

DOCKET NO.: HHB-CV22-6074907-S	:	SUPERIOR COURT
	:	
LEAF CT LLC	:	JUDICIAL DISTRICT OF
	:	NEW BRITAIN
v.	:	
	:	AT NEW BRITAIN
SOCIAL EQUITY COUNCIL,	:	
CONNECTICUT DEPARTMENT OF	:	
ECONOMIC AND COMMUNITY	:	
DEVELOPMENT, AND CONNECTICUT	:	
DEPARTMENT OF CONSUMER	:	
PROTECTION	:	DECEMBER 15, 2022

**SECOND AMENDED COMPLAINT FOR ADMINISTRATIVE APPEAL
WITH DEFENDANTS' CONSENT**

Pursuant to Practice Book § 10-60(a)(2), and upon the consent of the defendants, Leaf CT LLC hereby submits its second amended complaint for this administrative appeal, which is attached hereto as Exhibit 1 (Second Amended Complaint). Pursuant to Practice Book § 10-60(b), a redlined version of the Second Amended Complaint is attached as Exhibit 2.

The exhibits to the Second Amended Complaint are unchanged, and which have previously been filed (see Docket Entry No. 105.00) and served on the defendants (see Docket Entry No. 106.00) on December 6, 2022..

**PLAINTIFF,
LEAF CT LLC**

By: /s/ Mary Mintel Miller
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CERTIFICATION

I hereby certify that the foregoing was sent this 15th day of December, 2022, to the defendants as follows:

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/s/ Jeffrey N. Kaplan

Jeffrey N. Kaplan

EXHIBIT 1

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PROTECTION	:	DECEMBER 15, 2022

SECOND AMENDED COMPLAINT FOR ADMINISTRATIVE APPEAL

1. This is an appeal by Leaf CT LLC (“Leaf”) of a final decision rendered by the Social Equity Council (the “SEC”) of the Connecticut Department of Economic and Community Development (“DECD”) dated August 19, 2022 (the “Original Decision”), as amended on November 15, 2022 (the “Amendment”), in which the SEC held that Leaf did not qualify as a social equity applicant by way of its application for a cannabis hybrid retailer license. The Original Decision and the Amendment (collectively, the “Decision”) are attached hereto as Exhibit A.

Parties and Jurisdiction

2. Leaf is a domestic limited liability company with a principal place of business located at 436 Pine Street, Waterbury, Connecticut 06704.

3. The SEC is a Connecticut council established pursuant to General Statutes § 21a-420d(a). It is located within DECD for administrative purposes only. It is considered an agency within the meaning of General Statutes § 4-166(1) for purposes of appeal in accordance with General Statutes § 4-183(a).

4. DECD is a Connecticut department that derives its authority to act from General Statutes § 32-1 et seq. It is considered an agency within the meaning of General Statutes § 4-166(1) for purposes of appeal in accordance with General Statutes § 4-183(a).

5. The Connecticut Department of Consumer Protection (“DCP”) is a Connecticut department that derives its authority to act from General Statutes § 21a-1 et seq. It is considered an agency within the meaning of General Statutes § 4-166(1) for purposes of appeal in accordance with General Statutes § 4-183(a).

6. The Responsible and Equitable Regulation of Adult-Use Cannabis Act governs, inter alia, the licensing of Connecticut hybrid retailer licenses and is set forth at General Statutes § 21a-420 et seq.

7. Pursuant to General Statutes § 21a-420g(a), DCP delegated its authority to the SEC to “review the ownership information and any other information necessary to confirm that an applicant qualifies as a social equity applicant for all license type applications submitted to the department and designated by the applicant as a social equity [application].”

8. Leaf appeals the Decision pursuant to General Statutes §§ 4-183(a) and 21a-420g(d)(1), naming all three of the aforementioned parties as defendants, because the Decision was issued by the SEC, an administrative part of DECD that was exercising authority delegated to it by DCP.

9. The Decision is a final decision within the meaning of General Statutes § 4-166(5) for purposes of appeal in accordance with General Statutes §§ 4-183(a) and 21a-420g(d)(1).

Factual Background

10. General Statutes § 21a-420g provides that the SEC “shall prescribe the documentation necessary for applicants to submit to establish that ownership, residency and income requirements for social equity applicants are met. On or before September 1, 2021, the [SEC] shall post such necessary documentation requirements on its Internet web site to inform applicants of such requirements prior to the start of the application period.”

