

**ADMINISTRATIVE APPEAL UNDER CONNECTICUT
GENERAL STATUTES SECTION 4-183 — CITATION**
(For use when service is made by a proper officer or indifferent person)

JD-CV-138 Rev. 2-20
C.G.S. § 4-183; P.B. § 14-7A

STATE OF CONNECTICUT
SUPERIOR COURT
www.jud.ct.gov



Instructions to Person Appealing Decision :

1. The Judicial District you name in this Citation must be the Judicial District of New Britain or Judicial District where the plaintiff resides.
2. Attach the original Appeal to the original Citation.
3. If you are self-represented, bring this Citation and the Appeal to a clerk of court for the Judicial District you name below. The clerk will review and sign the Citation.
4. Give this Citation and the Appeal to a proper officer or indifferent person for service on each defendant.
5. After service has been made, file this Citation, Appeal, and the Officer's Return of Service with the clerk of court for the Judicial District named below.

For information on ADA accommodations, contact a court clerk or go to: www.jud.ct.gov/ADA.

To Any Proper Officer or Indifferent Person:

By the authority of the State of Connecticut, you are commanded to serve, according to law, a copy of the Appeal and this Citation by personal service on the agency that made the decision that is being appealed at the address of the agency or, if allowed by law, at the Office of the Attorney General, 165 Capitol Avenue, Hartford, Connecticut. Also serve, according to law, a copy of the Appeal and this Citation on each party named as a defendant in this Appeal, at the address provided on this form.

Name of case (Plaintiff v. Defendant)		Case type code (See reverse for codes)
D&B Wellness, LLC v. Connecticut Department of Consumer Protection, et al.		Major: A Minor: 90
Judicial District	Address of Court	Telephone number of Court (with area code)
New Britain	20 Franklin Square, New Britain, CT 06051	860-515-5180

For the plaintiff(s) enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code)		Juris number (if attorney or law firm)
Shipman & Goodwin LLP, One Constitution Plaza, Hartford, CT 06103		057385
Telephone number	Signature of plaintiff (if self-represented)	
() -860-251-5000		

The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book. ☒ Yes ☐ No E-mail address for delivery of papers under Section 10-13 of the Connecticut Practice Book (if agreed) **swestby@goodwin.com**

Parties	Name (Last, First, Middle Initial) and Address of Each party (Number, Street, P.O. Box, Town, State, Zip, Country, if not USA)	
First Plaintiff	Name: D&B Wellness, LLC Address: 105 Mill Plain Road, Danbury, CT 06811	P-01
Additional Plaintiff	Name: Address:	P-02
First Defendant	Name: Connecticut Department of Consumer Protection Address: 450 Columbus Boulevard, Hartford, CT 06103	D-01
Additional Defendant	Name: Commissioner of the Connecticut Department of Consumer Protection Bryan Cafferelli Address: 450 Columbus Boulevard, Hartford, CT 06103	D-02
Additional Defendant	Name: Address:	D-03
Total number of plaintiffs: 1	Total number of defendants: 2	☐ Form JD-CV-2 attached for additional parties

Notice to each defendant

1. The Plaintiff will file the attached Appeal of a final administrative decision. The Appeal attached to these papers states the claims that the Plaintiff is making.
2. To receive further notices, you or your attorney must file an *Appearance* (form JD-CL-12) with the clerk at the address above within thirty (30) days of the mailing of the Appeal. You do not have to come to court on that date unless you receive a separate notice telling you to come to court.
3. If you do not file an *Appearance* on time, the Court may enter sanctions against you.
4. You can get an *Appearance* form at the Court address above or on-line at <https://jud.ct.gov/webforms/>.
5. If you have questions about the Notice of Filing and the Appeal, you should talk to an attorney.

The court staff is not allowed to give advice on legal matters.

Signed (Sign and "x" proper box)	☒ Commissioner of the Superior Court ☐ Assistant Clerk	Name of person signing at left	Date
		Sarah A. Westby	8/5/24

If this Citation is signed by a Clerk:

- a. The signing has been done so that the plaintiff(s) will not be denied access to the courts.
- b. It is the responsibility of the plaintiff(s) to ensure that service is made in the manner provided by law.
- c. The court staff is not permitted to give any legal advice in connection with any lawsuit.
- d. The Clerk signing this Citation at the request of the plaintiff(s) is not responsible in any way for any errors or omissions in the Citation, any allegations contained in the Appeal, or the service of the Citation or Appeal.

For Court Use Only	
File Date	
Docket number	

I certify I have read and understand the above:	Signed (Self-Represented Plaintiff)	Date

Print Form

Reset Form

RETURN DATE: September 3, 2024	:	
	:	
D&B WELLNESS, LLC,	:	SUPERIOR COURT
	:	
v.	:	JUDICIAL DISTRICT OF HARTFORD
	:	
CONNECTICUT DEPARTMENT OF	:	AT NEW BRITAIN
CONSUMER PROTECTION, and	:	
COMMISSIONER OF THE	:	
CONNECTICUT DEPARTMENT OF	:	AUGUST 5, 2024
CONSUMER PROTECTION BRYAN	:	
CAFFERELLI (in his official capacity).	:	

