of operating educational organizations under section 501(f)? If "Yes," explain. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 18 | Are you applying for exemption as a charitable risk pool under section 501(n)? If "Yes," explain. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 19 | Do you or will you operate a school ? If "Yes," complete Schedule B. Answer "Yes," whether you operate a school as your main function or as a secondary activity. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 20 | Is your main function to provide hospital or medical care ? If "Yes," complete Schedule C. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 21 | Do you or will you provide low-income housing or housing for the elderly or handicapped ? If "Yes," complete Schedule F. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 22 | Do you or will you provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes? If "Yes," complete Schedule H. | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- Note: Private foundations** may use Schedule H to request advance approval of individual grant procedures.

Part IX Financial Data

For purposes of this schedule, years in existence refer to completed tax years.

1. If in existence less than 5 years, complete the statement for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of:
 - a. Three years of financial information if you have not completed one tax year, or
 - b. Four years of financial information if you have completed one tax year. See instructions.
2. If in existence 5 or more years, complete the schedule for the most recent 5 tax years. You will need to provide a separate statement that includes information about the most recent 5 tax years because the data table in Part IX has not been updated to provide for a 5th year. See instructions.

A. Statement of Revenues and Expenses

	Type of revenue or expense	3 prior tax years or 2 succeeding tax years				(e) Provide Total for (a) through (d)
		Current tax year	(b) From 7/1/19 To 6/30/20	(c) From 7/1/20 To 6/30/21	(d) From To	
		(a) From 8/1/18 To 6/30/19	(b) From 7/1/19 To 6/30/20	(c) From 7/1/20 To 6/30/21	(d) From To	(e) Provide Total for (a) through (d)
Revenues	1 Gifts, grants, and contributions received (do not include unusual grants)	2,070,000	1,830,000	1,830,000		5,730,000
	2 Membership fees received					
	3 Gross investment income					
	4 Net unrelated business income					
	5 Taxes levied for your benefit					
	6 Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)					
	7 Any revenue not otherwise listed above or in lines 9–12 below (attach an itemized list)					
	8 Total of lines 1 through 7	2,070,000	1,830,000	1,830,000		5,730,000
	9 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)					
	10 Total of lines 8 and 9	2,070,000	1,830,000	1,830,000		5,730,000
	11 Net gain or loss on sale of capital assets (attach schedule and see instructions)					
	12 Unusual grants					
	13 Total Revenue Add lines 10 through 12	2,070,000	1,830,000	1,830,000		5,730,000
Expenses	14 Fundraising expenses					
	15 Contributions, gifts, grants, and similar amounts paid out (attach an itemized list)					
	16 Disbursements to or for the benefit of members (attach an itemized list)					
	17 Compensation of officers, directors, and trustees					
	18 Other salaries and wages	729,343	1,052,338	1,083,908		
	19 Interest expense					
	20 Occupancy (rent, utilities, etc.)	30,000	50,000	50,000		
	21 Depreciation and depletion					
	22 Professional fees					
	* 23 Any expense not otherwise classified, such as program services (attach itemized list)	1,128,900	544,550	551,250		
24 Total Expenses Add lines 14 through 23	1,888,243	1,646,888	1,685,158			

* SEE ATTACHMENT #9

Part IX Financial Data (Continued)

B. Balance Sheet (for your most recently completed tax year)

		Year End: (Whole dollars)
Assets		
1	Cash	1 0.00
2	Accounts receivable, net	2 0.00
3	Inventories	3 0.00
4	Bonds and notes receivable (attach an itemized list)	4 0.00
5	Corporate stocks (attach an itemized list)	5 0.00
6	Loans receivable (attach an itemized list)	6 0.00
7	Other investments (attach an itemized list)	7 0.00
8	Depreciable and depletable assets (attach an itemized list)	8 0.00
9	Land	9 0.00
10	Other assets (attach an itemized list)	10 0.00
11	Total Assets (add lines 1 through 10)	11 0.00
Liabilities		
12	Accounts payable	12 0.00
13	Contributions, gifts, grants, etc. payable	13 0.00
14	Mortgages and notes payable (attach an itemized list)	14 0.00
15	Other liabilities (attach an itemized list)	15 0.00
16	Total Liabilities (add lines 12 through 15)	16 0.00
Fund Balances or Net Assets		
17	Total fund balances or net assets	17 0.00
18	Total Liabilities and Fund Balances or Net Assets (add lines 16 and 17)	18 0.00
19	Have there been any substantial changes in your assets or liabilities since the end of the period shown above? If "Yes," explain.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Part X Public Charity Status

Part X is designed to classify you as an organization that is either a **private foundation** or a **public charity**. Public charity status is a more favorable tax status than private foundation status. If you are a private foundation, Part X is designed to further determine whether you are a **private operating foundation**. See instructions.

- 1 a** Are you a private foundation? If "Yes," go to line 1b. If "No," go to line 5 and proceed as instructed. If you are unsure, see the instructions. Yes No
- b** As a private foundation, section 508(e) requires special provisions in your organizing document in addition to those that apply to all organizations described in section 501(c)(3). Check the box to confirm that your organizing document meets this requirement, whether by express provision or by reliance on operation of state law. Attach a statement that describes specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document or by operation of state law. See the instructions, including Appendix B, for information about the special provisions that need to be contained in your organizing document. Go to line 2.
- 2** Are you a private operating foundation? To be a private operating foundation you must engage directly in the active conduct of charitable, religious, educational, and similar activities, as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations. If "Yes," go to line 3. If "No," go to the signature section of Part XI. Yes No
- 3** Have you existed for one or more years? If "Yes," attach financial information showing that you are a private operating foundation; go to the signature section of Part XI. If "No," continue to line 4. Yes No
- 4** Have you attached either (1) an affidavit or opinion of counsel, (including a written affidavit or opinion from a certified public accountant or accounting firm with expertise regarding this tax law matter), that sets forth facts concerning your operations and support to demonstrate that you are likely to satisfy the requirements to be classified as a private operating foundation; or (2) a statement describing your proposed operations as a private operating foundation? Yes No
- 5** If you answered "No" to line 1a, indicate the type of public charity status you are requesting by checking one of the choices below. You may check only one box.
- The organization is not a private foundation because it is:
- a** 509(a)(1) and 170(b)(1)(A)(i)—a church or a convention or association of churches. Complete and attach Schedule A.
 - b** 509(a)(1) and 170(b)(1)(A)(ii)—a **school**. Complete and attach Schedule B.
 - c** 509(a)(1) and 170(b)(1)(A)(iii)—a **hospital**, a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital. Complete and attach Schedule C.
 - d** 509(a)(3)—an organization supporting either one or more organizations described in line 5a through c, f, h, or i or a publicly supported section 501(c)(4), (5), or (6) organization. Complete and attach Schedule D.

Part X Public Charity Status (Continued)

- e 509(a)(4) – an organization organized and operated exclusively for testing for public safety.
- f 509(a)(1) and 170(b)(1)(A)(iv) – an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- g 509(a)(1) and 170(b)(1)(A)(ix) – an agricultural research organization directly engaged in the continuous active conduct of agricultural research in conjunction with a college or university.
- h 509(a)(1) and 170(b)(1)(A)(vi) – an organization that receives a substantial part of its financial support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.
- i 509(a)(2) – an organization that normally receives not more than one-third of its financial support from gross investment income and receives more than one-third of its financial support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).
- j A publicly supported organization, but unsure if it is described in 5h or 5i. You would like the IRS to decide the correct status.

6 If you checked box h, i, or j in question 5 above, and you have been in existence more than 5 years, you must confirm your public support status. Answer line 6a if you checked box h in line 5 above. Answer line 6b if you checked box i in line 5 above. If you checked box j in line 5 above, answer both lines 6a and 6b.

- a (i) Enter 2% of line 8, column (e) on Part IX-A Statement of Revenues and Expenses _____
- (ii) Attach a list showing the name and amount contributed by each person, company, or organization whose gifts totaled more than the 2% amount. If the answer is "None," state this.
- b (i) For each year amounts are included on lines 1, 2, and 9 of Part IX-A Statement of Revenues and Expenses, attach a list showing the name and amount received from each disqualified person. If the answer is "None," state this.
- (ii) For each year amounts were included on line 9 of Part IX-A Statement of Revenues and Expenses, attach a list showing the name of and amount received from each payer, other than a disqualified person, whose payments were more than the larger of (1) 1% of Line 10, Part IX-A Statement of Revenues and Expenses, or (2) \$5,000. If the answer is "None," state this.


7 Did you receive any unusual grants during any of the years shown on Part IX-A Statement of Revenues and Expenses? If "Yes," attach a list including the name of the contributor, the date and amount of the grant, a brief description of the grant, and explain why it is unusual. Yes No

Part XI User Fee Information and Signature

You must include the correct user fee payment with this application. If you do not submit the correct user fee, we will not process the application and we will return it to you. Your check or money order must be made payable to the United States Treasury. User fees are subject to change. Check our website at www.irs.gov and type "Exempt Organizations User Fee" in the search box, or call Customer Account Services at 1-877-829-5500 for current information.

Enter the amount of the user fee paid: \$600.00

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please Sign Here 

JOSE BENITEZ
(Type or print name of signer)
PRESIDENT & TREASURER
(Type or print title or authority of signer)

9/14/18
(Date)

ATTACHMENT #1

PART I, Lines 6 and 7. Authorized Representatives.

Morgen Cheshire, Esquire
CHESHIRE LAW GROUP
5275 Germantown Avenue
Philadelphia, PA 19144

Benjamin Bolas, Esquire
CHESHIRE LAW GROUP
5275 Germantown Avenue
Philadelphia, PA 19144

Ronda Goldfein, Esquire
AIDS LAW PROJECT OF PENNSYLVANIA
1211 Chestnut Street, Suite 600
Philadelphia, PA 19107

See enclosed IRS Form 2848 (Power of Attorney).

Form **2848**
 (Rev. January 2018)
 Department of the Treasury
 Internal Revenue Service

Power of Attorney and Declaration of Representative

OMB No. 1545-0150

For IRS Use Only

Received by: _____
 Name _____
 Telephone _____
 Function _____
 Date / /

▶ Go to www.irs.gov/Form2848 for instructions and the latest information.

Part I Power of Attorney

Caution: A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address Safehouse c/o AIDS LAW PROJECT OF PENNSYLVANIA 1211 Chestnut Street, Suite 600 Philadelphia, PA 19107	Taxpayer identification number(s) <p style="text-align: center;">83-1624339</p> Daytime telephone number _____ Plan number (if applicable) _____
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hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address Morgen Cheshire CHESHIRE LAW GROUP 5275 Germantown Ave., 1st FL., Philadelphia, PA 19144 Check if to be sent copies of notices and communications <input checked="" type="checkbox"/>	CAF No. 0301-97306R PTIN P01534922 Telephone No. 267-331-4157 Fax No. 215-940-9200 Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>
Name and address Benjamin Bolas CHESHIRE LAW GROUP 5275 Germantown Ave., 1st FL., Philadelphia, PA 19144 Check if to be sent copies of notices and communications <input checked="" type="checkbox"/>	CAF No. 031022834R PTIN P01867821 Telephone No. 267-331-4157 Fax No. 215-940-9200 Check if new: Address <input checked="" type="checkbox"/> Telephone No. <input checked="" type="checkbox"/> Fax No. <input checked="" type="checkbox"/>
Name and address Ronda Goldfein AIDS LAW PROJECT OF PENNSYLVANIA 1211 Chestnut Street, Suite 600 (Note: IRS sends notices and communications to only two representatives.)	CAF No. NONE PTIN NONE Telephone No. 215-587-9377 Fax No. 215-587-9902 Check if new: Address <input checked="" type="checkbox"/> Telephone No. <input checked="" type="checkbox"/> Fax No. <input checked="" type="checkbox"/>
Name and address (Note: IRS sends notices and communications to only two representatives.)	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

to represent the taxpayer before the Internal Revenue Service and perform the following acts:

3 Acts authorized (you are required to complete this line 3). With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions)
INCOME TAX - APPLICATION FOR EXEMPTION RECOGNITION	1023	2018, 2019
INCOME TAX	990	2018 - 2023

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4. Specific Use Not Recorded on CAF**

5a Additional acts authorized. In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information):

Access my IRS records via an Intermediate Service Provider;
 Authorize disclosure to third parties; Substitute or add representative(s); Sign a return;

Other acts authorized: _____

b **Specific acts not authorized.** My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise), into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated issued by the government in respect of a federal tax liability.
 List any other specific delegations to the acts otherwise authorized in this power of attorney (see instructions for line 6b):

6 **Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here
YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

7 **Signature of taxpayer.** If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matters partner, partnership representative, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the legal authority to execute this form on behalf of the taxpayer.
▶ IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.



