

IN THE CIRCUIT COURT OF JO DAVIES COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

EDBQ, LLC )  
)  
Plaintiff, )  
)  
v. ) No. 2021L10  
)  
ILLINOIS DEPARTMENT OF FINANCIAL )  
AND PROFESSIONAL REGULATION; )  
BRETT BENDER, DEPUTY DIRECTOR )  
OF MEDICAL CANNABIS; KPMG, LLP; )  
J.B. PRITZKER, as Governor of the State )  
of Illinois; and AS-YET UNKNOWN )  
JOHN DOES, )  
)  
Defendants. )

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW, Plaintiff, by their attorney, for their Complaint seeking injunctive and declaratory relief against Defendants. In support of the relief requested herein, Plaintiff states as follows:

**INTRODUCTION**

1. The State of Illinois, by way of Senate Bill 7, through the Illinois Department of Financial and Professional Regulation ("Department"), proposed to award 75 Conditional Adult Use Cannabis Dispensary Licenses ("Licenses") on May 1, 2020 to applicants who submitted a Conditional Adult Use Cannabis Dispensary License application ("Application") with the Department on or before January 2, 2020. Department further states if an applicant has a principal officer who is a principal officer in more than

ten (10) Early Approval Adult Use Dispensing Organization Licenses, Conditional Adult Use Dispensing Organization Licenses, Adult Use Dispensing Organization Licenses, or any combination thereof, the applicant must choose which licenses to abandon that are in excess of this limitation.

2. On or about December 9, 2019, Governor Pritzker and the Department amend the amount of licenses available to each applicant to reflect that if an applicant has a principal officer who is a principal officer in more than three (3) Early Approval Adult Use Dispensing Organization Licenses, Conditional Adult Use Dispensing Organization Licenses, Adult Use Dispensing Organization Licenses, or any combination thereof, the applicant must choose which licenses to abandon that are in excess of this limitation. This above-described order has since been deleted from any and all publications located on the Department website, etc.

3. On April 30, 2020, Governor Pritzker suspended the awarding of these licenses to a later undetermined date and time.

4. On or about August 26, 2020, Governor Pritzker and the Department amend the amount of licenses available, for a second time, to each applicant to reflect that if an applicant has a principal officer who is a principal officer in more than ten (10) Early Approval Adult Use Dispensing Organization Licenses, Conditional Adult Use Dispensing Organization Licenses, Adult Use Dispensing Organization Licenses, or any combination thereof, the applicant must choose which licenses to abandon that are in excess of this limitation.

5. On September 3, 2020, the State of Illinois, through the Department, awarded Conditional Adult Use Cannabis Dispensary License application scores (Scores)

and proposed to award the above-described 75 cannabis dispensary licenses collectively worth more than \$1,000,000,000 (billion) dollars to a group of 21 companies, many if not most owned by politically-connected insiders. The applications were graded by KPMG and KPMG determined the scores of each applicant, pursuant to a no-bid \$4.2 million contract awarded to KPMG by the State of Illinois.

6. However, on September 3, 2020, Plaintiff did not receive Conditional Adult Use Cannabis Dispensary License application score (score).

7. Although there was purportedly an open competition to determine eligibility for these 75 licenses, the Department announced planned to award the 75 licenses to these 21 companies by lot (hereafter, the "Lottery") without providing any opportunity for administrative or judicial review for the 4,000+ applicants whom the State has deemed ineligible to participate in the Lottery. Furthermore, the Department never awarded the Plaintiff a score for their application.

8. On September 22, 2020, in response to public outcry over the lottery system, the Department issued a statement called the "Conditional Adult Use Dispensing Organization License Supplemental Deficiency Notice Process" (Deficiency Process). This deficiency process stated that the Department will provide applicants who did not received a perfect score and were excluded from the lottery a supplemental deficiency notice. The supplemental deficiency notice will gave applicants that did not receive the maximum number of points on any exhibit at least 10 days to (a) submit an amended application exhibit or (b) request that the Department review any original application exhibit for potential scoring errors or inconsistencies. Following this deficiency process, the Department stated that it will award the 75 Conditional Licenses among tied applicants pursuant to a lottery

consistent with the Department's administrative rules. At the time of this deficiency process, Plaintiff had not received their score from the department.

