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# MONTEREY COUNTY **WEEKLY**



**MUSIC** 55th Annual Castroville Artichoke Fest brings big sound. **35**



## **EXPERIMENTAL DRUGS**

Local old-school attorneys go big into the business of pot. p. 18  
By Mary Duan



MAY 29-JUNE 4, 2014

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A Cannery Row relic, now a popular resting place for cormorants, silhouetted against the rising sun.

By **Karl Leek** (Nikon D5100. ISO 100, f8, 1/1250 secs.)

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# CONTENTS

MAY 29-JUNE 4, 2014 • ISSUE 1348

**831**

**4** Two youngsters turn travel into “success”

**FACE TO FACE**

**6** Wearing *Beach Blanket Babylon* hats

**NEWS**

**8** Monterey Bay fish debuts in local school lunches  
• Mark Stone wants IDs for parolees  
**10** Plovers still give Monterey Bay Shores developer headache • Hiking trail would tail condors from Big Sur to Ventura  
**12** Monterey lot smack dab in the middle of town finally set for development

**OPINION**

**14** Letters • Local Spin • Squid • Forum

**COVER**

**18** Enter the pot lawyers (in other news, they’re surprisingly square)

**On the Cover**  
Photo by Nic Coury

**CALENDAR**

**24** Hot Picks • Music • Art • Lit • Film Events • Theater • Outdoor • Lecture

**ART**

**30** Paperwing does Tarentino without asking

**MUSIC**

**32** Daze on the Green dazzles at Sly’s  
• More roots, Costa Rica to Salinas  
**35** Stunning 14-year-old talent + artichokes

**FEAST**

**36** Lucky’s: so welcome, so underwhelming

**EDIBLE**

**38** What professional midget wrestling, disc golf and cabaret have in common

**MOVIES**

**40** *Maleficent* would have made a better amusement ride

**CLASSIFIEDS**

**45** Services • Mind Body Spirit • Freewill Astrology • Employment

**OPEN HOUSES**

**52** Comprehensive countywide listings

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# THE CANNABUSINESS KINGS



NIC COUNTRY

**A couple of prominent Monterey County business attorneys are getting ready for the legal pot show—or pot showdown.**

By Mary Duan



Attorneys Jeff Gilles (left) and Gavin Kogan (right) specialize in land use/development law and business law, respectively. Now they're betting big on the business of pot and looking toward Sacramento as dueling bills surrounding legalization come to the Legislature.

NIC COURTY

**The best word to describe the woman sitting before me is elegant.** Elegant in her speech, elegant in her appearance. A streaky blonde bob frames her fine-boned face, one highlighted by big, blue-green eyes set above high cheekbones. She's petite and cocoons her slight frame in layers of beautifully cut, clearly expensive clothing, all the way to the silk scarf draped around her throat.

She's foreign born and still carries the accent of her homeland, but she asks me not to name the country because it's just obscure enough that people might be able to identify her. The same goes for the cancer she's lived with for the past 38 years, the one that's forced a surgeon to remove a few chunks of her body and that leaves her in constant, grinding pain. The type of cancer is obscure enough that it could help identify her as well.

That also goes for her profession. "Just say that I work in a medical-related industry," she tells me. "I'm educated, professional and I work in a medical-related industry."

The reason for the secrecy is this: At 60, she still needs her job, its high income and the insurance it carries. The other reason for the secrecy, at least for now, is this: She's a medical cannabis user who hopes to take her deep experience in the medical field, mix it with her knowledge of cannabis and parlay it into a business model. She envisions a mobile cannabis consultancy, in which she travels to patients' homes and advises them about the various strains of cannabis, ways to use them and the effects they can have. Senior citizens, with their pains and ailments of age, are a ripe market she's exploring.

She won't sell pot; she'll just tell others what to buy and how to buy it. If they need a legal buyer's card under Proposition 215, the Compassionate Care Act, she can advise them how to obtain one. If they need advice on choosing a dispensary or delivery service, she can provide that, too.

For her, it all goes back to pain.