8/24/2018
Date

RESIDENT AND TREASURER
Title (if applicable)

JOSE BENITEZ
Print Name

SAFEHOUSE
First name of taxpayer from line 1 if other than individual

Part II Declaration of Representative

Under penalty of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice, or ineligible for practice, before the Internal Revenue Service;
- I am subject to regulations contained in Circular 230 (31 CFR, Subtitle A, Part 101), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:

- a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below;
- b Certified Public Accountant—a holder of an active license to practice as a certified public accountant in the jurisdiction shown below;
- c Enrolled Agent—enrolled as an agent by the Internal Revenue Service per the requirements of Circular 230;
- d Officer—a bona fide officer of the taxpayer organization;
- e Full-Time Employee—a full-time employee of the taxpayer;
- f Family Member—a member of the taxpayer's immediate family (spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister);
- g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 20 U.S.C. 1243 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230);
- h Unenrolled Return Preparer—Authority to practice before the IRS is limited. An unenrolled return preparer may represent, provided the preparer (1) prepared and signed the return or claim for refund for prepared if there is no signature space on the form; (2) was eligible to sign the return or claim for refund; (3) has a valid PTIN; and (4) possesses the required Annual Filing Season Program Record of Completion(s). See Special Rules and Requirements for Unenrolled Return Preparers in the Instructions for additional information.
- k Qualifying Student—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student working in an LITC or STCP. See Instructions for Part II for additional information and requirements.
- f Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(f)).

▶ IF THIS DECLARATION OF REPRESENTATIVE IS NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THE POWER OF ATTORNEY. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN PART I, LINE 2.

Note: For designations d-f, enter your title, position, or relationship to the taxpayer in the "Licensing jurisdiction" column.

Designation—insert above letter (a-f)	Licensing jurisdiction (State) or other licensing authority (if applicable)	Bar, license, certification, registration, or enrollment number (if applicable)	Signature	Date
a	PA, NY	81215		9/11/18
a	PA	319168		9/10/18
a	PA	61462		9/7/18

ATTACHMENT #2


PART II, Line 1

ARTICLES OF INCORPORATION
Pennsylvania Domestic Nonprofit Corporation
(Filed August 9, 2018)

See enclosed copy of the Articles of Incorporation of Applicant.

Entity# : 6755825
 Date Filed : 08/09/2018
 Pennsylvania Department of State

**PENNSYLVANIA DEPARTMENT OF STATE
 BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

<p style="text-align: center;">M. BURR KEIM COMPANY Electronic Return <i>info@mburrkeim.com</i></p>	<p style="text-align: center;">Articles of Incorporation - Nonprofit DSCB:15-5306/7102</p>  <p style="text-align: center;">TCO180810JD0085</p>
--	---

Read all instructions prior to completing. This form may be submitted online at <https://www.corporations.pa.gov/>.

Fee: \$125 I qualify for a veteran/reservist-owned small business fee exemption (see instructions)
 Check one: Domestic Nonprofit Corporation (§ 5306) Nonprofit Cooperative Corporation (§ 7102)

In compliance with the requirements of the applicable provisions (relating to articles of incorporation or cooperative corporations generally), the undersigned, desiring to incorporate a nonprofit/nonprofit cooperative corporation, hereby state(s) that:

1. The name of the corporation is:
 SAFEHOUSE

2. Complete part (a) or (b) – not both:

(a) The address of this corporation’s current registered office in this Commonwealth is:
 (post office box alone is not acceptable)

SEE EXHIBIT A (ATTACHED HERETO).

Number and Street	City	State	Zip	County

(b) The name of this corporation’s commercial registered office provider and the county of venue is:

c/o: _____

Name of Commercial Registered Office Provider	County
---	--------

3. The corporation is incorporated under the Nonprofit Corporation Law of 1988 for the following purpose or purposes.
 SEE EXHIBIT A (ATTACHED HERETO).

4. The corporation does not contemplate pecuniary gain or profit, incidental or otherwise.

5. Check and complete one: The corporation is organized on a nonstock basis.
 The corporation is organized on a stock share basis and the aggregate number of shares authorized is _____.

2018-08-09 11:42
 PA. DEPT. OF STATE

DSCB:15-5306/7102-2

6. For unincorporated association incorporating as a nonprofit corporation only. Check if applicable:
 The incorporators constitute a majority of the members of the committee authorized to incorporate such association by the requisite vote required by the organic law of the association for the amendment of such organic law.

7. For Nonprofit Corporation Only:
Check one: The corporation shall have no members.
 The corporation shall have members.

8. For Nonprofit Cooperative Corporation Only:
Check and complete one:
 The corporation is a cooperative corporation and the common bond of membership among its members is: _____
 The corporation is a cooperative corporation and the common bond of membership among its shareholders is: _____

9. The name(s) and address(es) of each incorporator(s) is (are) (all incorporators must sign below):

Name(s)	Address(es)
EDWARD G. RENDELL	C/O AIDS LAW PROJECT OF PENNSYLVANIA
	1211 CHESTNUT STREET, SUITE 600, PHILADELPHIA, PA 19107

10. The specified effective date, if any, is:

month day year hour, if any

11. Additional provisions of the articles, if any, attach an 8½ x 11 sheet.

IN TESTIMONY WHEREOF, the incorporator(s) has/have signed these Articles of Incorporation this
6th day of AUGUST, 2018.
Edward G Rendell

Signature

Signature

Signature

EXHIBIT A

ARTICLES OF INCORPORATION

of

SAFEHOUSE

In compliance with the requirements of the applicable provisions (relating to Articles of Incorporation generally), the undersigned, desiring to incorporate a nonprofit corporation, hereby states that:

ARTICLE I. The name of the corporation is SAFEHOUSE (the "Corporation").

ARTICLE ii. The address of the Corporation's registered office in this Commonwealth is:

c/o AIDS Law Project of Pennsylvania
1211 Chestnut Street, Suite 600
Philadelphia, PA 19107, Philadelphia County

ARTICLE iii. The Corporation is incorporated under Chapter 53 of the Pennsylvania Nonprofit Corporation Law of 1988 (the "Act"), as amended.

ARTICLE IV. The Corporation is a nonprofit organization organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), specifically for the purposes of reducing the harms associated with drug use by providing a range of public health and social services. The Corporation shall at all times be operated exclusively for charitable purposes and may take any and all actions necessary, proper, advisable, or convenient for the accomplishment of these purposes consistent with the limitations set forth in this Article IV and the provisions of Articles XI and XII below. In furtherance of the foregoing, the Corporation shall have the power to do any acts and carry on any business and affairs that are not prohibited by the Act, as amended, by the Code, or by any other law.

ARTICLE V. The Corporation does not contemplate pecuniary gain or profit, incidental or otherwise.

ARTICLE VI. The Corporation is organized on a non-stock basis.

ARTICLE VII. The Corporation shall not have a member or members.

ARTICLE VIII. The name and address of the incorporator is:

EDWARD G. RENDELL
c/o AIDS Law Project of Pennsylvania
1211 Chestnut Street, Suite 600
Philadelphia, PA 19107, Philadelphia County

ARTICLE IX. The term for which the Corporation is to exist is perpetual.

ARTICLE X. These Articles of incorporation ("Articles") shall be effective upon filing.

ARTICLE XI. Notwithstanding any other provision of these Articles, the powers and activities of the Corporation shall be subject to the following restrictions and limitations:

- a. The Corporation shall not carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501(a) of the Code and described in Section 501(c)(3) of the Code, or by an organization described under Section 170(c)(2) of the Code, contributions to which are deductible under Sections 170(a), 2055(a)(2), and 2522(a)(2) of the Code, nor shall the Corporation engage in any year in which it may be a "private foundation," as defined in Section 509 of the Code, in any act prohibited by Section 4941(d) or 4943(c) of the Code, or do any act, or fail to do any acts, that will result in the imposition of tax on the Corporation under Sections 4942, 4944, or 4945 of the Code, specifically:
 1. The Corporation will distribute its income for each tax year at a time and in a manner as to not become subject to the tax on undistributed income imposed by section 4942 of the Code, or the corresponding section of any future tax code, or, as a private operating foundation, will make qualifying distributions directly for the active conduct of activities constituting its charitable and educational purposes in accordance with section 4942(j)(3) of the Code, or the corresponding section of any future tax code;
 2. The Corporation will not engage in any act of self dealing as defined in section 4941(d) of the Code, or the corresponding section of any future federal tax code;
 3. The Corporation will not retain any excess business holdings as defined in section 4943(c) of the Code, or the corresponding section of any future federal tax code;
 4. The Corporation will not make any investments that would jeopardize the carrying out of any of its exempt purposes so as to subject it to tax under section 4944 of the Code, or the corresponding section of any future federal tax code; and
 5. The Corporation will not make any taxable expenditures as defined in section 4945 of the Code, or the corresponding section of any future federal tax code.
- b. The Corporation is not authorized, and no amendment, alteration, change, or repeal of any provisions of the Articles shall authorize the Corporation or its directors or officers, to conduct the affairs of the Corporation in any manner or for any purpose that would cause the Corporation to lose its tax-exempt status under the provisions of the Code.
- c. No part of the net earnings of this Corporation shall ever inure to the benefit of, or be distributable to, any of its directors or officers or any other private person, except that reasonable compensation may be paid for services rendered to or for the Corporation in carrying out its purposes.
- d. Except as authorized by Section 501(h) of the Code and a proper election filed thereunder, no substantial part of the activities of the Corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate or intervene in any political campaign on behalf of (or in opposition to) any

candidate for public office (i.e., federal, state, or local), whether by the publication or distribution of statements or otherwise.

ARTICLE XII. In the event of the liquidation, dissolution, or winding up of this Corporation, the assets or property of the Corporation shall be distributed by the Board of Directors to one or more organizations that are organized and operated for the purposes aligned with the Corporation and exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code, or any successor provisions thereto, and in accordance with the Act, as amended. Any assets not so distributed shall be distributed by the Court of Common Pleas of Philadelphia exclusively for such purposes, and in accordance with the Act, as amended. No director or officer of the Corporation or any other private person shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

ATTACHMENT #3

TAB A: BYLAWS (PART II, Line 5)

TAB B: CONFLICT OF INTEREST POLICY (PART V, Lines 5a-c)

TAB C: EXECUTIVE COMPENSATION POLICY (PART V, Line 4)

BYLAWS

OF

SAFEHOUSE

INCORPORATED UNDER THE LAWS

OF THE

COMMONWEALTH OF PENNSYLVANIA

CORPORATE BYLAWS

of

SAFEHOUSE

ARTICLE I

GENERAL

- 1.1 **Name**. The name of the Organization is SAFEHOUSE (the "Organization").
- 1.2 **State of Incorporation**. The Organization is a Pennsylvania nonprofit corporation, organized under the Pennsylvania Nonprofit Corporation Law of 1988 (the "Act") on 9 of August 2018.
- 1.3 **Registered Office**. The registered office of the Organization in Pennsylvania shall be at the place designated in the Articles of Incorporation or at such place within the Commonwealth of Pennsylvania as the Board of Directors may determine. Before the change of location becomes effective, the Organization shall either amend its Articles of Incorporation to reflect the change in location, or shall file in the Pennsylvania Department of State a statement of change of registered office.
- 1.4 **Other Offices**. The Organization may also have offices at such other places within and without the Commonwealth of Pennsylvania as the Board of Directors may from time to time determine, or as the activities of the Organization may require.
- 1.5 **Corporate Seal**. The Organization shall not use a corporate seal and all documents, instruments, and agreements executed and delivered by the Organization shall have the same efficacy as if a corporate seal had been affixed thereto.
- 1.6 **Purposes**. The purposes of the Organization are as provided in the Articles of Incorporation.

ARTICLE II

MEMBERSHIP

- 2.1 **Membership**. The Organization shall have no members. As provided in Section 3.1, the Directors shall have all of the power to manage the business and affairs of the Organization.
- 2.2 **Honorary Titles**. The Organization may create such classes of "membership," such as contributing members or honorary members, as the Directors see fit, but such persons shall not have the rights of members as defined by the Act.