**PETITION FOR ADMINISTRATIVE APPEAL,
COMPLAINT, AND APPLICATION FOR
WRIT OF PROHIBITION AND/OR MANDAMUS**

To the Superior Court for the Judicial District of Hartford at New Britain on the 5th day of August, 2024, comes D&B Wellness, LLC, (1) appealing pursuant to the Connecticut Uniform Administrative Procedure Act, General Statutes §§ 4-183, *et seq.*, from the June 21, 2024 determination of the Connecticut Department of Consumer Protection to impose a \$500,000 fee upon D&B, and; (2) seeking an immediate stay of the agency decision to impose the aforementioned fee, under § 4-183(f), and; (3) seeking injunctive relief, ordering Commissioner Cafferelli, in his official capacity as Commissioner of the Connecticut Department of Consumer Protection, to refrain from taking any action relating to the \$500,000 fee imposed upon D&B, including collection, enforcement, and further to refrain from taking any punitive actions such as revocation or suspension of any licenses held by or for which D&B has applied, as a result or in connection with the \$500,000 fee imposed upon D&B, and; (4) in the alternative, seeking a writ of prohibition and/or mandamus ordering the Connecticut Department of Consumer Protection, to refrain from taking any action relating to the \$500,000 fee imposed upon D&B, including collection, enforcement, or punitive actions relating to any

licenses thereof.

ALLEGATIONS COMMON TO ALL COUNTS

Parties

1. Plaintiff, D&B Wellness, LLC (“D&B”), is a domestic limited liability company with a principal place of business located at 105 Mill Plain Rd, Danbury, CT 06811.

2. Defendant Connecticut Department of Consumer Protection (“DCP”) is a Department of the State of Connecticut charged with protecting consumers and overseeing public safety programs. DCP derives authority to act pursuant to Connecticut General Statutes (“CGS”) § 21a-1, *et seq.*

3. Defendant Bryan Cafferelli (the “Commissioner”) is the Commissioner of Consumer Protection. Pursuant to statutory authority, the Commissioner is responsible for enforcing particular statutes, administering and directing DCP’s operations, and supervising DCP and its agents. The Commissioner’s powers and duties are broad, and set forth in part in CGS §§ 21a-10, 21-11.

JURISDICTION & VENUE

4. This action arises under the authority vested in the Court pursuant to CGS § 4-183, as well as the Court’s inherent authority to issue a writ of prohibition and/or mandamus based upon unlawful and/or unjust agency conduct.

5. Venue is proper in this Court pursuant to CGS § 4-183(c).

6. D&B brings this Petition pursuant to CGS § 4-183(a), because it is aggrieved by a final decision of DCP.

7. On June 21, 2024, the Commissioner sent an email to D&B stating that it owed DCP \$500,000, representing the balance of the statutory fee for converting its cannabis

dispensary license into a hybrid retailer license. DCP stated that D&B owed the \$500,000 fee because D&B failed to obtain final license approval for an Equity Joint Venture sponsored by D&B within fourteen months of D&B's conversion of its dispensary license to a hybrid retail license in accordance with CGS § 21a-420u.

8. The email notification constitutes a final decision of DCP under the Connecticut Uniform Administrative Procedure Act and is subject to review by this Court.

9. D&B is aggrieved by DCP's decision erroneously assessing the \$500,000 fee because it will cause D&B to lose a substantial amount of money.

The RERACA Statutory Scheme & Cannabis Licensing in Connecticut

10. Connecticut's cannabis legalization bill, S.B. 1201, was signed into law on June 22, 2021. Public Act 21-1, "Responsible and Equitable Regulation of Adult-Use Cannabis Act," ("RERACA") became effective on July 1 of that year. RERACA is codified at CGS §§ 21a-420, *et seq.*, and has been amended through subsequent public acts.

11. Prior to the enactment of RERACA, DCP had granted certain licenses to produce and/or sell medical marijuana through authorized cultivation facilities and dispensaries, pursuant to CGS § 21a-408, *et seq.*

12. RERACA governs the licensing and regulation of adult-use cannabis establishments in Connecticut. The licensing process includes consideration for issuance of licenses to Social Equity Applicants to advance social justice initiatives rooted in the historic disproportionate impact of cannabis prohibition and the war on drugs on certain communities in the State. Disproportionately impacted communities primarily include communities of color and those with high rates of unemployment.

13. RERACA established various types of adult-use cannabis licenses, including cultivation, micro-cultivation, product manufacturing, food and beverage manufacturing, transportation, delivery, and retail, both for Social Equity Applicants and general applicants.

14. A Social Equity Applicant (“SEA”) is defined as an applicant that is at least 65% owned and controlled by an individual or individuals who (A) had an average household income of less than 300% of the state median household income over the three tax years immediately preceding such individual's application; and (B) (i) Was 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.

15. RERACA also established an application process for adult-use cannabis licenses, which is administered by DCP.

16. Applicants must submit license applications to DCP, and DCP reviews those applications, makes decisions whether to grant or deny the applications, and issues provisional and final licenses.

17. The application process requires that applicants submit their applications through the DCP’s online portal, “the Department of Consumer Protection online application system” within the eLicensing platform.

18. In addition to the authority vested in DCP, RERACA established a Social Equity Council (the “Council”), pursuant to CGS § 21a-420d(a), which operates administratively within the Connecticut Department of Economic and Community Development (“DECD”).

DECD is a Department of the State of Connecticut charged with overseeing the state's economic development.

19. Though the Council is not a part of DCP, it is integrally involved in the RERACA cannabis licensing scheme in a variety of ways, including evaluating documentation regarding residency, income, and ownership and control of applicants seeking SEA status in order to determine whether each applicant qualifies as an SEA.

