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**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

Civil Action No.: _____

BRANT SMITH, Plaintiff, v. NED LAMONT, IN HIS OFFICIAL CAPACITY AS THE GOVERNOR OF THE STATE OF CONNECTICUT; WILLIAM TONG, OFFICIAL CAPACITY AS THE ATTORNEY GENERAL OF THE STATE OF CONNECTICUT AND BRYAN CAFFERELLI, IN HIS CAPACITY AS COMMISSIONER OF THE DEPARTMENT OF CONSUMER PROTECTION FOR THE STATE OF CONNECTICUT, Defendants.	COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF
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INTRODUCTION

Plaintiff is an individual who sought to obtain a license to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with not less than 15,000 square feet of grow space pursuant to Sec. 21a-420n of the Connecticut General Statutes (“CGS”). He brings the instant action against Ned Lamont, in his official capacity as Governor of the State of Connecticut; William Tong, in his official capacity as the Attorney General of the State of Connecticut and Bryan

Cafferelli, in his capacity as Commissioner of the Department of Consumer Protection, challenging the constitutionality of Connecticut's marijuana licensing program, as enacted and administered by the Defendants.

PARTIES

1. Plaintiff Smith is over the age of 21, has been a resident of the State of Connecticut for more than 30 years and has sought to obtain a cultivation license under The Responsible and Equitable Regulation of Adult-Use Cannabis Act ("RERACA"), Public Act 21-1, Conn. Gen. Stat. § 21a-420 et seq., enacted by the State of Connecticut in 2021. As a result of Connecticut's unlawful licensing scheme, he has been unable to obtain and license and has standing to bring this action.

2. Defendant NED LAMONT is the Governor of the State of Connecticut, with business address of 210 Capitol Avenue, Hartford, CT 06106.

3. Defendant WILLIAM TONG is the Attorney General of the State of Connecticut, with a business address of 165 Capital Avenue, Hartford, CT 06106.

4. Defendant BRYAN CAFFERELLI is the Commissioner of the Department of Consumer Protection for the State of Connecticut, with a business address of 450 Columbus Blvd., Suite 901, Hartford CT 06103.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 & 1343 in that this action arises under federal law.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

7. Injunctive and declaratory relief is authorized by 28 U.S.C. § 2201.

STATEMENT OF APPLICABLE FACTS COMMON TO ALL COUNTS

8. The Responsible and Equitable Regulation of Adult-Use Cannabis Act ("RERACA"), Public Act 21-1, Conn. Gen. Stat. § 21a-420 et seq., was enacted by the State of Connecticut in 2021.

9. Pursuant to RERACA, Connecticut has instituted a licensing program to allow individuals to obtain, among other things, a license to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with not less than 15,000 square feet of grow space pursuant to CGS Sec. 21a-420n.

10. Under RERACA, "Social Equity Individuals" have a priority over all other applicants for licenses

11. Connecticut defines a "Social Equity Individual" as follows:

"Social equity individual" means an individual who: (A) Had an average household income of less than three hundred per cent of the state median household income over the three tax years immediately preceding such individual's application; and (B) (i) Is a resident of a disproportionately impacted area for not less than five of the ten years immediately preceding the date of such application; or (ii) Was a resident of a disproportionately impacted area for not less than nine years prior to attaining the age of eighteen.

12. The RERACA reserves 50% of adult-use marijuana licenses for Social Equity applicants.

13. The RERACA gives priority to certain Connecticut residents residing in certain so-called disproportionately impacted areas located within the State of Connecticut.

14. On February 3, 2022, the State of Connecticut Department of Consumer Protection (the "DCP") began accepting applications for licenses for adult-use cannabis establishments,

which initially was designed to be issued to general and Social Equity applicants in limited numbers as follows:

- a. Disproportionately Impacted Area Cultivator: February 3, 2022 (non-lottery) to May 4, 2022
- b. Retailer: February 3, 2022, to May 4, 2022: 6 general licenses, 6 Social Equity licenses
- c. Micro-cultivator: February 10, 2022, to May 11, 2022: 2 general licenses, 2 Social Equity licenses
- d. Delivery Service: February 17, 2022, to May 18, 2022: 5 general licenses, 5 Social Equity licenses
- e. Hybrid Retailer: February 24, 2022, to May 25, 2022: 2 general licenses, 2 Social Equity licenses
- f. Food and Beverage: March 3, 2022, to June 1, 2022: 5 general licenses, 5 Social Equity licenses
- g. Product Manufacturer: March 10, 2022, to June 8, 2022: 3 general licenses, 3 Social Equity licenses
- h. Product Packager: March 17, 2022, to June 15, 2022: 3 general licenses, 3 Social Equity licenses
- i. Transporter: March 24, 2022, to June 22, 2022: 2 general licenses, 2 Social Equity licenses

15. Upon information and belief, the numbers of lottery applicants for each category was as follows:

- a. **Retailer:** 8,360 equity applications, 7,246 general applications. Six licenses will be awarded in each category.
- b. **Hybrid medical/adult-use retailer:** 6,921 equity applications, 1,296 general applications. Two licenses will be issued in each category.
- c. **Micro-cultivation:** 5,528 equity applications, 2,936 general applications. Two licenses will be awarded in each category.
- d. **Food and beverage manufacturer:** 1,019 equity applications, 952 general applications. Five licenses will be awarded in each category.
- e. **Product manufacturing:** 436 equity applications and 425 general applications. Three licenses will be issued in each category.
- f. **Delivery:** 944 equity applications and 262 general applications. Five licenses will be awarded in each category.
- g. **Transporter:** 167 equity applications and 325 general applications. Two licenses will be issued in each category.
- h. **Packager:** 112 equity applications, 364 general applications. Three

licenses will be awarded in each category.

16. As of the date of this Complaint, a total of **zero** non-social equity marijuana cultivator licenses have been issued in Connecticut.

17. No lotteries have ever been conducted for non-Social Equity applicants. No lotteries are currently being conducted for non-Social Equity cultivator licenses, and no future lotteries have been scheduled (see https://portal.ct.gov/cannabis/knowledge-base/articles/licensing/licensing-home-page?language=en_US).

18. Plaintiff is not a “Social Equity Individual” and has been unable to obtain a marijuana cultivation license.

19. Connecticut's regulatory scheme privileges “Social Equity Individuals”¹ above all others for the purpose of obtaining a license under RERACA, including a marijuana cultivation license.

20. Connecticut's regulatory scheme, by privileging in-state “Social Equity Individuals” above all others discriminates against Plaintiff and others like him by either excluding Plaintiff from consideration for a marijuana cultivation license or significantly diminishing Plaintiff's opportunity of receiving one.

21. Connecticut's regulatory scheme, by privileging in-state “Social Equity Individuals” above all others imposes an undue burden on interstate commerce, violates the Dormant Commerce Clause of the U.S. Constitution.

22. As established by the U.S. Court of Appeals for the Second Circuit in Variscite NY Four, LLC v. New York State Cannabis Control Board, 2025 U.S. App. LEXIS 20371 (2d Cir. Aug.

¹ See “CRITERIA TO QUALIFY AS A SOCIAL EQUITY APPLICANT” attached hereto as Exhibit A.

12, 2025) the Dormant Commerce Clause applies to state cannabis markets despite the federal prohibition on marijuana.

23. Plaintiff seeks a declaration from this Court that Connecticut's discriminatory licensing provisions under RERACA are unconstitutional and further seeks an injunction to prevent the enforcement of those discriminatory licensing provisions.

COUNT ONE
CONNECTICUT'S ADULT USE MARIJUANA LICENSING SCHEME VIOLATES THE
DORMANT COMMERCE CLAUSE

24. Plaintiffs allege and incorporate by reference all allegations in the paragraphs above.

25. The Commerce Clause of the U.S. Constitution grants Congress the power to regulate interstate commerce. The "dormant" aspect of this clause prohibits states from enacting legislation that discriminates against or unduly burdens interstate commerce.

26. The Dormant Commerce Clause is “a doctrine inferred from the Commerce Clause of the United States Constitution, U.S. Const. art. I, § 8, cl. 3.” Entergy Nuclear Vt. Yankee, LLC v. Shumlin, 733 F.3d 393, 397 (2013).