ARTICLE III
BOARD OF DIRECTORS

3.1 **General Powers; Duties.** The business and affairs of the Organization shall be managed by a Board of Directors and all powers to act for the Organization are hereby granted to and vested in the Board of Directors, except as otherwise provided in these Bylaws, the Articles of Incorporation, or by the Act. Unless provided otherwise in these Bylaws or by the Act, each Director shall have one only vote, regardless of any officer position that he or she may hold. The Directors shall exercise due diligence consistent with a duty of care that requires them to act in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances and in a manner that they believe is in the best interests of the Organization. Directors shall also exercise their duty of loyalty with respect to the Organization in accordance with the Organization's Conflict of Interest Policy.

3.2 **Number.** The Board of Directors shall consist of not less than two (2) nor more than fifteen (15) Directors who shall be natural persons of full age (collectively, the "Board," "Board of Directors," or "Directors," and individually, a "Director"). The number of Directors may be increased or decreased from time to time by a vote of a majority of the Directors then in office.

3.3 **Qualifications.** Directors must have an ability to participate effectively in fulfilling the responsibilities of the Board of Directors. Directors need not be residents of the Commonwealth of Pennsylvania.

3.4 **Election.** The Directors shall be elected by a vote of the majority of the Directors then in office at the annual meeting of the Directors, or as needed in the case of vacancies. The chair of the meeting shall announce at the meeting of the Board the number of Directors to be elected at the meeting, shall state that the nominations process is open, and shall call for nominations. Any Director who is present at the meeting and entitled to vote may make nominations. Nominations need not be seconded. After nominations have been made, the chair of the meeting shall, on motion, declare the nominations closed, and thereafter no further nominations may be made. After the nominations have been closed, the Directors shall cast their votes, which shall be recorded by the Secretary. Each Director may nominate and/or vote for himself or herself as a successor Director.

3.5 **Term of Office.** Each Director shall be elected for a term of two years and shall hold office until (a) the later of the expiration of the term for which he or she was elected or until his or her successor has been elected and qualified, or (b) his or her earlier death, resignation, or removal. There is no limit on the number of terms that a Director may be eligible to serve.

3.6 **Resignation of Directors.** A Director may resign at any time by giving written notice to the President or to the Secretary of the Organization. The resignation shall be effective upon receipt by the President or Secretary or at such subsequent time as may be specified in the notice of resignation.

3.7 **Removal of Directors.** Any Director may be removed from the Board, without assigning any cause, by a majority vote of the remaining Directors, even if less than a quorum, at any meeting of the Board, provided that written notice of the intention to consider removal of such Director has been provided to

the entire Board at least five (5) days in advance of such meeting. No formal hearing procedure need be followed in order to remove a Director. If any Director is removed, the resulting vacancy may be filled by the Board at the same meeting.

3.8 **Vacancies.** Vacancies in the Board of Directors, including vacancies resulting from an increase in the authorized number of Directors, shall be filled by election by the remaining Directors, even if the number remaining on the Board is less than a quorum. Any Director so elected shall serve for the balance of the term to which he or she is elected.

3.9 **Annual Meeting.** An annual meeting of the Board of Directors shall be held each year in June to review operations during the immediately preceding year, elect Directors if necessary, elect officers, and transact such other business as may properly be brought before the meeting. The Directors may resolve to convene this meeting on another date during the year, provided that proper notice is given.

3.10 **Regular Meetings.** Regular meetings of the Board of Directors may be held at such times as the Board may by resolution determine. If any day fixed for a regular meeting shall be a legal holiday, then the meeting shall be held at the same hour and place on the next succeeding business day, or at such other time as may be determined by resolution of the Directors.

3.11 **Special Meetings.** Special meetings of the Board of Directors may be called at any time by the President, or upon the written request of at least one-third of the Directors delivered to the Secretary. See Section 6.2 of these Bylaws for the notice requirements. Any such request by the Directors shall state the time and place of the proposed meeting, and upon receipt of such request it shall be the duty of the Secretary to issue the call for such meeting promptly. If the Secretary shall neglect to issue such call, the Directors making the request may issue the call.

3.12 **Place of Meetings.** The meetings of the Board of Directors may be held at such place within the Commonwealth of Pennsylvania or elsewhere as a majority of the Directors may from time to time by resolution determine, or as may be designated in the notice or waiver of notice of a particular meeting. In the absence of specification, such meetings shall be held at the registered office of the Organization.

3.13 **Quorum; Corporate Action.** At all meetings of the Board, a majority of the total number of the Directors in office shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of the Directors present (including participants by telephone or similar communication as provided in Section 12.2 of these Bylaws) at a meeting at which a quorum is present shall be the acts of the Board of Directors, unless a higher threshold is specifically required by the Act, by the Articles of Incorporation, or by these Bylaws.

3.14 **Adjournment.** If a quorum is not present at any meeting of the Board of Directors, or for any other reason, the Directors present at the meeting may adjourn the meeting; no other notice is required to adjourn the meeting. Once an adjourned meeting is resumed, any business may be transacted that could have been transacted at the meeting originally called.

3.15 **Liability.** To the fullest extent permitted by Pennsylvania law, now in effect and as may be amended from time to time, a Director shall not be personally liable for monetary damages for any action taken or any failure to take any action unless:

- (a) the Director has breached or failed to perform the duties of his or her office under Subchapter B of Chapter 57 of the Act; and
- (b) the breach or failure to perform constitutes self-dealing, willful misconduct, or recklessness.

As expressed in Section 5713(b) of the Act, this Section 3.15 shall not provide liability protection to any Director with regard to his or her violations of any criminal statute, or his or her failure to make payment of taxes pursuant to federal, state, or local law.

Any repeal or amendment of this Section 3.15 shall be prospective only and shall not increase, but may decrease, a Director's liability with respect to actions or failures to act occurring prior to such change.

3.16 **Compensation of Directors.** No Director shall be compensated for services unless so authorized by a duly adopted resolution of the Board of Directors, requiring that: (a) such Director may only receive reasonable compensation for services rendered for the Organization in carrying out its exempt purposes as established by the Board of Directors; and (b) such compensation is (i) consistent with the Organization's financial policies, (ii) does not adversely affect the Organization's qualification as an organization exempt under Section 501(a) and described under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") or give rise to intermediate sanctions under the Code, and (iii) shall be set by a committee composed of persons who have no financial interest in such determination. Directors may be reimbursed for reasonable expenses in performance of their duties as Board members and for attendance at each meeting of the Board or Committee of the Board.

3.17 **Reimbursement of Expenses.** As provided in Section 12.1 of these Bylaws, Directors may be reimbursed for reasonable expenses they incur to attend Board and Committee meetings, and to perform their other duties as Board members.

3.18 **Loans to Directors.** No loans shall be made by the Organization to any of its Directors.

3.19 **Executive Committee.** If each officer position is held by a separate individual, there shall be an Executive Committee, which shall be comprised of the officers of the Organization. The Executive Committee shall have and exercise the powers and authority of the Board of Directors in the management and business of the Organization, except that neither the Executive Committee, nor any other committee established by the Board, shall have power or authority as to: (a) the filling of vacancies of the Board of Directors; (b) the adoption, amendment, or repeal of these Bylaws; (c) the amendment or repeal of any resolution of the Board of Directors; (d) action on matters committed by these Bylaws or resolution of the Board of Directors to another committee of the Board; or (e) action on matters pertaining to the acquisition, sale, mortgage, or pledge of real property. Action of the Executive Committee shall be ratified by the Board to the extent possible at its next meeting.

3.20 **Other Committees and Advisory Boards.** As it deems appropriate and desirable, the Board of Directors may establish one or more standing or special committees and designate their function and responsibility. Members appointed to committees need not be Directors, but any committee member who is not a Director may not be a voting member of the committee. Except as otherwise provided in these Bylaws, the Articles of Incorporation, or the Act, any committee may exercise such powers and functions as the Board of Directors may determine from time to time. See Section 3.18 above for limitations on the power and authority of committees. Except as the Board may otherwise determine, the President shall appoint all committee members and committee chairpersons.

3.21 **Committee Reports.** Each committee, including the Executive Committee, shall keep minutes of its proceedings and report the same to the Board at each regular meeting of the Board, or otherwise as requested by the President. The chairperson of each committee shall present the report. If the chairperson of a committee is unable to be present to present the committee report, the chairperson of that committee may designate another member of the committee to present its report. The Board of Directors shall adopt rules of procedure as it deems necessary for the conduct of the affairs of each committee.

ARTICLE IV OFFICERS

4.1 **Officers.** The officers of the Organization shall be natural persons of at least eighteen (18) years of age, and there shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be Directors currently in office and who shall be elected as officers by the Board of Directors. Officer positions may be filled by the same person, but the Organization's preference is that different individuals hold these positions. In addition, as the Board of Directors may determine necessary, there may also be one or more Vice Presidents and/or assistant officers. Holding an officer position does not grant any Director greater voting authority or additional voting privileges.

4.2 **Duties.** The officers shall have and exercise such duties and functions as usually attach to their offices, with such additional duties and functions and subject to such limitations as may be provided in these Bylaws or established by the Board of Directors. Assistant officers shall perform such functions and have such responsibilities as the Board of Directors may determine. Officers shall ensure that the Board is fully informed about the Organization's activities and financial status and that the Board has full and accurate information necessary to make informed decisions about the Organization's operations. The Board of Directors may add to the corporate title of any officer (other than the President) a functional title in word or words descriptive of his or her powers or the general character of his or her duties.

4.3 **Selection, Terms.** The officers of the Organization shall be elected by the Board of Directors at its annual meeting and shall serve for a term of one (1) year. Each officer shall hold office until (a) the later of the expiration of the term for which he or she was elected or his or her successor has been elected and qualified, or (b) until his or her earlier death, resignation, or removal.

4.4 **Resignation of Officers.** Any officer of the Organization may resign at any time by giving written notice to the President or to the Secretary of the Organization. The resignation shall be effective upon receipt by the President or Secretary or at such subsequent time as may be specified in the notice of resignation.

4.5 **Removal of Officers.** Any officer of the Organization may be removed, or his or her authority may be revoked, by resolution of the Board of Directors, whenever in its judgment the best interests of the Organization will be served thereby, but such removal or revocation shall not affect any contract rights the person so removed may have with the Organization.

4.6 **Vacancies.** Any vacancy in any office shall be filled by the Board. The elected officer shall fill the balance of the term to which he/she is elected or appointed.

4.7 **Compensation.** The salaries or compensation, if any, of all officers of the Organization shall be fixed by, or in the manner prescribed by, the Board of Directors, provided that no officer shall be compensated for services unless so authorized by a duly adopted resolution of the Board of Directors, requiring that: (a) such officer may only receive reasonable compensation for services rendered for the Organization in carrying out its exempt purposes as established by the Board of Directors; and (b) such compensation is (i) consistent with the Organization's financial policies, (ii) does not adversely affect the Organization's qualification as an organization exempt under Section 501(a) and described under Section 501(c)(3) of the Code or give rise to intermediate sanctions under the Code, and (iii) shall be set by a committee composed of persons who have no financial interest in such determination.

4.8 **Loans to Officers.** No loans shall be made by the Organization to any of its officers.

4.9 **Reimbursement of Expenses.** As provided in Section 12.1 of these Bylaws, officers may be reimbursed for reasonable expenses they incur to attend Board and Committee meetings, and to perform their other duties as officers.

4.10 **President; Powers and Duties.** The President shall have general charge and supervision of the business of the Organization and shall exercise or perform all the powers and duties usually incident to the office of the President. The President shall preside at all meetings of the Board of Directors. The President shall from time to time make or cause to be made such reports of the affairs of the Organization as the Board may require. The President shall be responsible to the Board of Directors for the application and implementation of policies adopted by the Board of Directors. Unless otherwise provided by the Board in the resolution creating the committee, the President shall be a voting member of each committee.

4.11 **Vice Presidents; Powers and Duties.** If the Organization has a Vice President, the Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and if there is more than one (1) Vice President, their seniority in performing such duties and exercising such powers shall be determined by the Board of Directors or, in default of such determination, by the order in which they were first elected. Each Vice President also shall have such powers and perform

such duties as may be assigned to him or her by the President and the Board of Directors. The Vice President shall ensure that all legal responsibilities of the Organization are met on a timely basis.