11. General Statutes § 21a-420e(f)(2) provides that license applications shall be accepted “no sooner than thirty days after the date the [SEC] posts the criteria and supporting documentation necessary to qualify for consideration as a social equity applicant as set forth in section 21a-420g.”

12. Pursuant to General Statutes § 21a-420g(b), “prior to the first date that [DCP] begins accepting applications for a license type, [DCP] shall determine the maximum number of applications that shall be considered for such license type and post such information on its Internet web site. Fifty per cent of the maximum number of applications that shall be considered for each license type (1) shall be selected through a social equity lottery for such license type, and (2) shall be reserved by the department for social equity applicants. If, upon the close of the application period for a license type, [DCP] receives more applications than the maximum number to be considered in total or to be reserved for social equity applicants as set forth in subsection (b) of this section, a third-party lottery operator shall conduct a lottery to identify applications for review by [DCP] for the [SEC].”

13. On December 8, 2021, the SEC posted a public announcement to its website wherein it provided an overview of the lottery process and further explained that, to qualify for social equity status, an applicant must establish, inter alia, that he or she either “[w]as a resident of a disproportionately impacted area for at least 5 of the past 10 years; or [w]as a resident of a

disproportionately impacted area for at least 9 years before the age of 18.” A copy of this public announcement is attached hereto as Exhibit B.

14. On January 4, 2022, DCP announced, by way of a press release, that, starting on February 24, 2022, it would begin accepting applications for hybrid retailer licenses for a period of 90 days, and which period would end on May 25, 2022 (the “Release”). The Release is attached hereto as Exhibit C.

15. The Release further stated that the available number of social equity hybrid retailer licenses were two.

16. The Release also explained that the SEC would confirm an applicant’s “social equity status” by confirming that the applicant meets the residency, income, and ownership and control requirements.

17. On or about January 14, 2022, the SEC posted guidelines indicating which documents “are required to establish residence” and the documents that are acceptable for verification of residency. A copy of these guidelines is attached hereto as Exhibit D (the “Guidelines”).

18. The DCP began accepting applications for social equity hybrid retailer licenses on February 24, 2022.

19. On May 15, 2022, Leaf first applied for a social equity hybrid retailer license, and then refiled an identical application repeatedly—paying the application fee in each instance—during the following 10 days until the application period closed on May 25, 2022.

20. The applications filed by Leaf for the social equity hybrid retailer license were entered into the lottery reserved for the two available social equity hybrid retailer licenses.

21. Sometime thereafter, the third-party lottery operator selected Leaf's application for a hybrid retailer license, numbered 0004030 (the "Application"), with Leaf thereby selected as one of the two applicants destined to receive a social equity hybrid retailer license.

22. The Application was subsequently forwarded to the SEC for its review to evaluate whether Leaf qualified as a social equity applicant.

23. On August 19, 2022, Leaf received the Original Decision.

24. On or about November 15, 2022, the SEC issued the Amendment.

25. The Decision delineated the SEC's reasons for denying Leaf social equity applicant status.

26. The Decision determined that Leaf failed to establish social equity applicant status under the Residency requirement.

27. Leaf's argument for social equity applicant status was based on the background of its majority member, Nicholle West.

28. The Decision determined that Ms. West did not provide enough documentation to establish that she lived in a disproportionately impacted area for at least 5 of the last 10 years, incorrectly stating that she provided documentation for only 3 of the previous 5 years.

29. In fact, Ms. West provided the following documentation establishing that she has resided in a disproportionately impacted area for at least 5 of the previous 10 years:

- a. A completed W-2 Wage and Tax Statement form for the year of 2018;
- b. Tax returns for the years of 2019, 2020, and 2021.
- c. A license issued on February 12, 2022.
- d. A license issued on February 1, 2019.
- e. A mortgage statement dated February 9, 2022.

30. Ms. West resides in a disproportionately impacted area and has resided there since 2005.

31. The SEC did not afford Leaf with the opportunity to amend or supplement the Application to ameliorate the Decision's incorrect determination that Ms. West did not reside in a disproportionately impacted area for 5 of the last 10 years.