9. On September 22, 2020, in response to public outcry over the lottery system, the Department issued a statement called the "Conditional Adult Use Dispensing Organization License Supplemental Deficiency Notice Process" (Deficiency Process). This deficiency process stated that the Department will provide applicants who did not received a perfect score and were excluded from the lottery a supplemental deficiency notice. The supplemental deficiency notice will gave applicants that did not receive the maximum number of points on any exhibit at least 10 days to (a) submit an amended application exhibit or (b) request that the Department review any original application exhibit for potential scoring errors or inconsistencies. Following this deficiency process, the Department stated that it will award the 75 Conditional Licenses among tied applicants pursuant to a lottery consistent with the Department's administrative rules. At the time of this deficiency process, Plaintiff had not received their score from the department.

10. The Plaintiff called and emailed the Department and KPMG on numerous occasions in order to receive a score, but Plaintiff's emails were ignored and Plaintiff's phone calls resulted in promised calls from officials at the department to give Plaintiff their score. These promised return phone calls never materialized. Thereafter, Plaintiff did not receive its score and deficiency notice from the KMPG until March 2, 2021. KPMG and the Illinois Department of Financial and Professional Regulation (IDFPR) stated to Plaintiff that Plaintiff did not receive its initial score until March 2, 2021 because KPMG had their clocks set to Greenwich Mean Time on the date of application submission. Therefore, KMPG incorrectly labeled Plaintiff's submission as late and did not give Plaintiff

a score. It was not until after filing a lawsuit against IDFPR et al and engaging in constant communication with and having assistance from the Illinois Attorney General's office that Plaintiff received a score.

11. Plaintiff submitted its Supplemental Response pursuant to the Deficiency Process from the Department to KPMG on or before March 17, 2021, as prescribed by the notice.

12. On or about July 28, 2021, Department sent Plaintiff an email issuing Plaintiff its new score and stating that there would be three lotteries held for applicants to acquire a license. The three license lotteries would be conducted as follows: 1) a Qualifying Application Lottery taking place on July 29, 2021 where applicants that received a score of 213 out of 250 available points and that received points as a Social Equity Applicant would qualify for two (2) of fifty five (55) licenses available; 2) a Social Equity Justice Involved Lottery taking place on August 5, 2021 where applicants that received a score of 213 out of 250 available points and that received points for meeting the criteria of either paragraph (1) or (2) of the definition of "Social Equity Applicant" would qualify for two (2) of fifty five (55) licenses available and 3) a Tied Applicant Lottery taking place on August 19, 2021 where applicants that received a score of 252 out of 252 available points would qualify for ten (10) of fifty five (55) licenses available. According to the email from the Department, Plaintiff qualified for the Qualifying Application Lottery and the Social Equity Justice Involved Lottery. Plaintiff did not qualify for the Tied Applicant Lottery. However, Plaintiff contends that KPMG improperly graded one (1) Exhibit submitted by Plaintiff pursuant to the Deficiency Process.

13. On or about July 29, 2021, Department conducted the Qualifying

Applicant Lottery and stated that it would award the approximately fifty five (55) licenses to the winners listed in an email that they sent Plaintiff. Many of the approximately fifty five (55) licenses winners were politically connected.

14. On or about August 5, 2021, Department conducted the Social Equity Justice Involved Lottery and stated that it would award the approximately fifty five (55) licenses to the winners listed in an email that they sent Plaintiff. Many of the approximately fifty five (55) licenses winners were politically connected.

15. The Department's decision to go forward with a plan to award licenses to a group of politically-connected insider companies is unconstitutional, and cannot be permitted.