4.12 **Secretary; Powers and Duties.** The Secretary shall attend all meetings of the Board and the Executive Committee and record all the votes and meeting minutes in books to be kept for that purpose. He or she shall give, or cause to be given, notice of all meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or by the President.

4.13 **Treasurer; Powers and Duties.** The Treasurer shall cause full and accurate accounts of receipts and disbursements to be kept in books belonging to the Organization. He or she shall see to the deposit of all moneys and other valuable effects in the name and to the credit of the Organization in such depository or depositories as may be designated by the Board of Directors, subject to disbursement or disposition upon orders signed in such manner as the Board of Directors shall prescribe. The Treasurer shall render to the President and to the Directors, at the regular meetings of the Board or whenever the President or the Board may require it, an account of all his or her transactions as Treasurer and of the results of operations and the financial condition of the Organization. He or she shall see that an annual audit or independent review of the Organization's books and records is performed by an auditor selected by the Board in compliance with the requirements of the Commonwealth of Pennsylvania and any other jurisdiction in which the Organization is doing business. The Treasurer shall oversee the investments for the growth of the Organization.

If required by the Board, the Treasurer shall give the Organization a bond in such sum and with such surety or sureties as may be satisfactory to the Board for the faithful discharge of the duties of his or her office, and for the restoration to the Organization, in case of his or her death, resignation, retirement or removal from office, of all books, records, money and other property of whatever kind in his or her possession or under his or her control belonging to the Organization.

4.14 **Delegation of Officers' Duties.** Any officer may delegate duties to his or her duly elected or appointed assistant (if any); and in case of the absence of any officer or assistant officer of the Organization, or for any other reason that the Board of Directors may deem sufficient, the Board may delegate or authorize the delegation of his or her powers or duties, for the time being, to any person.

4.15 **Executive Director.** An Executive Director may be appointed by the Board of Directors. The Executive Director shall be accountable to the Board of Directors and subject to the direction of the President and shall perform the duties and functions as may be prescribed from time to time by the Board of Directors. The Executive Director shall prepare, from time to time, but at least once each calendar quarter, a report of the operations of the programs, committees, fundraising and other financial matters and of the general operations of the Organization for presentation to the Board of Directors. The Executive Director shall not be a Director or officer of the Organization.

ARTICLE V
FINANCIAL AND CONTRACTUAL TRANSACTIONS

5.1 **Contracts.** The President may execute in the name of the Organization, deeds, mortgages, bonds, contracts, and other instruments as authorized by the Board, except in cases where the execution thereof shall be expressly delegated by the Board to some other officer or agent of the Organization. Any such signed documents shall be attested by the Secretary or the Treasurer or an Assistant Secretary or Assistant Treasurer.

5.2 **Real Estate.** Notwithstanding anything to the contrary in the Act or in these Bylaws, any decision to acquire, sell, mortgage, or pledge real property shall require at minimum the approval of two-thirds of the Board of Directors.

5.3 **Loans.** The Organization shall not lend or borrow funds unless authorized by resolution of the Board of Directors. Such authorization may be general or confined to specific instances. All loan documents and documents of indebtedness issued in the name of the Organization shall be signed by two or more officers of the Organization, or its officers' agents, as the Board of Directors may designate, and in such manner as determined by the Board of Directors.

5.4 **Checks, Charges, Etc.** All checks, notes, drafts, or other orders for the payment of money and documents of indebtedness issued in the name of the Organization shall be signed by two or more officers of the Organization, or its officers' agents, as the Board of Directors may from time to time designate, and in such manner as determined by the Board of Directors.

5.5 **Deposits.** All payments to the Organization shall be deposited in one or more banks or other depository accounts established and maintained in the Organization's name and Employer Identification Number ("EIN").

5.6 **Gifts.** The Board of Directors may accept on behalf of the Organization any gift, grant, devise, bequest, or contribution (hereinafter "Gift") for the general purposes or for specific purposes of the Organization. The Board of Directors shall consider, prior to the acceptance of any Gift, whether such acceptance or any condition attached to the acceptance conflicts with the general or specific purposes of the Organization. The Board may decline or disclaim any Gift if it determines that the Gift or any conditions or restrictions attached to its acceptance is not within the general or specific purview or purpose of the Organization. The Board may also decline a Gift if it determines that a Gift designated for a specific purpose is less than the amount required to finance that specific purpose; however, the Board may determine to accept the Gift, although insufficient in amount, and add or secure other assets in furtherance of the specific purpose of the Gift, if the specific purpose of the Gift is within the Organization's purposes. Should there be a question as to the purpose or timeliness of the Gift as being incompatible with the purpose, mission, or programs and activities of the Organization or when the conditions, limitations or purposes of a particular Gift are deemed to be unacceptable, the Board of Directors is authorized to negotiate, with the donor, changes in the Gift or to decline or disclaim such Gift.

ARTICLE VI
NOTICES

6.1 **Form of Notice.** Whenever written notice is required or permitted, by these Bylaws or otherwise, to be given to any person or entity, it may be given either personally or by sending a copy to the address or other contact information of the appropriate person or entity as it appears in the Organization's records. Such notice may be sent (a) electronically; (b) by first class mail (postage prepaid) or by overnight express delivery service (charges prepaid), or (c) by facsimile. If the notice is sent by mail or overnight express delivery, it shall be deemed to have been given when deposited in the United States Mail or delivered to the overnight express delivery service. If the notice is sent by any other form prescribed above, it shall be deemed to have been given when sent.

6.2 **Notice of Meetings.** Written notice of every meeting of the Board of Directors shall be given to each Director at least five (5) days prior to the day designated for the meeting. Such notice shall specify the place, day, and hour of the meeting, and in the case of a special meeting of the Board, the general nature of the business to be transacted. Whenever the language of a proposed resolution is included in the written notice of a meeting, the Directors at the meeting considering the resolution may without further notice adopt it with such clarifying or other amendments as long as the clarifications or other amendments do not enlarge its original purpose so as to require further notice to persons not present in person at the meeting.

6.3 **Waiver of Notice.** Whenever a written notice is required by these Bylaws or under the provisions of the Act, any person or persons (or entity or entities) entitled to receive the notice may waive in writing the right to receive notice. The written waiver may be signed before or after the time required for such notice. Except in the case of a special meeting of the Board of Directors or as otherwise required by the Act, neither the business to be transacted nor the purpose of the meeting need be specified in the waiver of notice of such meeting. Attendance by any person in person at any meeting shall constitute waiver of notice of such meeting, unless the person (or entity representative) attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting was not called or convened upon proper notice.

ARTICLE VII
DISSOLUTION

7.1 **Dissolution.** In the event of dissolution or winding-up of the Organization, the Organization's assets, after all debts and expenses have been paid or provided for, shall be distributed in accordance with the terms stated in the Organization's Articles of Incorporation.

ARTICLE VIII
INDEMNIFICATION AND INSURANCE

8.1 **Representative Defined.** For purposes of this Article, “representative” means any Director, officer or employee of the Organization.

8.2 **Third-Party Actions.** The Organization shall indemnify any representative who was or is a party or is threatened to be made a party to any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Organization), by reason of the fact that he or she is or was a representative of the Organization, or is or was serving at the request of the Organization as a director or officer of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys’ fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Organization and, with respect to any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not of itself create a presumption that the person did not act in good faith and in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the Organization and, with respect to any criminal proceeding, had reasonable cause to believe that his or her conduct was unlawful.

8.3 **Derivative and Corporate Actions.** The Organization shall indemnify any representative who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the Organization to procure a judgment in its favor by reason of the fact that he or she is or was a representative of the Organization, or is or was serving at the request of the Organization as a director or officer of another domestic or foreign corporation for profit or not-for-profit, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys’ fees) actually and reasonably incurred by him or her in connection with the defense or settlement of the action if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Organization. Indemnification shall not be made under this Section in respect of any claim, issue or matter as to which the person has been adjudged to be liable to the Organization unless and only to the extent that the court of common pleas of the judicial district embracing the county in which the registered office of the Organization is located or the court in which the action was brought determines upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that the court of common pleas or other court shall deem proper.

8.4 **Procedure for Effecting Indemnification.** Unless ordered by a court, any indemnification under Section 8.2 or Section 8.3 shall be made by the Organization only as authorized in the specific case upon a determination that indemnification of the representative is proper in the circumstances because he or she has met the applicable standard of conduct set forth in those Sections. The determination shall be made:

- (a) by the Board by a majority vote of a quorum consisting of Directors who were not parties to the action or proceeding; or
- (b) if such a quorum is not obtainable, or if obtainable and a majority vote of a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.

8.5 **Advancing Expenses.** The Organization shall pay expenses (including attorneys' fees) incurred in defending any action or proceeding referred to in Section 8.2 in advance of the final disposition of the action or proceeding upon receipt of any undertaking by or on behalf of the representative to repay the amount if it is ultimately determined that he or she is not entitled to be indemnified by the Organization as authorized in this Article or otherwise.

8.6 **Supplementary Coverage.** The indemnification and advancement of expenses provided by or granted pursuant to this Article shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under the Act, or any agreement, vote of disinterested Directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding that office. Article 10 (relating to conflicts of interest) shall be applicable to any bylaw, contract, or transaction authorized by the Directors under this Section 8.6. However, no indemnification may be made by the Organization under this Article 8 or otherwise to or on behalf of any person to the extent that:

- (a) The act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted self-dealing, willful misconduct, or recklessness; or
- (b) The Board determines that under the circumstances indemnification would constitute an excess benefit transaction under Section 4958 of the Code or an act of self-dealing under Section 4941 of the Code, if applicable.

8.7 **Duration and Extent of Coverage.** The indemnification and advancement of expenses provided by or granted pursuant to this Article shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a representative of the Organization and shall inure to the benefit of the heirs and personal representatives of that person.

8.8 **Reliance and Modification.** Each person who shall act as a representative of the Organization shall be deemed to be doing so in reliance upon the rights provided by this Article. The duties of the Organization to indemnify and to advance expenses to a representative provided in this Article shall be in the nature of a contract between the Organization and the representative. No amendment or repeal of any provision of this Article shall alter, to the detriment of the representative, his or her right to the advance of expenses or indemnification related to a claim based on an act or failure to act which took place prior to such amendment or repeal.

8.9 **Insurance.** The Organization shall purchase and maintain insurance on behalf of any person who is or was a Director or officer of the Organization or is or was serving at the request of the Organization as a director or officer of another domestic or foreign corporation for profit or not-for-profit, partnership,

joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Organization would have the power to indemnify him or her against that liability under the Act. The Organization's payment of premiums with respect to such insurance coverage shall be provided primarily for the benefit of the Organization. To the extent that such insurance coverage provides a benefit to the insured person, the Organization's payment of premiums with respect to such insurance shall be provided in exchange for the services rendered by the insured person and in a manner so as not to constitute an excess benefit transaction under Section 4958 of the Code or an act of self-dealing under Section 4941 of the Code, if applicable.

ARTICLE IX
FUNDRAISING

9.1 **Fundraising and Solicitation.** The Organization shall ensure that its fundraising and solicitation activities and materials meet federal and state law requirements and that they are accurate, truthful, and candid.

ARTICLE X
CONFLICT OF INTEREST POLICY

10.1 **Adoption of Policy.** The Organization shall separately adopt a conflict of interest policy and distribute annual disclosure forms for the purpose of screening conflicts. It is the policy of the Organization that no contract or transaction between the Organization and one or more of its Directors or officers, or between the Organization and any "interested entity" shall be authorized or entered into unless the material facts as to the interest and as to the contract or transaction are disclosed or are known to the Board of Directors, and the Board in good faith authorizes the contract or transaction by an affirmative vote of a majority of the Directors other than the interested Director(s) of the Organization and the contract or transaction is in the interests of the Organization. An "interested entity" includes any entity (a) in which one or more of the Directors or officers of the Organization (i) are directors or officers, or (ii) have a financial interest; or (b) in which any Director or officer of the Organization has any other conflict of interest. Any interested Directors may be counted in determining the presence of a quorum at a meeting of the Board which authorizes the contract or transaction.

ARTICLE XI
BOOKS AND RECORDS

11.1 **Bookkeeping; Recordkeeping.** The Organization shall keep (i) complete and accurate financial books and records; (ii) minutes of all meetings of the Board and of any committees; (iii) the original or a copy of its Articles of Incorporation (and any amendments thereto) and Bylaws, including all amendments thereto, certified by the Secretary; (iv) a list of the names and contact information of its current Directors and officers; (v) a copy of the Organization's IRS Form 1023; and (vi) all reports delivered to state and federal officials for the last seven years. Originals or duplicates of such books and records shall be kept at

either the registered office of the Organization, the principal place of business of the Organization, and/or at such other reasonably accessible place as the Secretary may determine. The Organization may separately adopt a document retention policy.