32. The Decision stated that Leaf could elect to have the Application "entered into the general lottery for the same license type" so long as Leaf paid the remaining balance of the full lottery fee within five days, but it did not indicate whether Leaf could elect to have its other applications for social equity hybrid retailer licenses transferred to the general lottery as well.

33. Leaf had also entered lotteries for adult use cannabis cultivator, microcultivator, medical hybrid retailer, and product manufacturer licenses, with the result that it paid \$300,375 in applicant fees.

34. As of the filing of this appeal, Leaf is unable to determine whether the SEC's conclusion, as set forth in the Decision, has impacted the outcomes of lotteries other than the lottery for the two licenses for social equity hybrid retailers.

Aggrievement

35. The Decision (specifically, the conclusion that Leaf failed to meet the SEC's residency requirement) prejudiced Leaf's substantial rights because it was: (a) in violation of constitutional and statutory provisions; (b) made upon unlawful procedure; (c) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (d) arbitrary or capricious, or characterized by abuse of discretion.

36. Leaf has been aggrieved by the Decision, as the application period to enter the lottery for social equity hybrid retailer licenses has closed, with no indication that the DCP will

begin accepting new applications or increase the number of available social equity hybrid retailer licenses.

37. Leaf is further aggrieved because it was actually selected by the third-party lottery operator for a hybrid retailer license apportioned to social equity applicants, but was incorrectly determined to not meet social equity applicant status.

38. Even if the State of Connecticut unexpectedly reopens this application opportunity next year and awards Leaf a license at that time, Leaf would have lost approximately ten million dollars in retail revenue in the meantime, and would be disadvantaged as to its opportunity to acquire one or more of its preferred choices of location.

The Decision Violated Constitutional And Statutory Provisions

39. General Statutes § 21a-421p(c) provides, in part, that “[u]pon the refusal to issue or renew a license or registration, the commissioner shall notify the applicant of the denial and of the applicant’s right to request a hearing within ten days from the date of receipt of the notice of denial.”

40. The Decision did not provide Leaf with notice that it had an opportunity to request a hearing within 10 days from the date of receipt of the Decision.

41. Thus, the Decision violated § 21a-421p(c).

42. Pursuant to General Statutes § 21a-420d(f), the SEC “shall promote and encourage full participation in the cannabis industry by persons from communities that have been disproportionately harmed by cannabis prohibition and enforcement.”

43. Leaf has a legitimate claim to social equity applicant status that it can prove if permitted to do so, because Ms. West (1) met the income requirements as confirmed by the

Decision, (2) has resided in a disproportionately impacted area for at least 5 of the previous 10 years, and (3) met the ownership and control requirement as confirmed by the Decision.

44. However, instead of adhering to § 21a-420d(f) by communicating with Leaf and encouraging supplementation or clarification of the Application in order to encourage Ms. West to fully participate in this new industry, the SEC chose instead to violate the statute.

45. Neither the SEC nor the DCP is prohibited by any of the enabling statutes from contacting applicants, including Leaf, for clarification on documents provided or perceived missing.

46. Leaf would have qualified for social equity applicant status—because as a factual matter it does qualify for social equity—if the SEC (a) provided sufficient notice to applicants on how it intended to measure the residency requirement or (b) afforded Leaf with any opportunity to supplement the Application with regard to the residency requirement.

47. The SEC’s conduct, by failing to give adequate notice to Leaf as to how it planned to measure the residency requirement, and by issuing the Decision and denying the Application for the reasons stated in the Decision, contravened Leaf’s right to procedural due process as guaranteed by Article 1, § 8 of the Connecticut Constitution and the Fourteenth Amendment of the United States Constitution.

48. The failure by the SEC and/or the DCP to afford Leaf an opportunity to supplement or amend the Application to address the reasons for denial set forth in the Decision deprived Leaf of notice and a meaningful opportunity to be heard.

49. The aforementioned conduct of the SEC and/or DCP thus violated § 4-183(j)(1).

The Decision Was Made Upon Unlawful Procedure

50. The Decision was made upon unlawful procedure, in violation of General Statutes § 4-183(j)(3), because the SEC failed to properly inform applicants of the manner in which it intended to measure a person's residency by not clarifying that it required applicants to prove a person's residence totaling five of the previous 10 years (as opposed to proving that a person resided in a disproportionately impacted area during five of the previous 10 years).

