



## MEMORANDUM

**TO:** CANNABIS REGULATORY COMMISSION BOARD

**FROM:** JEFF BROWN, EXECUTIVE DIRECTOR

**SUBJECT:** IANTHUS CAPITAL HOLDINGS, INC. CHANGE OF OWNERSHIP FOR CONSIDERATION

**DATE:** SEPTEMBER 9, 2022

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**BACKGROUND:** iAnthus New Jersey LLC (“iAnthus NJ”) is a current owner and operator of an Alternative Treatment Center permit in the State of New Jersey by way of their 100% ownership stake in MPX New Jersey LLC and management services agreement. iAnthus NJ was not issued a permit pursuant to a Request for Application (“RFA”) process, but rather became the owner of an Alternative Treatment Center permit by purchasing the ownership stake in MPX New Jersey LLC. The MPX New Jersey LLC permit was issued by the New Jersey Department of Health on December 17, 2018, and the transfer of ownership to iAnthus NJ was approved by this Commission on January 7, 2022, as designated in Resolution 2022-4, following extensive review and investigation by the Office of Compliance and Investigations and pursuant to the recommendation of the Executive Director.

Prior to ownership change in MPX New Jersey, on July 10, 2020, iAnthus Capital Holdings, Inc. (iAnthus), the parent company of iAnthus NJ, entered into a Restructuring Support Agreement (“RSA”) with 100% of its Secured Lenders and over 91% of its unsecured holders of debt to affect a proposed recapitalization transaction. The recapitalization transaction proposed to convert iAnthus debt held by several entities into ownership interest. The result of the recapitalization transaction is that three new entities have become part of the ownership group of the parent company of iAnthus NJ, iAnthus Capital Holdings, Inc. Gotham Green Partners now owns approximately 48.625% of equity in the newly restructured iAnthus Capital Holdings. Certain unsecured debtholders, mainly investment companies – Senvest Management LLC and Oasis Management Company Ltd. – received an aggregate total of approximately 48.625% of stock in the restructured iAnthus, leaving iAnthus’ existing common shareholders with approximately 2.75% of the stock in the restructured iAnthus.

On September 14, 2020, a Plan of Arrangement was approved by the security holders of iAnthus. On October 6, 2020, the Supreme Court of British Columbia granted final approval of the Plan of Arrangement, allowing iAnthus to implement the recapitalization transaction. The RSA contemplated that the Recapitalization Transaction would close by the "Outside Date". If that date was unable to be met, each party would have the right to terminate. The Outside Date was initially June 30, 2021, but was extended by agreement among the parties to August 31, 2021, when the



RSA was amended. Following that extension, the Lenders and Consenting Debenture Holders (defined in RSA) sought once again to extend the Outside Date to the date on which all regulatory approvals were satisfied or waived. Gotham Green Partners filed an application in Ontario Superior Court to support that extension.

On October 12, 2021, Justice Penny of the Ontario Superior Court of Justice granted the declaration sought by Gotham Green Partners and ordered that the “Outside Date” in the RSA is extended to the date on which all regulatory approvals or consent conditions are satisfied or waived. iAnthus’ filed its appeal with the Ontario Court of Appeal on November 10, 2021. The appeal was denied.

On Friday, June 24, 2022, the iAnthus recapitalization occurred, with state regulatory approvals outstanding in New York and New Jersey.

Pursuant to N.J.A.C. 17:30A-7.8, ownership changes are subject to CRC approval and new owners, operators and financial interest-holders are to be appropriately disclosed, investigated, and must undergo a Criminal History Background Check in accordance with the provisions of N.J.A.C. 17:30A-7.1 and N.J.A.C. 17:30A-7.2. Because the recapitalization transaction results in several new owners of iAnthus Capital Holdings, who by way of their ownership, are proposed to have interest in the permit-holder, MPX New Jersey LLC, the critical piece of the recapitalization that requires CRC approval is the addition of Gotham Green Partners, Oasis and Senvest as interest-holders in MPX New Jersey LLC by way of iAnthus New Jersey LLC and iAnthus Capital Holdings, Inc. As iAnthus New Jersey LLC is not only the sole owner of MPX New Jersey LLC, but also the sole operator of MPX New Jersey LLC by way of a management services agreement, Gotham Green, Oasis and Senvest undoubtedly will hold interest in the permit-holder, MPX New Jersey LLC, if approved by the CRC.