11.2 **Transparency.** The Organization shall ensure that its audited financial statements, annual federal tax reports, and other annual reports are complete and accurate, and to the extent required by law and in accordance with the procedures established by law, are posted to the Organization’s website or otherwise made available to the public upon request.

ARTICLE XII
GENERAL PROVISIONS

12.1 **Reimbursement of Expenses.** Directors and other individuals serving the Organization may be reimbursed for reasonable expenses they incur to perform their duties, provided that such reimbursement does not adversely affect the Organization’s qualification as an organization exempt under Section 501(a) and described under Section 501(c)(3) of the Code or give rise to intermediate sanctions under Section 4958 of the Code. Expense reimbursements shall be made in accordance with procedures established by the Organization.

12.2 **Use of Conference Telephone and Similar Equipment.** To the fullest extent permitted by the Act, one (1) or more persons may participate in a meeting of the Board, or a committee or any other body of the Organization, by means of conference telephone or similar communications equipment if all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section 12.2 shall constitute presence in person at the meeting.

12.3 **Action by Directors in Lieu of a Meeting.** Unless otherwise restricted by the Articles of Incorporation, or by the Act, any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the Secretary of the Organization.

ARTICLE XIII
AMENDMENT OF BYLAWS

13.1 **Amendments.** Any changes to these Bylaws may be made by a two-thirds vote of the Board of Directors at any meeting of the Board duly convened after notice to the Directors for that purpose or by the unanimous written consent of all Directors without a meeting.

* * * * *

Adopted on Aug. 6, 2018.

SAFEHOUSE

CONFLICT OF INTEREST POLICY

Adopted by the Incorporator on August 6, 2018

Introduction

SAFEHOUSE (the “Organization”) is committed to acting with integrity and fairness in all of its operations and is committed to avoiding conflicts of interest, potential conflicts of interest, and any appearance of conflicts of interest. Accordingly, the Organization has adopted this Policy under which Trusted Individuals, as defined below, must maintain the highest ethical standard in the conduct of the Organization’s affairs and must conduct the Organization’s business with integrity in a manner that excludes considerations of personal advantage or gain. Each Trusted Individual must avoid any situation that involves or may involve a conflict, or an appearance of conflict, between the interest of the Organization and his or her personal interest, or the interests of his or her other employer(s) or the business entity(ies) with which he or she is affiliated.

Defined Terms

Trusted Individuals – the Organization’s Board members, officers, committee members, personnel, and key advisors.

Related Parties – any of the following:

- a. A Trusted Individual’s spouse, siblings, parents, children, adoptive children, grandchildren, in-laws, or domestic partner;
- b. Any entity or trust of which Trusted Individuals or any one or more individuals described in paragraph (a) above serves as an employee, director, trustee, or officer;
- c. Any entity or trust of which Trusted Individuals or any one or more individuals described in paragraph (a) above has a significant ownership or beneficial interest; or
- d. Any entity or trust of which Trusted Individuals or any one or more individuals described in paragraph (a) above has any other conflict of interest.

Conflict of Interest Defined

A conflict of interest arises when circumstances raise the possibility that the duties of loyalty, good faith, and fair dealing of a Trusted Individual may be compromised such that the person receives a benefit or advantage causing the person to have dual or conflicting loyalties. A business or personal relationship, or the involvement in certain activities, may create a conflict by impairing the independent judgment of such person in the exercise of duties relating to the Organization and its operations. Any arrangements or circumstances, including employment, business dealings, political, family or other relationships, that might dissuade the Trusted Individual from acting in the best interest of the Organization could give rise to a conflict of interest.

SAFEHOUSE**CONFLICT OF INTEREST POLICY**

This Policy applies whenever there is any current or proposed transaction, strategy, relationship, arrangement, grant, program or other activity in which (1) the Organization would be a participant and in which one or more Trusted Individuals or Related Parties would have a financial, strategic or other business interest; or (2) there could be an actual or perceived conflict of interest for some other reason, including but not limited to any transaction, strategy, relationship, arrangement, grant, program or other activity, circumstance, or situation in which the interests of a Trusted Individual or Related Party could be seen as competing with, or compromising the interests of, the Organization.

Examples of actual or potential conflicts of interest include, but are not limited to:

- Engaging directly or indirectly in a business transaction with the Organization, including making a loan to or owing a debt or a financial obligation to the Organization.
- Receiving, either currently or within the last 12 months, or potentially receiving, payment in cash or in-kind (e.g., gifts) from any firm or person outside the Organization that transacts business or is seeking to transact business with the Organization.
- Acting as a broker, finder, go-between, or otherwise for the benefit of a third party in transactions involving, or potentially involving, the Organization or its interests.
- Holding a significant financial or control interest, or a position of influence, in any entity with which the Organization does business or is seeking to do business (e.g., the Organization's vendors, contractors, collaborators, or affiliates).
- Making or accepting referrals to or from outside providers or vendors of the Organization that may result in personal gain.

In any situation not specifically covered, Trusted Individuals should consider carefully any potential conflict between their personal interests and the interests of the Organization and either refrain from any action that might be perceived as creating an actual or potential conflict of interest, or (at a minimum) disclose such potential conflict in accordance with the disclosure procedures set forth below. This Policy is intended to supplement but not replace any laws governing conflict of interest applicable to the Organization.

Disclosure Requirement and Procedures for Review

Each Trusted Individual has a duty to disclose in good faith to the Organization's Board of Directors the material facts of any actual or potential conflicts of interest of such Trusted Individual or a Related Party. Trusted Individuals shall make disclosures by completing the attached Conflict of Interest Statement and Disclosure Form ("Disclosure Form") on an annual basis, prior to initial election, appointment, or commencement of service for the Organization, and on an on-going basis as any new activities or relationships arise.

Disclosure Forms shall be submitted by staff to the Executive Director, and by Board members to the President of the Board (or to another Organization staff person or office designated to receive and collate the Disclosure Forms). The President or his or her designee ("President") shall review all Disclosure Forms submitted by staff and Board members; shall maintain the Disclosure Forms

SAFEHOUSE

CONFLICT OF INTEREST POLICY

on a permanent basis as part of the Organization's books and records; and shall report on conflicts annually to the Board. If a situation arises that the President determines requires the Board's immediate attention, he or she shall timely report to the Board.

If the President (either through business or family), has any actual or potential conflict(s), the President shall bring this fact to the attention of the Board of Directors and shall complete a Disclosure Form, and the Board of Directors itself shall in the first instance review and take appropriate action on the President's conflict(s).

It is the responsibility of the Board to enforce the Conflict of Interest Policy. The Board, or a designated committee of Board members, shall review the President's report on the Disclosure Forms and shall follow up on each potential conflict within one month of the Trusted Individual's initial submission of the Disclosure Form in order to determine if a conflict of interest exists. A Trusted Individual making a disclosure shall have the opportunity to disclose all material facts as part of this review process, but may not participate in the Board deliberations or in the Board's determination of whether a conflict of interest exists with respect to his/her disclosure.

Any person having a conflict or potential conflict shall refrain from disclosing, and shall keep confidential, information presented to the Board and/or any discussion or decision by the Board. If the Board determines that a conflict of interest exists, any interested persons shall abstain from participating in discussions or decision-making on issues related to the matter in which the person has an interest.

A Trusted Individual, who in the course of conducting Board business discovers that he/she has an actual or potential conflict, shall disclose the conflict immediately to the President in writing (and orally if the situation so requires) and shall abstain from discussions related to transactions or arrangements that involve, or may involve, the actual or potential conflict until a determination can be made by the Board regarding whether he or she has a conflict of interest.

If a Trusted Individual believes another person within the Organization may have a conflict of interest, the Trusted Individual shall promptly report the matter to the President for review or investigation by the Board, as necessary.

The minutes of the Board shall record the names of the persons who were found to have an actual or potential conflict of interest, the nature of the conflict, the nature of the follow-up, and the Board's decision as to whether a conflict of interest in fact existed. The minutes should also record both the names of the persons who abstained and of the persons who were present for discussions, any votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, if considered, and a record of any votes taken in connection with the determination.

If the Board has reasonable cause to believe a Trusted Individual has failed to disclose actual or potential conflicts of interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose. If, after hearing the person's response and after making any further investigation warranted by the circumstances, the Board determines the person has failed to disclose an actual or potential conflict of interest, it shall take appropriate disciplinary and corrective action. Intentional violation of this Policy constitutes cause for termination or removal. If a conflict of interest cannot be resolved through abstention, the

SAFEHOUSE

CONFLICT OF INTEREST POLICY

interested person may be terminated or asked to resign. Any proposed transaction in which a Trusted Individual or Related Party has a conflict of interest must be approved by a majority of the members of the Board, not including the interested individual.

SAFEHOUSE

CONFLICT OF INTEREST DISCLOSURE FORM

FOR BOARD MEMBERS, OFFICERS, COMMITTEE MEMBERS, PERSONNEL, AND KEY ADVISORS

By signing this form, I acknowledge that I have read and understand SAFEHOUSE's Conflict of Interest Policy, and I agree to comply with it. In compliance with the Policy, I have read the definition of Conflict of Interest (*see pages 1-2 of the Policy*), and I am making the following disclosures on behalf of myself and my Related Parties (as that term is defined by the Policy).

Please Initial:

____ My Related Parties and I do not have any actual or perceived conflicts of interest.

____ My Related Parties and I have the following actual or perceived conflicts of interest:

[attach additional pages if necessary]

My Related Parties and/or I am related (through business or family) to the following board members, officers, committee members, personnel, vendors, consultants, customers/clients, key advisors, etc.:

The information given in this statement is complete and accurate to the best of my knowledge. I understand that I have a continuing obligation to promptly and fully disclose any actual or potential conflicts of interest whenever such situations or relationships arise.

Date

Signature

Name (please print or type)

Position or relationship with SAFEHOUSE

SAFEHOUSE

CONFLICT OF INTEREST DISCLOSURE FORM

ANNUAL REVIEW AND UPDATE

Please review the attached Conflict of Interest Disclosure Form completed and submitted to SAFEHOUSE by you on _____.

If you have additional disclosures to report, or if you no longer have the affiliations or relationships that gave cause for a previous disclosure reported on the attached form, you must complete and submit a new Conflict of Interest Disclosure Form noting the changes.

If you have no changes to report, please respond below:

I hereby acknowledge that I have read and reviewed the attached Conflict of Interest Disclosure Form completed and submitted by me to SAFEHOUSE on _____, and I have no further disclosures to report or other changes to make, on behalf of myself or my Related Parties (as that term is defined in SAFEHOUSE’s Conflict of Interest Policy).

The information given in this statement is complete and accurate to the best of my knowledge. I understand that I have a continuing obligation to promptly and fully disclose any actual or potential conflicts of interest whenever such situations or relationships arise.

Date

Signature

Name (please print or type)

Position or relationship with SAFEHOUSE

SAFEHOUSE

EXECUTIVE COMPENSATION POLICY

The Board of Directors of Safehouse (the "Corporation"), has the authority and responsibility to review and approve the complete compensation packages of the Corporation's Executive Director to ensure that such packages are reasonable and do not create any private inurement or excess benefit within the meaning of the applicable sections of the Internal Revenue Code of 1986, as amended (the "Code"). The Board may, in its discretion and in accordance with its bylaws, delegate responsibility to review and recommend the compensation packages of the Executive Director pursuant to this Executive Compensation Policy to the Corporation's Executive Compensation Committee (the "Committee").

The process followed by the Board or Committee in carrying out its responsibilities hereunder is set forth below. This process is intended to be consistent with the Corporation's fulfillment of its mission as a charitable nonprofit organization as defined by Section 501(c)(3) of the Code. It is further intended to create a rebuttable presumption that the Executive compensation packages approved hereunder are reasonable under the intermediate sanctions rules of Section 4958 of the Code and the corresponding Treasury Regulations.