20. The Council is tasked with various duties, including:

a) pursuant to CGS § 21a-420g(a), reviewing documentation submitted by the applicant and its backers to determine whether the applicant qualifies for SEA status for each type of cannabis establishment license created by RERACA;

b) pursuant to CGS § 21-420d(i), identifying DIAs. A DIA, defined by CGS § 21-420(20), means a tract of land identified by the Council and determined as having been disproportionately affected by the war on drugs and cannabis prohibition in particular manners;

c) pursuant to CGS § 21a-420d(k), reviewing and approving Equity Joint Ventures ("EJVs"). An EJV, defined by CGS § 21-420(26), is a business entity controlled and at least fifty percent owned by an SEA; and

d) pursuant to CGS § 21a-420d, developing social equity and workforce development plan criteria, and reviewing and approving those plans submitted by license applicants.

21. In relation to license applications seeking SEA status, DCP is tasked, under CGS § § 21a-420g(e)(1), with providing the documentation received by DCP during the

application process to the Council upon receipt of a license application.

22. The Council then reviews the application for compliance with Social Equity criteria, and votes at one of its regularly scheduled meetings, or at a special meeting, to approve or deny SEA status for the application. The Council then notifies the applicant accordingly.

23. On information and belief, the Council has the authority to hold and has in fact held several special meetings in between the dates of its regularly scheduled meetings, which occur on the first Tuesday of each month, to review and approve or deny SEA status for pending applications.

24. On information and belief, the Council has scheduled special meetings to approve or deny SEA status for pending applications at the request of an applicant or to vote on the SEA status of a specific application.

25. If the Council determines that the applicant qualifies for SEA status, the Council communicates that information to DCP, which notifies the applicant of any additional steps required for final licensure.

Dispensary to Hybrid Retailer License Conversion

26. Hybrid retailer licenses were established by RERACA and are generally governed by CGS § 21a-420s. Hybrid retailer licenses authorize the purchase of cannabis from a variety of sources, and the sale of both medical and adult-use cannabis to patients and consumers.

27. RERACA also established, in CGS § 21a-420t, a procedure to convert existing medical marijuana dispensary licenses to hybrid retailer licenses, such that dispensaries

licensed in the state prior to the enactment of RERACA could convert their dispensary licenses to permit the sale of both medical and adult-use cannabis.

28. Pursuant to CGS § 21a-420e, the license conversion fee for a dispensary facility to become a hybrid retailer is one million dollars.

29. However, a dispensary may pay a reduced fee of five hundred thousand dollars (\$500,000) pursuant to CGS § 21a-420u if it commits to creating at least one EJV that is approved by the Council.

30. The Council must review the EJV application for compliance with SEA residency, income, and ownership and control requirements, and approve SEA status before DCP grants a provisional and then final license to the EJV applicant.

31. RERACA provides, in CGS § 21a-420u(g), that dispensary facilities that pay the reduced conversion fee are “liable for the full conversion fee of one million dollars,” less the amount paid for a reduced fee, if they “did not subsequently create one equity joint venture . . . that, not later than fourteen months after the Department of Consumer Protection approved the dispensary facility's license conversion application . . . receives a final license from the department.”

32. An applicant may take advantage of the reduced licensed conversion fee only if the Council receives, reviews, and approves application documents for the EJV in fulfillment of the Council’s statutory mandate and duties, and DCP subsequently grants final approval of the application within the fourteen-month deadline.

33. The Council may receive, review, and approve documents as statutorily required only if DCP provides it with such documents in fulfillment of DCP’s statutory

mandate and duties.

DCP Failed to Send Properly-Submitted License Conversion Documents to the Council

34. In connection with a previously licensed dispensary, D&B sought to convert its dispensary license to a hybrid retailer license, identified as license application number AMHF.0008263 and/or AMHF.0008268 (the “Conversion”).

35. D&B paid the \$500,000 license conversion fee on or about November 2, 2022, in connection with the Conversion.

36. D&B received approval for the license conversion on or about April 19, 2023.

37. DCP requires that SEAs submit EJV applications to DCP through the eLicense portal, and then transmits the application materials to the Council for review and consideration of Social Equity criteria. DCP relies on the Council’s subsequent approvals or denials of SEA status to determine licensure outcomes.

38. The Council only considers EJV applications that are considered complete. Complete EJVs include a separate application from each “Backer,” defined as any individual with a direct or indirect financial interest in a cannabis establishment whose interest exceeds five percent of the total ownership interests in the cannabis establishment, and/or who participates directly or indirectly in the control, management, or operation of the cannabis establishment.

39. Question 16 of the EJV application requires the entity applicant to identify all Backers of the cannabis establishment. Question 16 of the application states: “Upon completion of the cannabis establishment application we will email you a list of each individual's ID so that they may submit their application as a backer.”

40. Question 9 of the Backer application requires applicants to identify each license with which an application is associated. Accordingly, Backer applications internally refer to the license applications to which they relate, and such information is readily available and apparent.

41. Because approval of an EJV Application requires that the EJV be owned in significant part by an SEA, EJV Applications must include a backer application for a qualifying SEA.

42. On information and belief, once a business entity (the putative EJV) and all of its backers have submitted applications associated with the EJV, respectively, the application is considered complete by DCP.

43. DCP only sends complete applications to the Council.

44. Any subsequent backer applications are considered duplicates and are not reviewed.

45. On or about December 27, 2023, D&B, through its affiliate and in conjunction with its Social Equity partner and other partners, applied for an EJV (ACRE.0015684), in connection with the Conversion. (“EJV Application 1”).

46. EJV Application 1 was submitted with a backer application for its Social Equity partner, Ms. Samantha Prisco Fazio (“Ms. Prisco”), identified as Application Number ACBR.0001484 (“Backer Application 1”) (together with EJV Application 1, “the Initial Applications”).