16. As such, there are serious, obvious and objectively verifiable problems with who scored and the manner in which Plaintiff's application was scored, as well as the fact that number of licenses that can be awarded to an applicant that has a principal officer who is a principal officer in was changed from three (3) to ten (10). Accordingly, in conjunction with this Complaint, Plaintiff herein seeks injunctive and declaratory relief for the reasons specified below.

#### **JURISDICTION AND VENUE**

17. This court has proper jurisdiction pursuant to 735 ILCS § 5/2-209(a)(1) and §2-209(s). Venue is proper in this Court pursuant to 735 ILCS § 5/2-101 as Defendant does business in Jo Davies County, Illinois. Venue is also proper under 410 ILCS 705/15-175(b), which provides that "proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides."

## **PARTIES**

18. Plaintiff EDBQ, LLC, is a social equity applicant majority owned and controlled by a veteran, who is a long-time resident of a disproportionately impacted area of Freeport, Illinois. The team includes African American ownership that runs a non-for-profit Illinois Company that sets up a network of therapists and providers to help veterans find physical treatment through assisting veterans obtain medical marijuana licenses, as well as mental health treatment. This team also has female ownership. Furthermore, this team also includes current processors and cultivators of medical cannabis, community organizers, small business owners and young professionals.

19. Defendant Bret Bender is the Deputy Director of the Defendant Illinois Department of Financial & Professional Regulation (the "Department"). Mr. Bender is sued in his official capacity.

## **BACKGROUND**

20. In 2014, the General Assembly passed a law to award licenses to a limited number of companies to sell medical marijuana in Illinois. Called the Compassionate Use of Medical Cannabis Act (the "Act"), the law created for the first time in Illinois a system of licensing dispensaries through which it would be legal to sell marijuana to patients suffering from conditions that are alleviated by marijuana. The Act places the Department in charge of the licenses.

21. Unlike some states in which there are an unlimited number of dispensary licenses, Illinois chose to strictly limit the number of available licenses. That limitation has made these licenses extremely valuable. Some recipients of these licenses

have sold their dispensaries for tens of millions of dollars.

22. In 2019, the General Assembly amended the Act, creating rights to up to 60 new "Early Approval" secondary site dispensary licenses. 410 ILCS 705/15-15. Because, as described above, the State awarded 55 of the 60 available dispensary licenses in the original round, there are likewise 55 businesses eligible for Early Approval secondary site licenses.

23. The Act as amended provides that the only people eligible to win the 55 new Early Approval dispensary licenses are the set of people who already own companies holding existing dispensary licenses. As it turned out, the only companies with existing dispensary licenses are majority-owned by Caucasian males. Zero companies with existing licenses are majority-owned by women or by minorities.

24. There was considerable public outcry over the decision to award the next 55 dispensary licenses to the same people who already owned the existing dispensaries, and one of the primary criticisms was that this decision effectively shut of the cannabis industry many small business owners and entrepreneurs in disadvantaged communities most affected by the War on Drugs.

25. To try to justify this unequal distribution of valuable State resources, the amended Act further provides that minority-owned and female-owned businesses, while ineligible to apply for any of the 55 Early Approval licenses, would nonetheless be eligible to apply for a third round of dispensary licenses, consisting of 75 new licenses, scheduled to be awarded before the end of 2021.

26. In 2019, the Department announced a process to award these 75 Licenses. To compete for them, companies could apply and would be graded on various

measures, with up to 252 total points.

27. The Department selected KPMG via a no-bid, \$4.2M contract to grade the applications.

28. To facilitate participation in the nascent cannabis industry by people disproportionately affected by the War on Drugs, the State announced that 50 of the 250 possible points would be awarded to applicants who qualify as Social Equity Applicants, meaning that the company was majority-owned by person(s) who, for example, either lived in certain zip codes designated as disproportionately affected, or who had prior cannabis arrests.