I. Appropriate Comparability Data.

a. Generally. The Board or Committee shall obtain sufficient information, taking into consideration the knowledge and expertise of its members, to determine whether the full compensation packages of the Executive Director are reasonable, *i.e.*, that they represent no more than fair market value for the services performed by the Executive Director. In assessing the reasonableness of the compensation packages, the Board or Committee shall take into account the entire packages, including salary, any bonus or incentive payments, severance payments, deferred compensation and noncash compensation, as well as any compensatory benefits such as payments to medical, dental, life insurance, or disability insurance plans, and any fringe benefits such as allowable expenses.

b. Independent Compensation Consultant. The Board or Committee may, in its discretion, engage a qualified independent compensation consultant to review and analyze the total compensation packages of the Executive Director. In such event, the Board or Committee shall instruct the compensation consultant to compile appropriate comparability data which may include compensation and benefits paid by similarly-situated organizations (for-profit or tax exempt) for positions that are functionally comparable to that of the Executive Director. The Board or Committee shall direct the consultant to provide a written analysis and recommendation with respect to the reasonable compensation packages for the Executive Director.

c. Executive Director Performance Review. The Board or Committee shall conduct an annual review of the performance of the Executive Director. The Board or Committee

will consider the results of the review in determining reasonable compensation packages for the Executive Director.

2. Approval by Board or Committee.

a. Participation by Board or Committee Members. The Board or Committee members who participate in approval of the compensation packages of the Executive Director shall consist only of those members who do not have a conflict of interest with respect to the transaction. A Board or Committee member has a conflict of interest if s/he or a member of his/her family would benefit economically from the proposed compensation to the Executive Director, is employed by and subject to the direction and control of the Executive Director, receives compensation subject to the approval of the Executive Director or otherwise has a material interest affected by the payment of compensation to the Executive Director. Any Board or Committee member who has a conflict of interest with respect to the payment of compensation to the Executive Director shall not be present for the discussion and shall not vote or be present for the vote with respect to the compensation of the Executive Director.

b. Review of Information. The Board or Committee members who do not have a conflict of interest with respect to the payment of compensation to the Executive Director shall review, consider and discuss any and all information gathered pursuant to Section 1 herein, as well as other factors such as the Executive Director's experience, responsibilities, and length of service. The Board or Committee members who do not have a conflict of interest shall determine and approve the reasonable compensation packages for the Executive Director.

c. Committee Recommendation. If the Board has delegated the authority to review and approve the Executive Director's compensation packages to the Committee, the Committee shall, after following the procedures set forth above, recommend to the Board the compensation packages and the Board shall have ultimate responsibility and authority for approving the compensation packages.

3. Documentation of Board Decision. The deliberations of the Board or Committee regarding the Executive Director compensation packages shall be documented in the Board or Committee minutes, as applicable, and shall include at a minimum, the following:

- a. The significant terms of the compensation packages;
- b. The date of approval of the compensation packages;
- c. The Board or Committee members present during deliberations and a record of which members voted and their votes;
- d. The identities of Board or Committee members who acknowledge a conflict of interest, if any, and the actions they took with respect to deliberations and approval (*e.g.*, did they leave the room during discussions and voting);
- e. The comparability data used and how the data was obtained; and

- f. The rationale for any determination by the Board or Committee that the compensation packages should result in compensation below or above the range recommended by an independent consultant (if one was engaged) or for any material difference in the components of the compensation packages recommended by the independent consultant and those approved by the Board or Committee.

Copies of the minutes shall be provided to the Board for review at its next scheduled meeting.

4. Opinion of Counsel. The Board or Committee may, in its discretion, obtain a written, reasoned opinion of legal counsel that it has complied with the Treasury Regulations under Section 4958 of the Code in order to create a rebuttable presumption that any Executive Director compensation package is reasonable.

ATTACHMENT #4

IMPORTANT NOTE: Applicant respectfully requests that its application be reviewed ***as soon as possible*** because its purpose is opioid overdose prevention, which requires immediate action. We recognize that the IRS is extremely lean on resources at the current time and that applications take time to be processed; however, given that our organization was formed to mitigate a national health crisis, which is hitting residents of the City of Philadelphia particularly hard, we ask that you review this application as soon as possible.

PART IV: NARRATIVE DESCRIPTION OF ACTIVITIES**I. Overview****A. Introduction**

SAFEHOUSE (referred to throughout this application as the “Applicant”) was formed in response to an urgent public health emergency, specifically in response to the Mayor of Philadelphia’s call to action to combat the opioid epidemic in Philadelphia,¹ the Pennsylvania Governor’s declaration that the opioid epidemic in this Commonwealth is an emergency public health matter,² and the U.S. Department of Health and Human Services declaration on October 26, 2017, that the national opioid crisis is a public health emergency.

Applicant was incorporated as a Pennsylvania nonprofit corporation on August 9, 2018, and plans to operate an overdose prevention site to reduce opioid use disorder and its associated morbidity and mortality in Philadelphia.

B. Background

Drug overdoses, especially overdoses involving opioids, are now one of the leading causes of death in the City of Philadelphia. In 2017, 1,217 people died of overdoses in Philadelphia, and more than three-fourths of the deaths involved opioids, including prescription opioids, heroin, and fentanyl.³ In 2016, Philadelphia’s rate of 46 drug overdose deaths per 100,000 residents was the second-highest rate of drug overdose deaths in the United States among the nation’s 44 counties with over 1 million residents.⁴ The increasing presence of fentanyl – a potent synthetic opioid pain medication that is 50 to 100 times stronger than morphine – is contributing to the dramatic increase in overdose fatalities in Philadelphia.

¹ *Final Report and Recommendations*, THE MAYOR’S TASK FORCE TO COMBAT THE OPIOID EPIDEMIC IN PHILADELPHIA (May 19, 2017), https://dbhids.org/wp-content/uploads/2017/05/OTF_Report.pdf.

² This declaration was issued on January 10, 2018 and subsequently renewed in April 2018 and June 2018.

³ *Fatal Drug Overdoses in Philadelphia, 2017*, PHILADELPHIA DEPT. OF PUBLIC HEALTH, CHART Vol. 3, No. 1 (Apr. 2018), available at <https://www.phila.gov/health/pdfs/chart%20v3e1.pdf>.

⁴ Larry Eichel & Meagan Pharis, *Philadelphia’s Drug Overdose Death Rate Among Highest in Nation*, PEW (Feb. 15, 2018), <http://www.pewtrusts.org/en/research-and-analysis/articles/2018/02/15/philadelphias-drug-overdose-death-rate-among-highest-in-nation> (Only Allegheny County, which includes the city of Pittsburgh, Pennsylvania had a higher rate).

In 2017, fentanyl was found in 846 drug overdose decedents in Philadelphia, a 95% increase from 2016 and a remarkable increase from the 9 drug overdose deaths where fentanyl was found in 2012.⁵ Opioids are destroying families and relationships and undermining the quality of life in the City of Philadelphia and throughout the United States. Opioid use and addiction issues have reached epidemic proportions in the City of Philadelphia, and addressing these issues demands a new and coordinated response.⁶

Current leading scholarship reflects that the most effective treatment approach to combating substance use disorder is to encourage treatment while providing harm reduction, which prioritizes meeting people where they are, no matter where they are in their lives.⁷ Harm reduction in substance abuse treatment is aimed at decreasing negative consequences of substance use, and it includes elements of safer use, managed use, and medication-supported treatment plans. Harm reduction is designed to address the circumstances of the addiction in addition to the addiction itself, striving to minimize the harmful effects of addiction rather than condemning them altogether. As Philadelphia District Attorney, Larry Krasner, explained, “The only way to get people to turn their lives around is to keep them alive long enough so they can do that.”⁸

C. Applicant’s Purpose, Mission, Planned Activities, and Planned Operations

1. Applicant’s Purpose

Applicant was organized and will be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”). As provided in its Articles of Incorporation, Applicant’s primary charitable purpose is to “reduc[e] the harms associated with drug use by providing a range of public health and social services.”⁹

2. Applicant’s Mission

Applicant’s mission is to stem the tide of drug deaths and overdoses in the City of Philadelphia by providing a safe environment to engage on a constant basis individuals who are suffering with a substance use disorder, thereby preventing overdoses and providing a critical link for referral and access to essential health care and other social services in order to save lives, and encourage and facilitate treatment and recovery.

⁵ *Fatal Drug Overdoses in Philadelphia, 2017*, PHILADELPHIA DEPT. OF PUBLIC HEALTH, CHART Vol. 3, No. 1 (Apr. 2018), available at <https://www.phila.gov/health/pdfs/chart%20v3e1.pdf>.

⁶ *Final Report and Recommendations*, THE MAYOR’S TASK FORCE TO COMBAT THE OPIOID EPIDEMIC IN PHILADELPHIA (May 19, 2017), https://dbhids.org/wp-content/uploads/2017/05/OTF_Report.pdf.

⁷ See Albert Hong, *Prevention Point Philadelphia Marks 25 Years of Battling HIV, AIDS and the Opioid Epidemic*, GENEROCITY (Nov. 15, 2017), <https://generocity.org/philly/2017/11/15/prevention-point-philadelphia-hiv-aids-opioid-epidemic-25-years/> (Jose Benitez, Executive Director of Prevention Point Philadelphia, described Prevention Point Philadelphia’s harm reduction philosophy by stating, “I think harm reduction for the most part has been about meeting people where they are. It doesn’t necessarily mean you have to stop using drugs to get a service from us. . . . Staying away from that non-judgmental piece of what has traditionally been in our service industry. So all the programs that we’ve grown in the last 11 to 12 years reflect sort of a timeline of where people might be in a recovery process or not able to recover because they’re not ready for it.”).

⁸ *Meet the Librarians Who Are Saving Their Communities from Drug Overdoses*, READER’S DIGEST (Mar. 13, 2018), <https://www.rd.com/true-stories/inspiring/librarians-rescue-drug-overdoses/>

⁹ See Attachment #2 (providing a copy of Applicant’s Articles of Incorporation).

3. Applicant's Planned Activities

Applicant's primary activities will include providing harm reduction and overdose prevention services to individuals with a substance use disorder, including individuals with an opioid use disorder. Applicant will provide these individuals with access to clean syringes, a medically supervised safe consumption room, and access and referrals to addiction treatment and counseling, housing, primary medical services, and other related comprehensive social services. In carrying out its activities, Applicant will utilize medical models of scientifically proven and effective interventions in order to prevent fatal overdoses and improve the quality of life of those individuals who are suffering with a substance use disorder.

One of the initiatives highlighted and recommended in the Mayor's Task Force *Final Report and Recommendations to Combat the Opioid Epidemic in Philadelphia* was the further exploration of one or more "Comprehensive User Engagement Sites" in Philadelphia on a pilot basis as a means of opioid overdose prevention.¹⁰ In response to this recommended initiative, Applicant plans to operate one or more such walk-in sites in the City of Philadelphia as part of its holistic approach to providing overdose prevention services aimed at reducing substance use and fatal overdose while encouraging and facilitating referral to treatment and social services. As part of its activities, Applicant will operate one or more comprehensive user engagement site(s) where individuals with a substance use disorder will have access to trained staff (including nurses (RN), case managers (BSW/MSW), and certified recovery specialists (CRS)) on location who can provide emergency response in the event of an overdose or other medical emergency. While Applicant will provide for medical observation of injection and supervision of individuals for up to one hour post injection to monitor for overdoses, Applicant will not provide, handle, or distribute any controlled substances on site. Applicant will provide sterile consumption supplies, collect used hypodermic needles and syringes, and provide secure hypodermic needle and syringe disposal services.

¹⁰ *Final Report and Recommendations*, THE MAYOR'S TASK FORCE TO COMBAT THE OPIOID EPIDEMIC IN PHILADELPHIA (May 19, 2017), https://dbhids.org/wp-content/uploads/2017/05/OTF_Report.pdf. Overdose prevention sites (similar to the overdose prevention site that Applicant plans to operate) that are currently in operation have been shown to:

- (a) Reduce overdose death, disease transmission (including HIV, hepatitis C, and hepatitis B), injection-related infections, and other adverse health outcomes associated with drug use;
- (b) Serve as an access point for drug and alcohol treatment, medical services, social services, and housing services that in turn reduce the burden on the Emergency Departments, Police and Fire; and
- (c) Improve public order and neighborhood safety by reducing public drug consumption and improper disposal of drug use equipment.