47. The Initial Applications were reviewed by the Council.

48. The Initial Applications were denied on or about April 2, 2024, based on

insufficiencies identified in Backer Application 1 relating to Ms. Prisco’s SEA status. Specifically, the Council found that Backer Application 1 did not include sufficient documentation to establish that Ms. Prisco satisfied the residency and income requirements.

49. On or about April 24, 2024, D&B submitted a revised EJV application identified as Application Number ACRE.0015689 (“EJV Application 2”). EJV Application 2 was submitted with a revised backer application for Ms. Prisco, which was submitted to DCP on or about April 24, 2024, identified as Application Number ACBR.0001497 (“Backer Application 2”) (together, “the Subsequent Applications”).

50. Backer Application 2 rectified the deficiencies identified in Backer Application 1.

51. Ms. Prisco satisfies the Social Equity criteria because she has lived in a DIA for at least the last 12 years and meets the income requirements.

52. Backer Application 2 sufficiently shows that Ms. Prisco satisfies the Social Equity criteria, including both the income and residency requirements.

53. On or about April 25, 2024, DCP failed to send Backer Application 2 to the Council upon receipt, and inadvertently sent Backer Application 1 to the Council instead.

54. As a result, the Council did not consider Backer Application 2 in connection with EJV Application 2 prior to its meeting on May 7, 2024.

55. Instead, the Council considered the previously denied Backer Application 1 in connection with EJV Application 2 prior to May 7, 2024, due to DCP’s error.

56. The Council notified D&B that EJV Application 2 was denied on May 7, 2024, via email. The report attached to the email indicates that EJV Application 2 was denied

because the backer application failed to demonstrate that Ms. Prisco met the residency and income requirements. That report is attached as **Exhibit A**.

57. EJV Application 2 was denied because DCP sent the wrong backer application to the Council, and the Council reviewed EJV Application 2 in connection with the previously denied Backer Application 1, instead of the remedied Backer Application 2, which had been properly submitted by D&B.

DCP Sent the Subsequent Application to the Council

58. On May 7, 2024, D&B informed the Council and DCP that EJV Application 2 was improperly denied, that the denial appeared identical to the April 2, 2024 denial of EJV Application 1, and that it appeared to D&B that the Council reviewed the wrong application.

59. The next day, the Council confirmed by email that the denial was correct.

60. In response, also on May 8, 2024, D&B provided the Council with Backer Application 2 directly by email, identifying it by its Application Number ACBR.0001497, to ensure the reviewer had access to the correct document.

61. DCP responded on May 9, 2024, indicating that EJV Application 2 was sent as a complete application to the Council on April 25, 2024, with Backer Application 1.

62. On May 15, 2024, D&B emailed the Commissioner directly, notifying him that DCP improperly failed to send Backer Application 2 to the Council, and that EJV Application 2 was improperly denied as a result.

63. On information and belief, on or about May 16, 2024, the director of the Drug Control Division of DCP determined that DCP:

- a) failed to send Backer Application 2 to the Council upon receipt; and

b) inadvertently sent Backer Application 1 in connection with EJV Application 2 to the Council.

64. EJV Application 2 was improperly denied at the May 7, 2024 Council meeting as result.

65. D&B, through its affiliate and partners, had made significant progress towards completing the steps necessary for final license approval as of April 24, 2024, and could have completed those steps within approximately six weeks or less of SEA approval from the Council.

66. Specifically, D&B's affiliate and partners had leased a facility, obtained the requisite zoning approval, and completed substantially all of the buildout of that facility, including installation of the DCP-compliant cannabis storage vault, by late April 2024.

67. DCP's failure to send the correct backer application led to the improper denial of EJV Application 2 at the May 7, 2024 Council meeting, which delayed SEA approval by the Council and final licensure from DCP past the fourteen-month deadline, thus causing D&B to incur the \$500,000 fee through no fault of its own.

The Council Incorrectly Determined Residency on Backer Application 2

68. On May 17, 2024, in acknowledgment of the irregularities, improprieties, and errors alleged above, the Council indicated that it had sought expedited review of documents previously provided by D&B in connection with EJV Application 2.

69. Two weeks later, on May 31, 2024, the Council informed D&B that Backer Application 2 properly satisfied the income requirement for an SEA, but not the residency requirement.

70. Ms. Prisco does in fact meet the residency requirement for an SEA, and Backer Application 2 clearly demonstrated this fact and included appropriate supporting documentation.

71. Specifically, Backer Application 2 indicates that Ms. Prisco lived at 171 Harding St. in New Britain, CT, and then 239 Shuttle Meadow Ave. in New Britain, from approximately August 2012 through April 2024. Both of these addresses fall within a DIA.

72. Backer Application 2 specifies that Ms. Prisco's residence was the first floor—"FL 1" – at the 239 Shuttle Meadow address.

73. The Council determined that, 239 Shuttle Meadow Avenue FL 1, New Britain, CT did not fall within a DIA, and thus, Backer Application 2 did not satisfy SEA residency requirements.

74. 239 Shuttle Meadow Avenue FL 1, New Britain, Connecticut is in fact located within a DIA.

75. On information and belief, the official Connecticut DIA map has or had a glitch that caused the address 239 Shuttle Meadow Avenue, New Britain, Connecticut, omitting FL 1, to incorrectly appear approximately 5,000 feet away from the actual location of 239 Shuttle Meadow Avenue, New Britain, Connecticut, incorrectly appearing as though it is outside the DIA.