"Oh my God, I am always in pain. I wake up in the morning and do an evalu-

ation of my physical being and look at all the areas where I have pain. It never really leaves me entirely," she says.

"I started to think, there have to be a lot of people like me, who could have a positive benefit from the medical use of cannabis," she adds. "I started to look for people like me, educated people who could teach me more, and I found no one. They must exist, but I haven't really found anyone who can sit with me and say this strain is best for my condition. I bet there is a niche for me for doing this."

As we speak, her attorney shifts in the chair next to her, crossing and uncrossing his legs, a pair of bright stripy socks peeking out from his trouser cuffs, hinting at a little whimsical rebellion in the buttoned-down world of business law.

Attorney Gavin Kogan plans to help the woman go legit within a few weeks of our conversation—filing her articles of incorporation, obtaining a business license, helping her find the right business insurance and making sure the i's are dotted and the t's crossed before she launches into the world of cannabis con-

sulting. In six months or so, she hopes to leave her current job for good and do this other thing, full time and with as many clients as she can find.

Eventually, she hopes to replicate her model across the country.

She may be the easiest cannabis-related client Kogan's ever had. She's not growing or selling. She's just talking to people about what it—"it" being everything from smokables and edibles to tinctures and creams—can do to help them.

"One of the things that is paramount for her is legitimacy," Kogan says. "She is professional and mature in talking about the products."

But what if, for example, she wanted to grow? What if she needed to hire an electrician or plumber to wire and plumb her grow operation? What if she needed to rent a greenhouse out in the country?

Or what if you were a landlord who wanted to rent her a greenhouse for her grow? Or a cable installer hired to run her phone and Internet lines? Or an organic fertilizer company asked to deliver to her

**KINGS**, continued on page 20

new location?

Kogan wants to hear from you. In fact, he and law associate Jeff Gilles (yeah, *that* Jeff Gilles—the land use/real estate development/big ag attorney) are waiting for your call.

Of course, they're also waiting for California to take a cue from Washington state and Colorado, and make cannabis fully legal too.

While they wait, they're getting their ducks in a row, and they're navigating murky waters to do it.

**Sitting and talking** to Kogan and then Gilles, I know I'm one of those ducks.

Not the lead duck, mind you, but at least a duck, owing to the cannabis-friendly reputation of the *Weekly* and its open-minded readers. For years, Gilles was law partners with Tony Lombardo in the firm Lombardo & Gilles, and they built their lucrative practice repping big—big ag, big landowners, big developers doing big deals like the controversial, \$1.8-billion, 399-megawatt solar farm planned for Panoche Valley. The pair split in 2011, with Gilles taking the firm name L&G and adding offices and attorneys, Kogan included.

One of my first questions to Gilles is about his possible transformation from upright business attorney into a new kind of business attorney, repping the interests of California's emerging cannabis industry.

"No, I don't think I'm crazy," he says with a grin. "People used to say the same thing about spring mix [salad]. Twenty years ago only people in Berkeley were eating organic, and look how that's grown."

Still, he acknowledges he's going to get the question. He's driven partly by practicality and partly by personal mission. The mission side: One of his sisters died very swiftly and painfully of ovarian cancer, and she spent six months too ill to eat. Using cannabis helped alleviate the pain

and bolstered her appetite.

The move toward legitimacy for the industry, and a new business arena for his firm, is where the practical side comes in.

"It's maybe a bold move, but it's prudent," he says. "Cannabis is a necessary part of our lives, and we're foolish if we don't try to embrace it and use it and make sure it's available to people who desperately need it.

"In the end, it's an ag product," Gilles says. "From a business standpoint, we're not going after the criminal work. We're looking to work with anyone—anyone growing, from seed generation to plants to distribution, and anything related to that. They're going to have to know how to manage systems, set up entities, look at zoning and land use and transportation."

It's been a more clear-cut path to cannabis business for Kogan, who usually tools around in a VW bus, surfboard strapped to the top. In the 1980s, while he was in his early 20s, the Carmel Valley native moved to New York and launched a business designing bulletproof clothing (hoodies included) for famed rap artists of the day, mixing with—and dressing—the likes of Tupac and Guru, among others. He landed back in California in the mid-'90s, graduated from law school (Whittier) and worked in Silicon Valley startup land, specializing in telecom. From there, he ended up doing complex "workouts," helping troubled companies settle their business affairs and obligations without having to resort to bankruptcy, or helping companies get through bankruptcies with as little drama as possible.