Id. (citing Elizabeth N. Kinnard, et al., *Self-Reported Changes in Drug Use Behaviors and Syringe Disposal Methods Following the Opening of a Supervised Injecting Facility in Copenhagen, Denmark*, HARM REDUCTION J. (2014); Brandon DL Marshall, et al., *Reduction in Overdose Mortality after the Opening of North America's First Medically Supervised Safer Injecting Facility: A Retrospective Population-Based Study*, LANCET 377 (9775):1429–37 (2011); Allison M. Salmon, et al., *The Impact of a Supervised Injecting Facility on Ambulance Call-outs in Sydney, Australia*, ADDICTION 105 (4):676–83 (2010); Evan Wood, et al., *Summary of Findings from the Evaluation of a Pilot Medically Supervised Safer Injecting Facility*, CMAJ, 175 (11): 1399–1404 (2006); Kora DeBeck, et al., *Injection Drug Use Cessation and Use of North America's First Medically Supervised Safer Injecting Facility*, DRUG AND ALCOHOL DEPENDENCE, 113 (2-3): 172–76 (2011); Evan Wood, et al., *Rate of Detoxification Service Use and Its Impact among a Cohort of Supervised Injecting Facility Users*, ADDICTION, 102 (6): 916–19 (2007); Evan Wood, et al., *Changes in Public Order after the Opening of a Medically Supervised Safer Injecting Facility for Illicit Injection Drug Users*, CMAJ 171(7):731–34 (2004); Evan Wood, et al., *Summary of Findings from the Evaluation of a Pilot Medically Supervised Safer Injecting Facility*, CMAJ 175(11), 1399 (Nov. 2006).

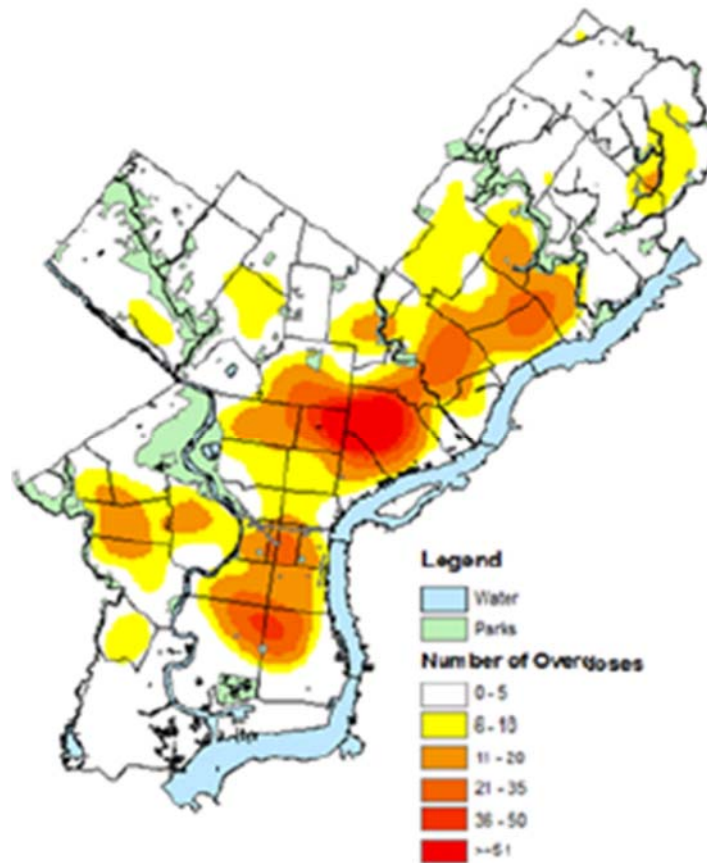
Applicant's staff will be trained to administer first aid, monitor participants for potential overdose, and provide treatment as necessary to prevent fatal overdose. Medical treatment on site will be limited to first aid and the administering of naloxone hydrochloride or other overdose reversal medication approved by the United States Food and Drug Administration. The Applicant will not provide any other medical treatment on site, but will establish a relationship with the nearest emergency department of a general acute care hospital in order to procure necessary medical services.

Applicant will also provide access and referrals to substance use disorder treatment services, medical services, mental health services, and social services. Applicant will maintain a network of treatment providers to refer individuals who are suffering with a substance use disorder to a continuum of care including drug treatment programs in intensive outpatient or residential settings, halfway houses, hospitals, crisis resource centers, and services designed to prevent overdose, death, disease transmission (including HIV, hepatitis C, and hepatitis B), injection-related infections, and other adverse health outcomes associated with drug use. As part of its referral services, Applicant anticipates obtaining and providing access to a certain number of treatment slots/beds with one or more cooperating organizations providing substance abuse treatment services for individuals with a substance use disorder. Staff will also offer assistance obtaining identification cards (which are needed for various social services), sign up for medical assistance, shelter, employment and help with family reunification.

Applicant will provide informational and educational support services to individuals with a substance use disorder, as well as members of the greater Philadelphia community who are affected by public injection drug use and drug addiction. Applicant plans to conduct activities that will educate participants on the risks of contracting HIV and viral hepatitis, and advise participants regarding proper disposal of hypodermic needles and syringes. Applicant will also provide overdose prevention education and information and referrals for individuals to obtain naloxone hydrochloride or another overdose reversal medication approved by the United States Food and Drug Administration. Applicant will offer community seminars and printed and electronic educational materials on topics of relevance such as the resources and services available to individuals who are addicted to opioids and other harmful drugs, and the types of needs-based programs that are available to improve the lives of individuals who are struggling with the disease of drug addiction and substance use disorder. In addition, Applicant will provide informational and educational support services to help destigmatize substance use disorder and its treatment, and help reframe the discussion so that substance use disorder is both understood and more widely appreciated as a chronic medical condition for which effective treatments are necessary and available.

4. *Applicant's Planned Operations*

Applicant plans to operate first in the Kensington/Fairhill neighborhood of Philadelphia, because that is the epicenter of the City's heroin/fentanyl problem and of fatal drug overdoses (see heat map of opioid-related overdose deaths by incident location, 2017, below).

Fatal Drug Overdoses in Philadelphia, 2017¹¹

Applicant is currently looking for a building to purchase for the operation of an overdose prevention site. The facility will have approximately 2,500 – 3,000 square feet of usable space divided into three areas: an entrance/check-in area, a use/medical supervision area and a post-use area. Additional spaces off the post-use room will be available for confidential drug counseling for drug treatment and providing wound care and other medical treatments. Based on experiences in other cities, Applicant estimates that the facility will handle approximately 400 visits per day and serve approximately 1,200 unique clients per month. Additional sites will be considered after the first overdose prevention site is established and has been evaluated

Applicant expects to make disbursements for harm reduction products and services and also for the spectrum of certain medical, nursing and custodial care expenses, psychological services, therapies such as recreational, occupational, physical, and vocational therapy, durable medical equipment and needs, addiction-related training, education, transportation and travel expenses, dietary needs and supplements, and other goods and services.

For the reasons explained in this application, Applicant is hereby requesting that the IRS recognize its tax-exempt status as an organization described under Section 501(c)(3) of the Code and as a public charity under Section 170(b)(1)(A)(vi) of the Code.

¹¹ *Fatal Drug Overdoses in Philadelphia, 2017*, PHILADELPHIA DEPT. OF PUBLIC HEALTH, CHART Vol. 3, No. 1 (Apr. 2018), available at <https://www.phila.gov/health/pdfs/chart%20v3e1.pdf>.

II. Applicant Meets Both the Organizational and Operational Tests

To qualify for an exemption from federal income tax under Section 501(a) of the Code as an organization described under Section 501(c)(3), an organization must be organized and operated exclusively for one or more charitable purposes.¹²

To meet the organizational requirement, an organization’s formation documents must limit the purposes of the organization to one or more exempt purposes, and the formation documents cannot expressly empower the organization to engage (other than insubstantially) in activities which in themselves are not in furtherance of one or more exempt purposes.¹³ To meet the operational test, an organization must only engage primarily in activities that accomplish one or more 501(c)(3) purposes.¹⁴ In addition, to satisfy these requirements, an organization must not be an “action” organization, and the organization’s assets must be dedicated to an exempt purpose and any earnings may not inure to the benefit of private shareholders or individuals.¹⁵

In accordance with the requirements of Treas. Reg. Section 1.501(a)-1(b)(iii) (requiring organizations described in Section 501(c)(3) to submit with their applications detailed statements of their proposed activities), the following narrative explains how Applicant meets each of these requirements considering Applicant’s planned activities.

A. Applicant is Organized for Charitable Purposes

Applicant is organized for exempt purposes because its formation document (*i.e.*, Applicant’s Articles of Incorporation filed August 9, 2018), appropriately restricts its activities in accordance with Section 501(c)(3) of the Code, and Applicant will operate at all times in accordance with the limitations set forth in its Articles of Incorporation.¹⁶

Applicant’s Articles of Incorporation specifically provide that Applicant shall operate exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code, with the primary purpose of “reducing the harms associated with drug use by providing a range of public health and social services.”¹⁷ The Articles of Incorporation does not empower Applicant to carry on any activities that are not in furtherance of its exempt purposes.¹⁸ In fact, the Articles of Incorporation specifically prohibit any amendment that would or might cause Applicant to lose its tax-exempt status under the Code.¹⁹ In addition, Applicant’s stated purpose – reducing the harms associated with drug use by providing a range of public health and social services – is charitable under Section 501(c)(3).²⁰

¹² Treas. Reg. §1.501(c)(3)-1(a)(1).

¹³ Treas. Reg. § 1.501(c)(3)-1(b)(1).

¹⁴ Treas. Reg. § 1.501(c)(3)-1(c)(1).

¹⁵ Treas. Reg. § 1.501(c)(3)-1(b)(3)&(4); Treas. Reg. § 1.501(c)(3)-1(c)(2).

¹⁶ See Attachment #2.

¹⁷ *Id.* (see, in particular, Article IV).

¹⁸ *Id.* (see, in particular, Article XI(a)).

¹⁹ See Attachment #2 (see, in particular, Article XI(b)).

²⁰ *Id.* (see, in particular, paragraph IV, articulating Applicant’s purpose).

Therefore, Applicant's Articles of Incorporation limit Applicant's activities to one or more charitable purposes in satisfaction of the organizational requirements for Section 501(c)(3) organizations.

B. Applicant Will Only Engage in Lawful Activities That Accomplish Its Charitable Purposes

Applicant also meets the operational test considering Applicant's planned activities. The Treasury Regulations corresponding to Section 501(c)(3) explain that the term "charitable" is used in Section 501(c)(3) in its generally accepted legal sense and therefore must not be construed as limited to the enumerated purposes set forth under Section 501(c)(3).²¹ Accordingly, the term charitable is defined broadly in the Code and the corresponding Treasury Regulations to include not only relief of the poor, distressed, or underprivileged, but also to describe organizations that, for example, lessen the burdens of Government, promote social welfare, lessen neighborhood tensions, eliminate prejudice and discrimination, or combat community deterioration.²² An organization will be regarded as operated exclusively for one or more exempt purposes if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).²³

In determining whether activities are consistent with Section 501(c)(3) of the Code, the IRS has utilized a three-part test.²⁴ The IRS stated in Rev. Rul. 80-278 that activities will be considered permissible under Section 501(c)(3) of the Code if:

- (1) The purpose of the organization is charitable;
- (2) The activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and
- (3) The activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.

Applicant will fulfill its charitable purposes by carrying out lawful activities providing harm reduction and overdose prevention services, in addition to providing access and referrals to addiction treatment, housing, primary medical services, and other related comprehensive social services to help individuals who are suffering with a substance use disorder.²⁵ Through its counseling and rehabilitation services aimed at improving the health of individuals with a substance use disorder, Applicant will further its charitable purposes by providing relief to an underprivileged and distressed class.²⁶ Through its

²¹ Treas. Reg. § 1.501(c)(3)-1(d)(2).

²² *Id.*

²³ Treas. Reg. § 1.501(c)(3)-1(c)(1).

²⁴ Rev. Rul. 80-278.

²⁵ Treas. Reg. § 1.501(c)(3)-1(d)(2).

²⁶ Rev. Rul. 75-198, 1975-1 C.B. 157.

educational services, planned disease screenings, needle distribution, and other related activities, Applicant furthers its charitable purposes by promoting public health.²⁷

The harm reduction programs carried out by Applicant will provide relief to those individuals who are struggling with the disease of drug addiction and substance use disorder, an underprivileged and indefinite class of people. Such programs will improve the quality of life of these individuals. Through the provision of these services, Applicant will contribute toward social welfare by directly improving the well-being of individuals struggling with the disease of drug addiction and substance use disorder and indirectly supporting the emotional health and well-being of families and loved ones of such individuals. Further, burdens of government are lessened because the quality of life and health of individuals with a substance use disorder whose needs are addressed is measurably improved, which places less pressure on federal and state-funded social programs.