29. The Defendant, as well as the State and its Governor, promised that this round of new licenses was specifically designed diversify the cannabis industry and open it to Social Equity Applicants who had traditionally been excluded. Members of communities in need of economic development were encouraged to apply. Many did, investing considerable money, sometimes their entire life savings. Numerous teams made up of true Social Equity Applicants spent a year or more preparing applications for a chance to participate.

30. The State announced a special fund of \$20M fund help Social Equity Applicants finance their dispensary businesses in the event they won. Traditional rules that would have required applicants to own and control property during the application process (an expensive proposition) were waived.

31. To further level the playing field, according to the FAQs published by the Department, many of the measures on which applicants were evaluated were designated to be graded via binary scoring, *i.e.*, pass/fail: the applicant either got all of the

points, or did not. Among the measures that were designated pass/fail included the applicant's experience in cannabis, its diversity status, social equity and veteran status, and its community plan.

32. By making the scoring on these key measures binary, the Department created a contest where applicants could not distinguish their credentials on factors such as experience, diversity, and community involvement. The implication of such a scoring system is that many, if not most, applicants would receive maximum (tie) scores.

33. More than 700 companies submitted a total of more than 4,000 applicants. Many of those 700 companies, including the Plaintiff, were majority-owned by true Social Equity Applicants who live in economically disadvantaged areas.

34. In August of 2020, the Department announced emergency rules providing for what would happen if there was a tie for the highest scoring applicants. All such applicants thus became eligible to participate in the Lottery (hereafter, "Tied Applicants").

35. For purposes of the Act, the State is divided into 17 Regions. For most of the State's Regions, the Department will award one to three licensees via this Lottery process. The primary exception was the Region covering the greater Chicagoland area, for which 47 Lotteries will be held to award the 47 Licenses.

36. On September 3, 2020, the Department published a list of Tied Applicants, all of whom scored the maximum 252 points. There were a grand total of only 21 companies, or less than 3% of the total number that applied, and a number of them appear to have overlapping ownership. At this date, Plaintiff was not furnished a score.

37. On September 22, 2020, after public outcry, the Department

published the Deficiency Process in order to give applicants who did not receive the maximum number of points, the ability to correct their deficiencies, while the Department still failed to furnish the Plaintiff with a score.

38. Unlike most graded competitions for cannabis licenses, this one did not control for political influence or bias by scoring anonymously. The vast majority of states that conduct competitions to award cannabis licenses do so via a process that requires applicants to redact the names and affiliations of their principals from the graders for grading purposes.

39. Inexplicably, this competition was not graded anonymously. The application and the FAQs were clear that the Exhibits that would allow KPMG to identify the principal officers of each applicant were to include all personal identifying information. And unlike in other states where an anonymized email address was required for contact purposes through the deficiency process, applicants also received deficiency notices to their personal email accounts directly from KPMG and used those same email addresses to login to the KPMG online portal to upload any exhibits for which they received a deficiency.

40. On September 3, 2020, the same day the Department announced the 21 Tied Applicants, the Defendant did not issue Plaintiff a score and did not issue Plaintiffs a score for approximately seven (7) months thereafter. Therefore Plaintiff was unable to cure any defects until a score was received.

41. The same day that other applicants were informed that they were not Tied Applicants eligible to participate in the Lottery, Plaintiff called, left voicemails and emailed the Department multiple times to inquire as to why Plaintiff had not received a score and requested additional information. The information sought included Plaintiff's scores

and scorecards and any or all documents memorializing the reasons/rationale why Plaintiff did not receive a score and/or score enough points to become Tied Applicants, and any and all documents relating to the scores of those that did.

42. The Department has not responded to a single email. Two agents of the Department contacted the Plaintiff. However, the first Department agent contacted the Plaintiff over a week after a first voicemail was left with the Department and the first agent could not answer the question of why the Plaintiff had not received a score and stated that a second department agent would be contacting Plaintiff to furnish Plaintiff a score. After more than a week after communications with the first Department agent, the second department agent contacted the Plaintiff and the second agent stated that they did not know why the Plaintiff did not have a score and that a third department agent would be contacting Plaintiff. No third agent ever contacted the Plaintiff.