The Office of Compliance and Investigations has completed its investigation of Gotham Green Partners, Oasis and Senvest and found no significant derogatory information pertaining to the new entities that now hold ownership interest in the parent company iAnthus, or the significantly involved individuals of those entities.

**SUITABILITY INVESTIGATION:** Between April 2020 and August 2021, the NJ-CRC completed three Initial and two Supplemental Corporate Suitability Investigations of iAnthus Capital Holdings, Inc., (parent company), iAnthus New Jersey, LLC, and MPX NJ LLC, New Jersey ATC Permit Holder.

Between August 2021, and June 2022, the NJ-CRC completed Corporate Suitability Investigations of Gotham Green Partners, Senvest Management LLC, and Oasis Management Company Ltd.,



which included interviews and information gathering for the significantly involved persons of those entities. The change in ownership of iAnthus Capital Holdings, Inc. also resulted in new board members being appointed, and those individuals have also been thoroughly investigated. No significant derogatory information was developed during these investigations that may impact upon a finding of suitability at this time of any individual or entity.

The following list of individuals were investigated for the purposes of considering the ownership change:

**New iAnthus Capital Holdings:**

Mich Mathews-Spradlin, Chair of the Board

Kenneth Gilbert, Board Director

Scott H. Cohen, Board Director

Zachary Arrick, Board Director

Alexander Shoghi, Board Director

Marco D'Attanasio, Board Director

**Oasis Management Company Limited** (parent company and full control of Oasis Investments II Master Fund Ltd – holder of the iAnthus Capital Holdings shares)

Seth H. Fischer, Founder and Chief Investment Officer of Oasis Management Company Ltd.

**Gotham Green Partners LLC** (holder of iAnthus Capital Holdings shares)

Jason Adler, Majority and Management Member

David Rosenthal, General Counsel

Jon Barter, Chief Operating Officer

**Senvest Management, LLC** (manager of two Senvest funds - holder of iAnthus Capital Holdings shares)

Richard Marshaal – Majority Owner and Co-Chief Investment Officer

Brian Gonick – Owner and Co-Chief Investment Officer

**AUTHORITY:** N.J.A.C. 17:30A-7.8(a)(2) provides that an ATC shall submit to the Commission an application for an amended permit, together with fees, prior to any change of the



alternative treatment center's ownership. A change in ownership requires an ATC to submit to the Commission all necessary forms and required information so that that an investigation can be completed, including but not limited to, a financial review of the proposed new owner(s). See N.J.A.C. 17:30A-7.1. Additionally, each new owner is required to provide written consent to submit to a criminal history record background check pursuant to N.J.S.A. 24:6I-4 and shall comply with procedures established by the Division of State Police pursuant to N.J.A.C. 13:59 for obtaining readable fingerprint impressions." N.J.A.C. 17:30A-7.2 (a).

**OF NOTE:** An individual involved in the iAnthus restructuring transaction has contacted the Executive Director and NJ-CRC staff to voice their concerns about this deal. Of particular concern to this individual is the "bad faith in which Gotham (Green) operates". As reported above, our investigation has found no derogatory information regarding Gotham Green, its partners, or its practices. Additionally, the individual has raised complaints regarding iAnthus' decision to close its recapitalization prior to final regulatory approvals in New Jersey and other states. That requirement was imposed by the Restructuring Support Agreement, which was approved by the Canadian court, and has no bearing on our suitability investigation or the Commission's determination to approve or deny the ownership transfer caused by the recapitalization transaction. Should the individual wish to challenge iAnthus' closing in advance of any state's approval, the jurisdiction lies with the Canadian courts.

**RECOMMENDATION:** It is the recommendation of the Executive Director, upon conferring with the Office of Chief Counsel and the Office of Compliance and Investigations, to approve the change of ownership that resulted from the recapitalization transaction of iAnthus as the above listed entities and their principals have undergone thorough criminal and financial investigations and have been cleared by the Investigations team.

Although the recapitalization transaction remains the subject of ongoing litigation and controversy, the CRC should not stand in the place of Canadian Courts and other judicial venues which are the proper venues for such challenges. Nor should the CRC opine on the merits of the recapitalization transaction outside of the authority for the CRC's review and investigation of the newly added owners.

iAnthus, Gotham Green, Oasis and Senvest have fully complied with the CRC's investigation and no disqualifying nor derogatory information under N.J.A.C. 17:30A-7 has been discovered.

Therefore, the new owners of iAnthus Capital Holdings, by way of their proposed interest in MPX New Jersey LLC, as part of iAnthus Capital Holdings and iAnthus New Jersey LLC, should be approved.