He hangs out with growers. He hangs out with users. He's an investor in a start-up business in Santa Cruz that's patented discrete scissors for trimming buds.

He's kind of a dude. A very smart dude. "Where my firm is coming from is that it's better for the population, the environment and law enforcement that there is

regulation. When people invest \$100,000 in a grow, they're interested in paying taxes and following regs and employing people and getting involved," Kogan says. "But business people like to go where there are clear guidelines."

**Clarity, for now**, is one thing California lacks when it comes to cannabis. Prop. 215, the Compassionate Care Act of 1996, passed with 55 percent of the vote. It allows patients with a doctor's recommendation and their designated caregivers to cultivate marijuana for personal use. Each patient is allowed to grow, or have grown for them: a half dozen mature plants, a dozen immature plants and eight ounces of dried bud. Prop. 215 also paved the way for dispensaries, where card-carrying medical users go to buy product.

Gov. Arnold Schwarzenegger signed a law decriminalizing possession of up to an ounce of marijuana in 2010, taking it from a misdemeanor charge that sends suspects to court to a simple infraction with a \$100 fine. But the feds are a different story when it comes to cannabis and those who grow it, even for Prop. 215 use.

U.S. Attorney Melinda Haag has gone after landlords who rent to dispensaries and filed asset forfeiture cases against them and growers, almost as a matter of routine. In January, she launched an asset forfeiture case against Harborside Health Center, the behemoth dispensary in Oakland, claiming it violates U.S. law by distributing to people who don't have a demonstrated medical need.

Lack of action by the state Legislature has led to a state of confusion. Numerous cities in Monterey County—Salinas, Monterey, Seaside and Marina, to name a few—have used zoning laws and code enforcement to place outright bans on dispensaries. In fact, no dispensaries currently exist anywhere in the county.

In tiny Del Rey Oaks, Mayor Jerry Edelen says there's no ban, but if some-

one wanted to open a dispensary, they'd have to apply for a business license and get City Council and Planning Commission approval—a move nobody has been willing to take yet. (A few years ago, though, there was a rumor someone wanted to try opening one.)

"It would be a tough sell at best, but all entrepreneurs deserve a right to be heard and to have their proposals considered," Edelen writes in an email. "The major downside: We'd have to change the name of our shopping center from Stone Creek to Stoned Creek."

Monterey County, meanwhile, has no regulations, while the city and county of Santa Cruz have regulations that appear to be working well for growers, dispensaries and law enforcement.

"There are three kinds of counties: those that ban it outright, those that regulate it, and the most malicious has nothing on the books," Kogan says. "Well, maybe 'malicious' is too strong. But because of it, people don't know what to do. If the county banned it, it would be easy: We could not run operations here."

It's enough, one of Gilles' friends says, to make her feel like a criminal.

Pebble Beach socialite and retired commercial Realtor Valeria Piccinini has lived with multiple sclerosis since 1989. She started suffering falls about five years ago, resulting in broken ribs and a torn rotator cuff. Her doctors at Stanford Medicine, she says, encouraged her to start using cannabis to alleviate some of the symptoms, but she worried she would be shamed and ridiculed and maybe even ostracized if she started using it.

"I've finally found a cinnamon sucker that is made for me, with a dose I can handle, that doesn't give me a 'high head,'" she says. But she has to travel to Santa Cruz to get it.

"Monterey County does not have a collective, and I feel this is ridiculous

**KINGS**, continued on page 22

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and almost feels punitive to be forced to drive out of this community to purchase something that has been legal since 1996," Piccinini says. "It is my hope to see a collective here in the near future."

Advocates like her, Kogan and Gilles are looking to the California Legislature to solve the problem.