51. The Decision was made upon unlawful procedure, in violation of General Statutes § 4-183(j)(3), because the SEC's procedure failed to properly evaluate, or ask for reasonable supplemental documents in order to evaluate, Leaf's social equity applicant status relating to Ms. West's residence in a disproportionately impacted area.

The Decision Was Clearly Erroneous

52. The Application also provided sufficient documentation to establish that Ms. West satisfied the residency requirements in the years 2022, 2021, 2020, 2019 and 2018.

53. Ms. West could have provided similar documentation for the years preceding 2018, had it been requested.

54. The SEC did not draw a reasonable conclusion based on the residency documentation submitted, and did not give Leaf the opportunity to clarify the fact that Ms. West had resided in a disproportionately impacted area for close to two decades. Leaf actually had prior tax returns of Ms. West on-hand, and could have quickly supplied them, if asked.

55. The Decision was therefore clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record within the meaning of General Statutes § 4-183(j)(5).

The Decision Was Arbitrary Or Capricious Or Is Characterized By An Abuse of Discretion

56. The Decision was an arbitrary or capricious exercise of discretion, and/or was an abuse of the SEC's discretion, in that the SEC had sufficient information to conclude that Leaf would likely qualify for social equity applicant status, and could have easily confirmed that if it afforded Leaf the opportunity to provide supplemental documentation to establish that Ms. West resided in a disproportionately impacted area for 5 of the previous 10 years.

57. The Decision, and the SEC's denial of the Application, violated General Statutes § 4-183(j)(6).

PRAYER FOR RELIEF

WHEREFORE, Leaf respectfully requests that this Court enter an order:

1. Sustaining this appeal;
2. Vacating the Decision on the ground that Leaf's substantial rights have been prejudiced because the SEC's administrative findings, inferences, conclusions and decisions were: (a) in violation of constitutional and statutory provisions; (b) made upon unlawful procedure; (c) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and/or (d) arbitrary or capricious or characterized by an abuse of discretion;
3. Directing the SEC to qualify Leaf as a social equity applicant for a hybrid retailer license, grant Leaf a provisional hybrid retailer license, and give Leaf a fair consideration for any other licenses for other lotteries that may have been impacted by the Decision;
4. In the alternative, directing the SEC to clearly direct Leaf as to the criteria for social equity applicant status, and then permitting Leaf the opportunity to satisfy that criteria and receive the hybrid retailer license that it was awarded in the aforementioned lottery;
5. Awarding Leaf reasonable fees and expenses, including but not limited to attorney's fees, witness fees, and costs associated with the administrative and court proceedings, pursuant to General Statutes § 4-184a; and
6. Awarding such other and further legal or equitable relief as this Court may deem just and proper.

**PLAINTIFF,
LEAF CT LLC**

By: /s/ Mary Mintel Miller
Mary Mintel Miller
Jeffrey N. Kaplan
Reid and Riege, P.C.
Juris No. 049362

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EXHIBIT 2

DOCKET NO.: HHB-CV22-6074907-S	:	SUPERIOR COURT
	:	
LEAF CT LLC	:	JUDICIAL DISTRICT OF
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SOCIAL EQUITY COUNCIL,	:	
CONNECTICUT DEPARTMENT OF	:	
ECONOMIC AND COMMUNITY	:	
DEVELOPMENT, AND CONNECTICUT	:	
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PROTECTION	:	DECEMBER 15 ⁶ , 2022

SECOND AMENDED COMPLAINT FOR ADMINISTRATIVE APPEAL

1. This is an appeal by Leaf CT LLC (“Leaf”) of a final decision rendered by the Social Equity Council (the “SEC”) of the Connecticut Department of Economic and Community Development (“DECD”) dated August 19, 2022 (the “Original Decision”), as amended on November 15, 2022 (the “Amendment”), in which the SEC held that Leaf did not qualify as a social equity applicant by way of its application for a cannabis hybrid retailer license. The Original Decision and the Amendment (collectively, the “Decision”) are attached hereto as Exhibit A.

Parties and Jurisdiction

2. Leaf is a domestic limited liability company with a principal place of business located at 436 Pine Street, Waterbury, Connecticut 06704.