76. D&B advised the Council of the alleged glitch on May 31, 2024.

77. The incorrect determination that 239 Shuttle Meadow Avenue FL 1, New Britain, CT did not fall within a DIA further delayed approval of EJV Application 2, which, in conjunction with the prior delays, prevented D&B from obtaining approval and a final license

for the EJV within the fourteen-month deadline, and caused D&B to incur the \$500,000 conversion fee through no fault of its own.

DCP and the Council Delayed the Subsequent Applications Even Further

78. D&B subsequently met with non-party CohnReznick, which serves as a consultant for the Council and assists in the review of Social Equity criteria and determination of SEA status, on June 5, 2024. During that meeting, CohnReznick indicated that EJV Application 2 was in good order, and did not indicate that there were any deficiencies in terms of residency information or documentation.

79. On June 24, 2024, upon release of the agenda for the Council's special meeting scheduled the following day, D&B reviewed the agenda and noted that EJV Application 2 was not scheduled for review.

80. D&B followed up on the previous email chain, which included the email from more than a month earlier in which the Council indicated it had sought an expedited review by the reviewer, asking if there was a delay.

81. The Council responded that the application remained under review.

82. On July 12, 2024, the Council confirmed that EJV Application 2 satisfied all requirements and stated that the Council was set to approve EJV Application 2 at its August 6, 2024 meeting.

83. The publicly-available meeting agenda for the Council's August 6, 2024 meeting identifies the Council will vote on whether to approve and recommend EJV Application 2, also known as application ACRE.0015689. A copy of the agenda is attached as **Exhibit D**.

84. EJV Application 2 in fact satisfies all the Council's requirements and, on

information and belief, will accordingly be approved at the August 6 meeting.

DCP Charged D&B \$500,000 Due to the State's Delays

85. On June 21, 2024, DCP issued D&B an email notice (the "Notice"). The Notice stated that D&B did not create an Equity Joint Venture that obtained final licensure within a fourteen-month period expiring on June 19, 2024, and that D&B owed \$500,000 as a result. A copy of the notice is attached as **Exhibit B**.

86. The Notice constitutes a final decision of DCP.

87. The Notice states that there are no exemptions, extensions, or waivers available or applicable to the \$500,000 fee imposed.

88. On June 25, 2024, D&B emailed both the director of the Drug Control Division of DCP and the Commissioner contesting the Notice and fee, identifying unreasonable delays to EJV Application 2 caused by the Council and DCP, and requesting postponement of the fee.

89. DCP did not respond to that communication.

90. In light of DCP's determination that no exemptions, extensions, or waivers can apply to the assessment of the \$500,000 fee:

- a) further communications are futile;
- b) no administrative remedy can result in a decision favorable to D&B; and
- c) any additional administrative actions would invariably result in further judicial proceedings.

91. RERACA does not contemplate any exception or extension to the fourteen-month deadline for approval of an EJV following a dispensary's conversion to a hybrid retailer under CGS § 21a-420u(g), and consequently, no legal remedy is specific and adapted to

conveniently, effectively, and completely securing relief for an improper, unreasonable imposition of the \$500,000 fee against D&B.

92. DCP and the Council prevented D&B from obtaining SEA approval and final licensure prior to the expiration of the fourteen-month period because, *inter alia*:

a) DCP failed on April 24, 2024, and every day thereafter until at least May 16, 2024, to provide the Council with the Subsequent Applications in full, specifically, with Backer Application 2 in support of EJV Application 2; and

b) the Council failed, on May 17, 2024, and every day thereafter until at least July 12, 2024, to properly determine Ms. Prisco's SEA status, and to review EJV Application 2 and Backer Application 2.

93. The failures alleged above constitute, and are the result of, procedural irregularities and errors by DCP in the licensing process for EJV Application 2.

94. The failures alleged above occurred in contravention of applicable statutory mandates.

95. But for the failures alleged above, the fourteen-month period applicable to D&B' EJV Application 2 would not have expired.

Aggrievement

96. D&B is aggrieved because presently it purportedly owes \$500,000 to DCP.

97. An invoice for the \$500,000 fee was sent to D&B in an email separate from the Notice. A copy of the \$500,000 invoice is attached as **Exhibit C**.

98. The Notice states that the Invoice was now due as of June 21, 2024, and that payment was due not later than 30 days from that date.

99. The 30-day payment period expired on July 21, 2024.

100. Counsel for D&B spoke with a representative of DCP on or about July 25, 2024, to request reconsideration of the decision imposing the \$500,000 fee. During the call, DCP informed counsel for D&B that the decision imposing the \$500,000 fine was final and that no extension or exception would be granted.

101. As a direct and proximate result of DCP's delay in reviewing and approving the Subsequent Applications, D&B and its affiliate will suffer substantial monetary harm by having to pay the \$500,000 fee.

102. But for DCP's improper delay in reviewing and approving the Subsequent Applications, D&B would have obtained such approval and a final license for the EJVS prior to the June 19, 2024 deadline.

COUNT I: CGS § 4-183 Appeal (as to DCP)

DCP's Fee Decision was Made in Violation of Statutory Provisions

103. D&B restates and incorporates the allegations of paragraphs 1 through 102 as though fully set forth herein.

104. This appeal arises under the authority vested in the Court pursuant to CGS § 4-183.

105. Venue is proper in this Court pursuant to CGS § 4-183(c).

106. D&B brings this appeal pursuant to CGS § 4-183(a), because it is aggrieved by a final decision of DCP to impose a \$500,000 fee.

107. In the alternative, D&B brings this appeal pursuant to CGS § 4-183(b), because the agency action in imposing the \$500,000 fee is an appealable preliminary, procedural or intermediate agency action.