**In doing so, advocates** are pointing first to Colorado, which this year legalized recreational use and retail sale of cannabis. That state seems to be having no problems with it, except how to count all the new tax revenue. Colorado's Department of Revenue reported in May that marijuana retailers sold \$19 million in product, and the first three months of legal sales resulted in \$12.6 million in taxes and fees, according to the wonky news website PolicyMic.com. Crime, meanwhile, has slightly declined.

But what's coming for California is potentially as onerous as the current—and admittedly screwed-up—laws already on the books.

In January, state Sen. Lou Correa, D-Santa Ana, floated S.B. 1262, legislation backed by the League of California Cities and the state Police Chiefs Association. It would require patients seeking medical cannabis to get recommendations from their primary care doctors, require those doctors to be specially certified, and then require the California Medical Board to audit any doctor who writes more than 10 such recommendations a year.

It would put the state Department of Public Health in charge of licensing stores and farms, and put county health



**Pebble Beach resident Valentia Piccinini has lived with multiple sclerosis since 1989 and is looking forward to the day Monterey County has its own cannabis dispensary. "I have been asked if I believe in legalization in California. I do believe that it will become legal."**

lic safety concern. I'm not saying I support or oppose it, but I need to see how it would be regulated."

Monning says while legalization may be inevitable, there's still that tricky question of how to get there. "My guess is that it's likely to come from voters via an initiative rather than through the Legislature," he says. "You're going to find more conservatism in the Legislature than with California voters."

**Kogan says the Correa bill** admits legalization is inevitable, and is cynically designed "to 'get there first' so that law enforcement interests are preserved in the new order."

The bill was meant to go up against an earlier bill floated by Assemblyman Tom Ammiano, D-San Francisco, which would allow cities and counties to place special use and transaction taxes on medical marijuana and put the onus for regulation on the state Alcoholic Beverage Control board rather than the Health Department.

Ammiano's bill isn't expected to succeed, although, as one Sacramento insider tells me, "It's a better and better-thought-out bill" than Correa's, which stands a fighting chance.

Kogan lends me a book, *The State of Legal Marijuana Markets*, during my research. It runs the numbers and provides more clarity: clarity on what legalized cannabis might do for California, and even more clarity on why he and Gilles

departments in charge of enforcement at local farms and stores. And—here's the rub—it continues to give cities the right to ban dispensaries and pot farms.

State Sen. Bill Monning, D-Carmel, says he abstained from voting on the Correa bill when it came before the Senate Health Committee and is waiting to see what amendments are included if it comes to the Senate floor, which it has to do by May 30 before moving on to the Assembly.

"I abstained from it because there seemed to be confusion on public safety issues, and my issue is we don't disrupt voters' ability to access medical marijuana," Monning says. "The other broad discussion is making it legal for recreational use, and in that arena, I default to a pub-

are focusing on the business of pot.

It's a hefty, nearly \$500 tome produced by ArcView Market Research. By the numbers: There are potentially 14.9 million customers for legal marijuana in California, but the California market remains largely untapped thanks to the current regulatory environment.

ArcView predicts that even under the current regulations, the California cannabis market will reach \$1.1 billion in 2014—and that an initiative expected to go before voters in 2016 will make it fully legal that year.

Former state Assemblyman and Director of California Parks and Recreation Rusty Areias, now a lobbyist with the powerful firm California Strategies LLC, has mulled over the moves Gilles and Kogan are making. There are other attorneys, in the Bay Area and Los Angeles specifically, who are dealing with the business end of cannabis. But no such firm seems to exist on the Central Coast.

As Areias believes legalization is inevitable (and that once it is, Monterey County will become a central spot for legalized growing), the lawyers are doing well now to position themselves later.

"There's a nexus here, and once it's legal and there's a regulatory framework in place, there are going to be land use and other decisions that have to be addressed," Areias says. "There's every indication this industry is achieving legitimacy in California, and it's going to become an important practice area."

Kogan tells me some people in his office got squeamish at the idea he and Gilles would be posing with pot in hand for this story. Gilles' response, he says, tells the whole story.

"We're either all in on this or we're not," Kogan recounts Gilles saying.

From all appearances, these guys are all in. ★

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