3. The SEC is a Connecticut council established pursuant to General Statutes § 21a-420d(a). It is located within DECD for administrative purposes only. It is considered an agency within the meaning of General Statutes § 4-166(1) for purposes of appeal in accordance with General Statutes § 4-183(a).

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6. The Responsible and Equitable Regulation of Adult-Use Cannabis Act governs, inter alia, the licensing of Connecticut hybrid retailer licenses and is set forth at General Statutes § 21a-420 et seq.

7. Pursuant to General Statutes § 21a-420g(a), DCP delegated its authority to the SEC to “review the ownership information and any other information necessary to confirm that an applicant qualifies as a social equity applicant for all license type applications submitted to the department and designated by the applicant as a social equity [application].”

8. Leaf appeals the Decision pursuant to General Statutes §§ 4-183(a) and 21a-420g(d)(1), naming all three of the aforementioned parties as defendants, because the Decision was issued by the SEC, an administrative part of DECD that was exercising authority delegated to it by DCP.

9. The Decision is a final decision within the meaning of General Statutes § 4-166(5) for purposes of appeal in accordance with General Statutes §§ 4-183(a) and 21a-420g(d)(1).

Factual Background

10. General Statutes § 21a-420g provides that the SEC “shall prescribe the documentation necessary for applicants to submit to establish that ownership, residency and income requirements for social equity applicants are met. On or before September 1, 2021, the [SEC] shall post such necessary documentation requirements on its Internet web site to inform applicants of such requirements prior to the start of the application period.”

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12. Pursuant to General Statutes § 21a-420g(b), “prior to the first date that [DCP] begins accepting applications for a license type, [DCP] shall determine the maximum number of applications that shall be considered for such license type and post such information on its Internet web site. Fifty per cent of the maximum number of applications that shall be considered for each license type (1) shall be selected through a social equity lottery for such license type, and (2) shall be reserved by the department for social equity applicants. If, upon the close of the application period for a license type, [DCP] receives more applications than the maximum number to be considered in total or to be reserved for social equity applicants as set forth in subsection (b) of this section, a third-party lottery operator shall conduct a lottery to identify applications for review by [DCP] for the [SEC].”

13. On December 8, 2021, the SEC posted a public announcement to its website wherein it provided an overview of the lottery process and further explained that, to qualify for social equity status, an applicant must establish, inter alia, that he or she either “[w]as a resident of a disproportionately impacted area for at least 5 of the past 10 years; or [w]as a resident of a

disproportionately impacted area for at least 9 years before the age of 18.” A copy of this public announcement is attached hereto as Exhibit B.

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15. The Release further stated that the available number of social equity hybrid retailer licenses were two.

16. The Release also explained that the SEC would confirm an applicant’s “social equity status” by confirming that the applicant meets the residency, income, and ownership and control requirements.

17. On or about January 14, 2022, the SEC posted guidelines indicating which documents “are required to establish residence” and the documents that are acceptable for verification of residency. A copy of these guidelines is attached hereto as Exhibit D (the “Guidelines”).

18. The DCP began accepting applications for social equity hybrid retailer licenses on February 24, 2022.

19~~26~~. On May 15, 2022, Leaf first applied for a social equity hybrid retailer license, and then refiled an identical application repeatedly—paying the application fee in each instance—during the following 10 days until the application period closed on May 25, 2022.

20~~7~~. The applications filed by Leaf for the social equity hybrid retailer license were entered into the lottery reserved for the two available social equity hybrid retailer licenses.

21~~18~~. Sometime thereafter, the third-party lottery operator selected Leaf’s application for a hybrid retailer license, numbered 0004030 (the “Application”), with Leaf thereby selected as one of the two applicants destined to receive a social equity hybrid retailer license.

22~~19~~. The Application was subsequently forwarded to the SEC for its review to evaluate whether Leaf qualified as a social equity applicant.

23~~30~~. On August 19, 2022, Leaf received the Original Decision.

24~~31~~. On or about November 15, 2022, the SEC issued the Amendment.

25~~31~~. The Decision delineated the SEC’s reasons for denying Leaf social equity applicant status.

26~~32~~. The Decision determined that Leaf failed to establish social equity applicant status under the Residency requirement.

27~~33~~. Leaf’s argument for social equity applicant status was based on the background of its majority member, Nicholle West.