108. D&B has exhausted all existing and available administrative remedies.

109. In the alternative, any available administrative remedies are futile, and postponement of this appeal will result in an inadequate remedy.

110. The DCP decision to impose a \$500,000 fee upon D&B was made in violation of statutory provisions, in that *inter alia*:

a) DCP failed to provide Backer Application 2 to the Council, in violation of CGS § 21a-420g(e)(1); and

b) The Council failed to properly review and approve SEA status for Backer Application 2, in violation of CGS § 21a-420g(a); and

c) The Council failed to properly review and assess EJV Application 2, in violation of CGS § 21a-420d(k).

111. The aforementioned violations prejudiced D&B by causing D&B to owe the \$500,000 fee.

112. But for the delays and errors caused by DCP and the Council, D&B would have obtained SEA approval and a final license for the EJV within the fourteen-month deadline and would not owe the \$500,000 fee.

COUNT II: CGS § 4-183 Appeal (as to DCP)

DCP's Fee Decision was Made Upon Unlawful Procedure

113. D&B restates and incorporates the allegations of paragraphs 1 through 112 as though fully set forth herein.

114. This appeal arises under the authority vested in the Court pursuant to CGS § 4-183.

115. Venue is proper in this Court pursuant to CGS § 4-183(c).

116. D&B brings this appeal pursuant to CGS § 4-183(a), because it is aggrieved by a final decision of DCP to impose a \$500,000 fee.

117. In the alternative, D&B brings this appeal pursuant to CGS § 4-183(b), because the agency action in imposing the \$500,000 fee is an appealable preliminary, procedural or intermediate agency action.

118. D&B has exhausted all existing and available administrative remedies.

119. In the alternative, any available administrative remedies are futile, and postponement of this appeal will result in an inadequate remedy.

120. The DCP decision to impose a \$500,000 fee upon D&B was made upon an unlawful procedure, in that *inter alia*:

a) DCP failed to provide Backer Application 2 to the Council, in violation of CGS § 21a-420g(e)(1);

b) The Council failed to properly review and approve SEA status for Backer Application 2, in violation of CGS § 21a-420g(a); and

c) The Council failed to properly review and assess EJV Application 2, in violation of CGS § 21a-420d(k).

121. The aforementioned violations prejudiced D&B because the statutory violations by the State caused the \$500,000 fee.

122. But for the delays and errors caused by DCP and the Council, D&B would have obtained SEA approval and a final license for the EJV within the fourteen-month deadline and would not owe the \$500,000 fee.

COUNT III: CGS §§ 52-1, 52-471 Injunction (as to the Commissioner)

The Commissioner Must Order DCP to Refrain from Acting Upon the Invoice

123. D&B restates and incorporates the allegations of paragraphs 1 through 122 as though fully set forth herein.

124. DCP maintains exclusive control of documentation required by the Council after submission, and therefore maintains a unique ability to delay dispensary to hybrid retailer license conversion applications.

125. DCP's own actions and inactions in relation to Backer Application 2 in fact delayed approval of EJV Application 2 for the period of time from approximately April 24, 2024, to August 6, 2024.

126. In the alternative, DCP's own actions and inactions in relation to Backer Application 2 in fact delayed approval of EJV Application 2 for the period of time from approximately April 24, 2024, to July 12, 2024.

127. DCP caused the expiration of D&B's fourteen-month period without approval of EJV Application 2, and thus caused the \$500,000 fee to be imposed upon D&B.

128. Equity will always grant relief in an independent action for injunction to one whose property rights are threatened under a void administrative order.

129. Allowing the Notice and Invoice to be enforced, collected, or otherwise acted upon, by DCP will result in an unjust enrichment, unjust deprivation of property, violation of due process, and circumvention of statutory authority.

130. The Commissioner has the authority to direct the actions and inactions of DCP.

131. An injunction ordering the Commissioner to direct DCP to refrain from taking any action on the Notice or Invoice, to include collection and any resultant licensure-related

actions, should issue.

COUNT IV: CGS §§ 52-485, 52-493 Writ of Mandamus and/or Prohibition (to DCP)

DCP Must Refrain from Enforcing or Acting Upon the Invoice

132. D&B restates and incorporates the allegations of paragraphs 1 through 131 as though fully set forth herein.

133. Connecticut courts maintain inherent authority to issue prerogative writs to State agencies and officers in appropriate, limited circumstances.

134. The writ of prohibition is unavailable where an appellate remedy exists.

135. The writ of mandamus is unavailable where any other specific and adequate remedy exists.

136. To the extent that this Court lacks jurisdiction over the foregoing Petition for Administrative Appeal/Counts 1-2, and Complaint/Count 3, D&B lacks any appellate rights or remedy, and no specific and adequate remedy to DCP's imposition of the \$500,000 fee exists.

137. The writ of prohibition is appropriate where issuance will further the interests of justice and secure order and regularity in all tribunals.

138. In the alternative to Counts 1-3, prohibiting enforcement of and any further action upon the Notice and Invoice will further the interests of justice by preventing the unjust imposition of the \$500,000 fee by DCP upon D&B due to DCP's own actions and inactions.

139. In the alternative to Counts 1-3, prohibiting enforcement of and any further action upon the Notice and Invoice will secure order and regularity in all tribunals by preventing DCP from causing fees the body politic to owe fees due to DCP's own contravention of duly-enacted statutes, and subsequently collecting such fees.

140. The writ of mandamus is available where a tribunal is under a mandatory,

ministerial duty to act and the petitioner has a clear legal right.