27. Despite the federal illegality of marijuana under the Controlled Substances Act, the Dormant Commerce Clause still applies to state-level marijuana markets. See Variscite NY Four, LLC v. New York State Cannabis Control Board, 2025 U.S. App. LEXIS 20371 (2d Cir. Aug. 12, 2025). The Dormant Commerce Clause prohibits the states from imposing restrictions that benefit in-state economic interests.

28. Any statute that discriminates against interstate commerce on its face or in effect is subject to heightened scrutiny by this Court.

29. Under the Dormant Commerce Clause, a law that clearly discriminates against

interstate commerce is per se invalid unless the government has no other means to advance a legitimate local purpose.

30. For the purposes of the Dormant Commerce Clause, discrimination means the differential treatment of in-state and out-of-state economic interests in a way that benefits the former and burdens the latter. A law may discriminate against interstate commerce on its face, harbor a discriminatory purpose, or be discriminatory in its effect.

31. Connecticut's RERACA licensing scheme offends the Dormant Commerce Clause because it seeks to build up domestic commerce through unconstitutional burdens upon the industry and individuals and business of other states.

32. RERACA violates the bright-line rule under the Dormant Commerce Clause which prohibits the enforcement of state laws driven by economic protectionism since it is designed to benefit specific in-state economic interests by burdening out-of-state competitors.

33. By favoring in-state Social Equity Individual applicants and discriminating against all others, including out-of-state applicants, Connecticut's marijuana licensing program amounts to economic protectionism and improperly serves to benefit only in-state economic interests in general, and Social Equity Individuals specifically.

34. RERACA is subject to "strict scrutiny" and cannot survive constitutional review because there are non-discriminatory alternatives for achieving Connecticut's stated goals.²

35. Connecticut's licensing program is not only discriminatory on its face but also has a discriminatory effect, as it effectively favors in-state businesses and limits competition from out-

² If Connecticut wishes to privilege Social Equity Individuals, it may do so "as a market participant"--but not "as a market regulator," which is its role here. See S.-Cent. Timber Dev., Inc. v. Wunnicke, 467 U.S. 82, 98-99, 104 S. Ct. 2237, 81 L. Ed. 2d 71 (1984).

of-state businesses, leading to a lack of fair competition, a lack of access to the market, market inefficiencies and higher prices.

36. The United States Congress has not in any manner conferred upon the State of Connecticut the ability to restrict the flow of interstate marijuana commerce.

37. RERACA and its licensing scheme impermissibly violate the Dormant Commerce Clause.

38. Plaintiff has made application and intends to make further application for a marijuana cultivation license but has been prevented from doing so by the RERACA licensing scheme.

39. Plaintiff has been harmed and continues to suffer harm as a result of the State of Connecticut's violation of the Dormant Commerce Clause, which has and currently prevents him from obtaining a marijuana cultivation license as a non-Social Equity Individual.

COUNT TWO
INJUNCTIVE RELIEF

40. Plaintiff alleges and incorporates by reference all allegations in the paragraphs above.

41. Plaintiff has demonstrated that he applied, and that he is able and ready to apply for a marijuana cultivation license, but the discriminatory policy and licensing scheme under RERACA prevents him from doing so on equal footing.

42. Plaintiff is likely to succeed on the merits of this action.

43. Plaintiff has no adequate remedy at law and faces irreparable harm.

44. The balance of harms weighs in favor of the Plaintiff, as the injunction will not harm Defendants; it will simply place Connecticut's laws back into compliance with federal law.

45. An injunction is in the best public interest.

46. Plaintiff is entitled to the issuance of relief in the form of an immediate temporary restraining order preventing the further enforcement of RERACA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request an order from this Court granting the following relief:

- a) Declaring that Connecticut's discriminatory marijuana licensing provisions are unconstitutional under the Dormant Commerce Clause;
- b) Issuing a permanent injunction prohibiting Defendants from enforcing the unconstitutional licensing provisions of RERACA;
- c) Awarding Plaintiff his reasonable attorneys' fees and costs incurred in this action; and
- d) granting Plaintiff such other and further relief as the Court deems just and proper.

Dated October 14, 2025

Respectfully submitted,

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