28~~38~~. The Decision determined that Ms. West did not provide enough documentation to establish that she lived in a disproportionately impacted area for at least 5 of the last 10 years, incorrectly stating that she provided documentation for only 3 of the previous 5 years.

29~~39~~. In fact, Ms. West provided the following documentation establishing that she has resided in a disproportionately impacted area for at least 5 of the previous 10 years:

- a. A completed W-2 Wage and Tax Statement form for the year of 2018;
- b. Tax returns for the years of 2019, 2020, and 2021.
- c. A license issued on February 12, 2022.
- d. A license issued on February 1, 2019.
- e. A mortgage statement dated February 9, 2022.

[3040](#). Ms. West resides in a disproportionately impacted area and has resided there since 2005.

[3141](#). The SEC did not afford Leaf with the opportunity to amend or supplement the Application to ameliorate the Decision’s incorrect determination that Ms. West did not reside in a disproportionately impacted area for 5 of the last 10 years.

[4332](#). The Decision stated that Leaf could elect to have the Application “entered into the general lottery for the same license type” so long as Leaf paid the remaining balance of the full lottery fee within five days, but it did not indicate whether Leaf could elect to have its other applications for social equity hybrid retailer licenses transferred to the general lottery as well.

[3344](#). Leaf had also entered lotteries for adult use cannabis cultivator, microcultivator, medical hybrid retailer, and product manufacturer licenses, with the result that it paid \$300,375 in applicant fees.

[3445](#). As of the filing of this appeal, Leaf is unable to determine whether the SEC’s conclusion, as set forth in the Decision, has impacted the outcomes of lotteries other than the lottery for the two licenses for social equity hybrid retailers.

Aggrievement

[3546](#). The Decision (specifically, the conclusion that Leaf failed to meet the SEC’s residency requirement) prejudiced Leaf’s substantial rights because it was: (a) in violation of constitutional and statutory provisions; (b) made upon unlawful procedure; (c) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and (d) arbitrary or capricious, or characterized by abuse of discretion.

[3647](#). Leaf has been aggrieved by the Decision, as the application period to enter the lottery for social equity hybrid retailer licenses has closed, with no indication that the DCP will

begin accepting new applications or increase the number of available social equity hybrid retailer licenses.

[3748](#). Leaf is further aggrieved because it was actually selected by the third-party lottery operator for a hybrid retailer license apportioned to social equity applicants, but was incorrectly determined to not meet social equity applicant status.

[3849](#). Even if the State of Connecticut unexpectedly reopens this application opportunity next year and awards Leaf a license at that time, Leaf would have lost approximately ten million dollars in retail revenue in the meantime, and would be disadvantaged as to its opportunity to acquire one or more of its preferred choices of location.

The Decision Violated Constitutional And Statutory Provisions

[3950](#). General Statutes § 21a-421p(c) provides, in part, that “[u]pon the refusal to issue or renew a license or registration, the commissioner shall notify the applicant of the denial and of the applicant’s right to request a hearing within ten days from the date of receipt of the notice of denial.”

[4051](#). The Decision did not provide Leaf with notice that it had an opportunity to request a hearing within 10 days from the date of receipt of the Decision.

[4152](#). Thus, the Decision violated § 21a-421p(c).

[4253](#). Pursuant to General Statutes § 21a-420d(f), the SEC “shall promote and encourage full participation in the cannabis industry by persons from communities that have been disproportionately harmed by cannabis prohibition and enforcement.”

[4354](#). Leaf has a legitimate claim to social equity applicant status that it can prove if permitted to do so, because Ms. West (1) met the income requirements as confirmed by the

Decision, (2) has resided in a disproportionately impacted area for at least 5 of the previous 10 years, and (3) met the ownership and control requirement as confirmed by the Decision.

[4455](#). However, instead of adhering to § 21a-420d(f) by communicating with Leaf and encouraging supplementation or clarification of the Application in order to encourage Ms. West to fully participate in this new industry, the SEC chose instead to violate the statute.

[4558](#). Neither the SEC nor the DCP is prohibited by any of the enabling statutes from contacting applicants, including Leaf, for clarification on documents provided or perceived missing.