141. In the alternative to Counts 1-3, ordering DCP to refrain from enforcement of and any further action upon the Notice and Invoice will vindicate the ministerial duties DCP abdicated by failing to provide Backer Application 2 to the Council upon submission.

142. In the alternative to Counts 1-3, ordering DCP to refrain from enforcement of and any further action upon the Notice and Invoice will vindicate D&B's clear legal right to the reduced license conversion fee, set forth in CGS § 21a-420u(a).

WHEREFORE, D&B respectfully requests that this Court:

- (i) Immediately stay the decision of DCP to impose a \$500,000 fee upon D&B Wellness, LLC;
- (ii) Sustain this appeal;
- (iii) Reverse DCP's determination in the Notice dated June 21, 2024, and remand with instructions that the effective date of D&B's EJV Application 2 be, due to equitable tolling or equity or another reason, within the fourteen-month period of CGS § 21a-420u;
- (iv) Award D&B its reasonable attorneys' fees, expenses, and costs pursuant to CGS § 4-184a(b); and
- (v) Enter an injunction and ordering Commissioner Cafferelli, in his official capacity as Commissioner of the Connecticut Department of Consumer Protection, to require the DCP to refrain from taking any action relating to the \$500,000 fee imposed upon

- D&B, including collection, enforcement, and further to refrain from taking any punitive actions such as revocation or suspension of any licenses held by or for which D&B has applied, as a result or in connection with the \$500,000 fee imposed upon D&B; or
- (vi) To issue a writ of mandamus and/or prohibition mandamus ordering the DCP to refrain from taking any action relating to the \$500,000 fee imposed upon D&B, including collection, enforcement, or punitive actions relating to any licenses thereof; or
- (vii) Grant such other relief in law or in equity as is required or appropriate.

PLAINTIFF D&B WELLNESS, LLC

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Its Attorneys

RETURN DATE: September 3, 2024	:
	:
D&B WELLNESS, LLC,	: SUPERIOR COURT
	:
v.	: JUDICIAL DISTRICT OF HARTFORD
	:
CONNECTICUT DEPARTMENT OF	: AT NEW BRITAIN
CONSUMER PROTECTION, and	:
COMMISSIONER OF THE	:
CONNECTICUT DEPARTMENT OF	: AUGUST 5, 2024
CONSUMER PROTECTION BRYAN	:
CAFFERELLI (in his official capacity).	:

STATEMENT OF AMOUNT IN DEMAND

The amount, legal interest, or property in demand is \$15,000.00 or more, exclusive of interest and costs.

PLAINTIFF D&B WELLNESS LLC

By: Sarah A. Westby
 Sarah A. Westby
 Matthew B. Gibbons
 Shipman & Goodwin LLP
 One Constitution Plaza
 Hartford, CT 06103
 Phone: (860) 251-5503
 Email: swestby@goodwin.com
 Email: mgibbons@goodwin.com
Its Attorneys

EXHIBIT A

From: Colebut, Karen <Karen.Colebut@ct.gov>
Sent: Tuesday, May 7, 2024 4:34 PM
To: Evan Preponis
Subject: SEC Notification - Green Acres CT One LLC - ACRE.0015689
Attachments: Green Acres CT One ACRE.0015689 (002).pdf; ACRE.0015689_ADR_240426.pdf

Importance: High

CAUTION: This email originated from outside of the organization. Do not click on links or attachments unless you recognize the sender and know the content is safe.

Good afternoon,

Please see attached notification re: Green Acres CT One LLC.

Best,



Karen Colebut
Paralegal Specialist - Ethics Liasion

Social Equity Council
Phone: 860-712-6517

Karen.Colebut@CT.gov

The SEC is in the process of rebranding as all state agencies, councils, and commissions adopt the new Connecticut branding. The SEC is excited to be a part of the new branding. Stay tuned for our new look and our new logo.

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State of Connecticut
Social Equity Adult-use Cannabis License
Application Determination Report (ADR)

Application Number	ACRE.0015689
License Type	ADULT-USE CANNABIS RETAILER (EJV)
Business Type	LIMITED LIABILITY COMPANY

Based on a review of the documentation provided within the Application, the review supports the determination that the Social Equity Applicant(s) **did not** meet all requirements constituting “social equity” status as defined in the State of Connecticut’s Public Act 21-1 “An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis” (§ 22-165). The results of this review are summarized below.

Residency Requirement: ☐ Eligible ☒ Ineligible

Check the criteria met:

☐	Resident of a disproportionately impacted area for at least five of the ten years immediately before applying
☐	Resident of a disproportionately impacted area for at least nine years before turning 18 years old.

Income Requirement: ☐ Eligible ☒ Ineligible

Check the criteria met:

☐	Income was at or below 300% of the State Median Income for each of the previous three years. • Connecticut State Median Income: \$78,444.00 • 300% of State Median Income: \$235,332.00
--------------------------	---

Ownership Requirement: ☒ Eligible ☐ Ineligible

Check the criteria met:

☐	A business or sole proprietor that has applied for a license for a cannabis establishment and is at least 65% owned and controlled by the social equity applicant.
☒	A business entity created by an expanding producer or converting dispensary facility and is at least 50% owned and controlled by the social equity applicant. (Equity Joint Venture)

Definitions of Ownership and Control:

<i>Ownership</i>
Ownership stake means the possession of equity in the capital, shares, stock, assets, or profits held in a cannabis business by a social equity applicant.
<i>Control</i>
Exercises operational authority over daily affairs of the business.
Has the voting power to direct the management, agents, and policies and receives the beneficial interests of the business.