By providing harm reduction and overdose prevention services, in addition to providing access and referrals to addiction treatment, housing, primary medical services, and other related comprehensive social services to help individuals who are suffering with a substance use disorder access and receive treatment, Applicant will perform charitable activities that provide relief to an underprivileged and distressed class, lessen the burdens of government, and generally improve social welfare, consistent with the purposes described in Treasury Regulations Sections 1.501(c)(3)-(1)(d)(1)(i)(b) and (f).

Therefore, Applicant's activities are consistent with federal tax exemption under Section 501(c)(3) because the Applicant's purposes are charitable, its activities are lawful and not injurious to the community, and its planned activities are in furtherance of its exempt purpose and are reasonably related to the accomplishment of that purpose.

C. Applicant Is Not Organized and Operated as an "Action" Organization

Applicant meets the organizational and operational requirements because it is not organized and operated as an "action" organization.

To qualify as a 501(c)(3) organization, an organization's Articles may not expressly empower the organization to (i) devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise; (ii) directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; or (iii) to have objectives and to engage in activities which characterize the organization as an "action" organization defined in Treas. Reg. Section 1.501(c)(3)-1(c)(3) ("action" organizations are defined as organizations that devote more than an insubstantial part of their activities to attempting to influence legislation by propaganda or otherwise; directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; or that are only able to fulfill their purposes through legislation or by defeating proposed legislation).

Applicant is not an "action" organization because it does not devote a substantial amount of its resources to lobbying, grassroots or otherwise; it does not engage in political campaign activity; and it is not an organization that is only able to fulfill its purposes through legislation or by defeating proposed legislation.

²⁷ See, e.g., Rev. Rul. 70-590, 1970-2 C.B. 116 (satisfying charitable purpose by providing education of drug users).

Applicant's Articles of Incorporation contain the appropriate language restricting its activities in this regard.²⁸

Consistent with the limitations set forth in its Articles of Incorporation, Applicant does not devote a substantial part of its activities to attempting to influence legislation. Finally, Applicant also does not participate, or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

Thus, Applicant satisfies this requirement for 501(c)(3) status because it is not an "action" organization.

D. Applicant's Assets Are Dedicated to an Exempt Purpose

Applicant meets the organizational and operational requirements because its assets are dedicated to an exempt purpose and because its earnings may not inure to private shareholders or individuals.²⁹ An organization's assets will be considered dedicated to an exempt purpose if upon dissolution such assets would by reason of a provision in the organization's governing documents be distributed for one or more exempt purposes or to the federal government or to a state or local government for a public purpose.³⁰ Similarly, language in an organization's formation documents must restrict the earnings from benefitting directly or indirectly any private individuals.

Applicant meets this requirement because its Articles provide that upon the organization's dissolution, the Board of Directors shall dispose of all the remaining assets of the organization to one or more 501(c)(3) organizations that are organized and operated for the purposes aligned with the purposes of Applicant and exclusively for exempt purposes within the meaning of Section 501(c)(3) of the Code.³¹ Additionally, Applicant's Articles provide that no part of the net earnings of Applicant shall ever inure to the benefit of, or be distributable to, any of its directors or officers or any other private person, except that reasonable compensation may be paid for the services rendered to or for Applicant in carrying out its purposes.³²

III. Conclusion

Consistent with the requirements set forth in the Code and the Treasury Regulations, and consistent with the IRS's previous tax-exempt determinations, Applicant is organized and operated for exempt purposes as described under Section 501(c)(3) of the Code, and its exemption should be recognized accordingly.

²⁸ See Attachment #2 (see, Article XI(d) in particular).

²⁹ Treas. Reg. § 1.501(c)(3)-1(b)(4); Treas. Reg. § 1.501(c)(3)-1(c)(2).

³⁰ Treas. Reg. § 1.501(c)(3)-1(b)(4).

³¹ See Attachment #2, Article XII.

³² *Id.* (see Article XI(c) in particular).

ATTACHMENT #5

PART V. Line 1(a). BOARD OF DIRECTORS AND OFFICERS

At the present time, the Applicant has two (2) Board members and is in the process of expanding its Board, which will reflect the interests and perspectives of the community. The Applicant did not want to hold up the submission of its application due to its process of carefully considering and selecting those additional Board members.

See below for the bios of Applicant’s current Board members.

Jose Benitez MSW, FCPP

Average Hours: 8 hours/week

Title: Director, President and Treasurer

Compensation: None

Duties: Supervise operations / executive team; point person for Board of Directors.

Qualifications: Jose has served as the Executive Director of Prevention Point Philadelphia, Inc. for over ten years, where he leads and administers a multi-social services agency serving populations with particular health risk for HIV/AIDS, Hepatitis and other illnesses through harm reduction methods like syringe exchange, HIV prevention education programs and referral services. Jose's responsibilities include program development, grants management, budgets and human resources, and he works closely with the Philadelphia Department of Health, Office of Addiction Services, AIDS Activity Coordinating Office and other community based organizations.

Jose previously served as the Program Director for the Therapeutic Center at Fox Chase in Philadelphia, Pennsylvania, where he was responsible for program development and grant management, and for supervising and managing the overall operations of a drug and alcohol co-occurring disorders treatment facility for adolescent males. He also coordinated services with other community based agencies, juvenile court, family court, and the Behavioral Health System, and he managed all program functions including budgets, personnel, and public relations. Jose also previously served as the Ryan White Part B Coordinator at the AIDS Activity Coordinating Office, where he was responsible for the coordination of Ryan White State funded services to the Philadelphia region, and where he acted as a liaison between the City of Philadelphia Department of Health and the Pennsylvania Department of Health.

Jose earned his Bachelor's Degree in Social Work from the State University at New York College at Brockport, and he earned his Master's Degree in Social Work from Temple University, School of Social Administration. Jose was appointed to the Board of Health in 2008 and the City of Philadelphia Mayor's Task Force to Combat Opioid Use in 2017. In 2011 Jose was awarded as one of the top 10 influential Latinos in Philadelphia, and his distinguished service in the Greater Philadelphia Community continues to promote the health, empowerment, and safety of disenfranchised people living in communities affected by drug use and poverty.

Ronda Goldfein, Esq.

Average Hours: 8 hours/week

Title: Director, Secretary

Compensation: None

Duties: Attend all meetings of the Board of Directors and the Executive Committee and record all of the votes and meeting minutes in books to be kept for that purpose. As Secretary, she shall give, or cause to be given, notice of all meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or by the President. The Secretary shall also serve as a liaison with marketing and communications.

Qualifications: As Executive Director of the AIDS Law Project of Pennsylvania, Ronda Goldfein has led the nation's only independent public-interest law firm dedicated to AIDS and HIV since 2000. She is listed among the top 100 HIV/AIDS activists in the United States by POZ magazine and website. She was voted a "Super Lawyer" in a poll of more than 36,000 Pennsylvania attorneys published jointly by Law & Politics and Philadelphia Magazine. In 2010, Goldfein was appointed by Mayor Michael Nutter to Philadelphia's Police Advisory Commission, the official civilian oversight agency for the city's police department. She was elected to chair the commission in 2012. She is a member of the board of directors of the American Civil Liberties Union of Pennsylvania's Philadelphia chapter. A graduate of the University of Miami, she holds a J.D. from the Shepard Broad Law Center of Nova Southeastern University in Fort Lauderdale, and is admitted to practice law in Pennsylvania, New Jersey and New York.

PART V (Continued)

Line 3(a). For each of Applicant's officers and directors, highest compensated employees and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked and duties.

See above responses to 1(a) for this information. Each individual is committed to the success of Applicant and is qualified to handle his/her responsibilities. The Directors' and Officers' duties are summarized, above, and are provided under the Articles of Incorporation and Bylaws, and by applicable law.

Line 8(a). Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f.

Yes, the Applicant has not yet hired an Executive Director, nor has it determined what the compensation of the Executive Director will be. However, when the Applicant hires an Executive Director, the Applicant will have a written agreement with the individual hired.

Line 8(b). Describe any written or oral arrangements that you made or intend to make.

Applicant will have a written employment contract with its Executive Director. At the present time, Applicant is in the process of hiring an Executive Director and the Applicant has not entered into any written or oral arrangements.

Line 8(c) Identify with whom you have or will have such arrangements.

Executive Director.

Line 8(d). Explain how the terms are or will be negotiated at arm's length.

To allow for the terms of any agreement between Applicant and the Executive Director to be negotiated at arm's length, an agreement between the two parties will be approved by a majority vote of the disinterested members of the board of directors of the Applicant.

Line 8(e). Explain how you determine you pay no more than fair market value or you are paid at least fair market value.

Applicant's directors will perform an initial review and make reasonable inquiries as to market prices prior to contracting for the services of an Executive Director, specifically considering the relevant time period and market conditions.

Line 8(f). Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.

No contracts or agreements have been entered into by Applicant as of the date of filing this IRS Form 1023 application.

ATTACHMENT #6

PART VI

Line 1(a). In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If “Yes,” describe each program that provides goods, services, or funds to individuals.

For a description of the goods and services that Applicant will provide to individuals, see Attachment #4.

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ATTACHMENT #7

PART VII

There are no supplemental responses for Part VII of the application.

ATTACHMENT #8**PART VIII****Line 2(a). Do you attempt to influence legislation?**

Applicant has no current plans to attempt to influence legislation, but may consider doing so in the future. In any event, such activities will not be a substantial part of Applicant's activities.

Line 4(a). Attach a description of each fundraising program.

Applicant primarily raises funds by seeking donations through conventional fundraising efforts such as fundraising events, personal solicitations to individuals, and grant solicitations to private foundations.

Line 4(d). List all states and local jurisdictions in which you conduct fundraising.

Applicant intends to conduct fundraising events and other solicitation activities in the Commonwealth of Pennsylvania.

Line 10. Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other intellectual property?

Yes, Applicant has rights to its name and logo and any associated intellectual property.

At this time it is not anticipated that Applicant will own any project-specific intellectual property, other than publications of medical articles providing research findings and studies in connection with analyzing and continuously improving the effectiveness of Applicant's operations.

Applicant does not exist for the purpose of monetizing intellectual property.

Line 11. Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution.

Yes, Applicant would accept the above-described property contributions to the extent the property could be utilized in connection with Applicant's charitable activities or efficiently converted to cash for use in furtherance of Applicant's charitable activities. Applicant has not received any such property contributions as of the date of submission of this IRS Form 1023, and acceptance of any such contributions will be done in accordance with a gift acceptance policy.

Line 15. Do you have a close connection with any organizations?

Yes, Applicant has a close connection with Prevention Point Philadelphia, Inc. ("Prevention Point") because it is anticipated that Applicant and Prevention Point, will operate in a coordinated manner with respect to facilities, programs, employees, and other activities. Prevention Point is a 501(c)(3) organization, of which Jose Benitez (one of the Applicant's Board members) is the Executive Director and *ex-officio* Board member.

Applicant's close connection with Prevention Point will allow Applicant to learn from the leaders who established and currently operate Prevention Point's longstanding and extraordinarily successful syringe exchange program. For over 25 years, Prevention Point has provided a range of harm reduction and social services to people who use drugs; its services have led to the reduction of new HIV cases among injection drug users by 95% (from 819 cases in 1992 to 27 cases in 2016). With regard to Prevention Point's role in combating opioid crisis, Prevention Point has conducted over 2,100 overdose prevention trainings and distributed over 5,100 doses of Narcan.

ATTACHMENT #9**PART IX – FINANCIAL DATA****Line 23. Expenses not otherwise classified**

Expenses not otherwise classified, such as program services (itemized list)	Current Tax Year From Incorporation to 6/30/19	Tax Year From 7/1/19 to 6/30/20	Tax Year From 7/1/20 to 6/30/21
Facility purchase/installation/outfit	\$650,000	-	-
Equipment and basic supplies	22,800	\$11,300	\$11,500
Medical supplies	72,700	87,550	90,050
Hazardous waste disposal	17,500	31,000	32,000
Legal support and insurance	120,000	147,000	150,000
Neighborhood support	200,000	200,000	200,000
Administration	45,900	67,700	67,700
Total	\$1,128,900	\$544,550	\$551,250