[4659](#). Leaf would have qualified for social equity applicant status—because as a factual matter it does qualify for social equity—if the SEC (a) provided sufficient notice to applicants on how it intended to measure the residency requirement or (b) afforded Leaf with any opportunity to supplement the Application with regard to the residency requirement.

[4760](#). The SEC’s conduct, by failing to give adequate notice to Leaf as to how it planned to measure the residency requirement, and by issuing the Decision and denying the Application for the reasons stated in the Decision, contravened Leaf’s right to procedural due process as guaranteed by Article 1, § 8 of the Connecticut Constitution and the Fourteenth Amendment of the United States Constitution.

[4861](#). The failure by the SEC and/or the DCP to afford Leaf an opportunity to supplement or amend the Application to address the reasons for denial set forth in the Decision deprived Leaf of notice and a meaningful opportunity to be heard.

[4962](#). The aforementioned conduct of the SEC and/or DCP thus violated § 4-183(j)(1).

The Decision Was Made Upon Unlawful Procedure

[5063](#). The Decision was made upon unlawful procedure, in violation of General Statutes § 4-183(j)(3), because the SEC failed to properly inform applicants of the manner in which it intended to measure a person's residency by not clarifying that it required applicants to prove a person's residence totaling five of the previous 10 years (as opposed to proving that a person resided in a disproportionately impacted area during five of the previous 10 years).

[5164](#). The Decision was made upon unlawful procedure, in violation of General Statutes § 4-183(j)(3), because the SEC's procedure failed to properly evaluate, or ask for reasonable supplemental documents in order to evaluate, Leaf's social equity applicant status relating to Ms. West's residence in a disproportionately impacted area.

The Decision Was Clearly Erroneous

[5266](#). The Application also provided sufficient documentation to establish that Ms. West satisfied the residency requirements in the years 2022, 2021, 2020, 2019 and 2018.

[5367](#). Ms. West could have provided similar documentation for the years preceding 2018, had it been requested.

[5468](#). The SEC did not draw a reasonable conclusion based on the residency documentation submitted, and did not give Leaf the opportunity to clarify the fact that Ms. West had resided in a disproportionately impacted area for close to two decades. Leaf actually had prior tax returns of Ms. West on-hand, and could have quickly supplied them, if asked.

[5569](#). The Decision was therefore clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record within the meaning of General Statutes § 4-183(j)(5).

The Decision Was Arbitrary Or Capricious Or Is Characterized By An Abuse of Discretion

5671. The Decision was an arbitrary or capricious exercise of discretion, and/or was an abuse of the SEC's discretion, in that the SEC had sufficient information to conclude that Leaf would likely qualify for social equity applicant status, and could have easily confirmed that if it afforded Leaf the opportunity to provide supplemental documentation to establish that Ms. West resided in a disproportionately impacted area for 5 of the previous 10 years.

5772. The Decision, and the SEC's denial of the Application, violated General Statutes § 4-183(j)(6).

PRAYER FOR RELIEF

WHEREFORE, Leaf respectfully requests that this Court enter an order:

1. Sustaining this appeal;
2. Vacating the Decision on the ground that Leaf's substantial rights have been prejudiced because the SEC's administrative findings, inferences, conclusions and decisions were: (a) in violation of constitutional and statutory provisions; (b) made upon unlawful procedure; (c) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and/or (d) arbitrary or capricious or characterized by an abuse of discretion;
3. Directing the SEC to qualify Leaf as a social equity applicant for a hybrid retailer license, grant Leaf a provisional hybrid retailer license, and give Leaf a fair consideration for any other licenses for other lotteries that may have been impacted by the Decision;
4. In the alternative, directing the SEC to clearly direct Leaf as to the criteria for social equity applicant status, and then permitting Leaf the opportunity to satisfy that criteria and receive the hybrid retailer license that it was awarded in the aforementioned lottery;
5. Awarding Leaf reasonable fees and expenses, including but not limited to attorney's fees, witness fees, and costs associated with the administrative and court proceedings, pursuant to General Statutes § 4-184a; and
6. Awarding such other and further legal or equitable relief as this Court may deem just and proper.

**PLAINTIFF,
LEAF CT LLC**

By: /s/ Mary Mintel Miller
Mary Mintel Miller
Jeffrey N. Kaplan
Reid and Riege, P.C.
Juris No. 049362

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