Additional Notes:**Residency**

The SEA did not provide sufficient documentation to verify residency within a DIA. The SEA's residency in a DIA was only able to be verified for 2.6 of the last 10 years.

Income

The SEA did not provide sufficient documentation to verify their household income was less than 300% of Connecticut's state median income. The SEA listed two household members over the age of 21, however, income documentation was provided for the SEA only. As a result, the SEA does not meet the income requirement.

Ownership & Control

The entity's operating agreement demonstrates that the SEA owns 50% of the business; they exercise operational authority over daily affairs of the business, have the voting power to direct the management, agents, and policies, and receives the beneficial interests of the business.

As a Member and Board of Director, the SEA has authority over large financial and strategic decisions of the Company.

The SEA will be receiving distributions of the Company's Net Profits in proportion to their ownership percentage on a quarterly basis.

The SEA serves on the Board of Directors which has authority over the day-to-day operations of the business.

The operating agreement demonstrates that the SEA is entitled to 3 of 5 votes regarding all Company decisions, which meets the 50% requirement of ownership and control.

EXHIBIT B

From: DCP.Cannabislicensing <DCP.Cannabislicensing@ct.gov>

Sent: Friday, June 21, 2024 1:51 PM

To: Martin Barry <Martin.Barry@Shopbotanist.com>

Subject: AMHF.0008268 Remaining Conversion Fee Due

CAUTION: This email originated from outside of the organization. Do not click on links or attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

Effective with the passing of Public Act 21-1, An Act Concerning Responsible and Equitable Regulation of Adult Use Cannabis on July 1, 2021, the State of Connecticut authorized the existing Medical Marijuana Dispensary Facilities (MMDF) to convert into Adult-Use Hybrid Retailers (AMHF) in order to supply both the medical marijuana and adult use cannabis markets.

The MMDFs that paid a reduced fee for the conversion are required to create an Equity Joint Venture (EJV) within 14 months of their AMHF approval date. **A failure to successfully create an Equity Joint Venture that obtains final licensure by the 14-month deadline will be invoiced for the balance of the conversion fee.** Pursuant to State Statute, there are no exemptions, extensions, or waivers for compliance.

The due date for your Equity Joint Venture is based on the approval date for your AMHF credential. **Accordingly, the 14-month period for AMHF credential AMHF.0008263 expired on June 19, 2024 and the balance of the conversion fee (\$500,000.00) for AMHF credential AMHF.0008268 is now due.** An invoice has been sent in a separate email with wire payment instructions. The balance of the conversion fee is due not later than 30 days from this notice.



Cannabis Licensing
Drug Control Division
Connecticut Consumer Protection
dcp.cannabislicensing@ct.gov

EXHIBIT C

From: Department of Consumer Protection <donotreplylicense2@ct.gov>

Sent: Monday, June 24, 2024 6:18 AM

To: Martin Barry <Martin.Barry@Shopbotanist.com>

Subject: Department of Consumer Protection Invoice

CAUTION: This email originated from outside of the organization. Do not click on links or attachments unless you recognize the sender and know the content is safe.

Re: Type: ADULT-USE CANNABIS MEDICAL HYBRID RETAILER

Number: AMHF.0008268

D&B WELLNESS LLC

Location: 105 MILL PLAIN RD

DANBURY, CT 06811-5198

Dear D&B WELLNESS LLC:

The Department of Consumer Protection is advising you of an outstanding amount due related to your credential listed above.

In order to continue processing your paperwork, pay the amount indicated below:

Amount(s) Currently Due

Conversion to Hybrid Retailer - Remaining Fee:

\$500000.00

Total: 500000.00

Pay online with a credit card at [DCP Online Payment Website](#). Access your account enter the User ID and Password.

After you have completed the login process, click on *Online Services – Pay Outstanding Fees*.

User ID =

Password =

You may mail a check made payable to "Treasurer, State of CT" with **a copy of this email** to:

Department of Consumer Protection

License Services Division

450 Columbus Blvd, Ste. 801

Hartford, CT 06103

Sincerely,

State of Connecticut

Department of Consumer Protection

www.ct.gov/dcp

EXHIBIT D

STATE OF CONNECTICUT
SOCIAL EQUITY COUNCIL | Regular Meeting

Meeting Date: Tuesday, August 6, 2024; 10:00 AM.

Chairperson: Andréa Comer.

Membership: Kyle Abercrombie, Corrie Betts, Avery Gaddis, Subira Gordon, Andréa Hawkins, Michael Jefferson, Daniel Karpowitz, Melvin Medina, Ojala Naeem, Edwin Shirley, Shirley Skyers-Thomas, Kelli-Marie Vallieres, Kevin Walton.

Executive Director:

This is a public meeting via Zoom.

<https://us06web.zoom.us/j/82617305703>

Agenda

1. Call to order and welcome.
2. Attendance.
3. Approval of July 2, 2024, SEC meeting minutes.
4. Executive Session.
 - a. Discussion on Pending Litigation and Personnel Matter.
5. Vote on Equity Joint Venture Application Recommendation.
 - a. Approval
 - i. ACRE.0015689 – Green Acres CT One, LLC
 - ii. AMHF.0008285 – Nightjar I, LLC
6. Committee Reports and Recommendations.
 - Policy/Governance Committee
 - Reinvestment/Workforce Committee
 - Finance Committee
 - Outreach Committee
 - Personnel Committee
 - Strategic Planning Committee
7. For the Good of the Order (New Business, Updates, Information).
8. Adjourn.