43. Thereafter, Plaintiff was forced to file a suit against the Department et al. After filing the suit, Plaintiff was finally contacted by the Illinois Attorney General's office. Attorney General's office was very prompt and helpful in their communications, but initially had limited information to share with the Plaintiff.

44. After several months of uncertainty, Plaintiff was informed that their application was rejected by KPMG because KPMG had their clocks set to Greenwich Mean Time. As a result of KPMG's malfunctioning clocks, KPMG improperly and erroneously disqualified the Plaintiff. Plaintiff was then informed it would be receiving a score, but there was no information regarding when it would be receiving its score.

45. On March 2, 2021, after approximately seven (7) months of waiting, Plaintiff finally received their score from the Department with instructions to supplement.

46. Thereafter, Plaintiff labored intensely and spent countless hours preparing and submitting their supplemented exhibits pursuant to the deficiency process on or before the submission deadline, March 17, 2021.

47. On July 28, 2021, the Department furnished Plaintiff with their new score and lottery instructions moving forward. The Department sent Plaintiff a new score that was five (5) points away from a perfect score. Plaintiff contends that Plaintiff has a perfect score and one (1) Exhibit submitted by Plaintiff pursuant to the Deficiency Process by KPMG. When properly graded, Plaintiff attests that it will have a perfect score and be eligible for the Tied Applicant Lottery. However, there is no current process to contest KPMG application scoring.

48. Under the State's present plan and pursuant to the email from Department, July 28, 2021, Department will issue 1) approximately fifty five (55) licenses pursuant to a Qualifying Application Lottery that took place on July 29, 2021; 2) approximately fifty five (55) licenses pursuant to a Social Justice Equity Involved Lottery that took place on August 5, 2021 and 3) seventy five (75) licenses pursuant to a Tied Applicant Lottery that shall taking place on August 19, 2021. With the current score issued by the Department, Plaintiff qualified for the first two above-described lotteries. Plaintiff was not selected in the first lottery and has not been furnished the results of the second lottery by the department. With Plaintiff's current score, Plaintiff does not qualify for the third lottery. However, Plaintiff has not been given any explanation for the scoring and has not been given an opportunity to contest the scoring.

49. Having established a procedure where the State is going to give away more than a billion dollars of valuable Licenses, it is unconstitutional to deny Plaintiff a

detailed explanation as to why applicant was not awarded a perfect score in the lone exhibit that did not receive full points and any timely ability to challenge why they were not selected to participate in this lottery. Due process requires a procedure made available in time to obtain a meaningful remedy by participating in the Lottery process.

50. Moreover, state law authorized a total of 185 Licenses; there is no statutory authorization to award more Licenses. If the Plaintiff is not awarded a score and the Lottery proceeds and these Licenses are awarded, the winning applicants begin the process of building their dispensaries. The Department will likely argue that there is no ability to make whole (award a new License) to any unsuccessful applicants who can subsequently prove they should have been permitted to participate in the Lottery, much less that they would have won a License by lot.

51. Plaintiff should have received full points for their score and qualified to participate in the Tied Applicant Lottery. Plaintiff is majority-owned by Social Equity Applicants, and Plaintiff is qualified to operate a dispensary business. Plaintiff submitted an application that should have received all of the available points. Furthermore, Plaintiff needs to be furnished the results of the Social Justice Equity Involved Lottery.

52. Based on their corporate registrations and news articles, at least some of the approximately 55 Qualifying Application Lottery winners are politically connected and/or well connected individuals. These include, for example, Westside Visionaries, owned by former State Senator Rickey Hendon; a company managed by Edie Moore, the Executive Director of the Illinois cannabis lobbying group, NORML; CannaEquality, LLC, a company managed by Stephanie Biegel, founder of Livestream platform Key; GRI Holdings, a group with deep political and industry ties with managers that include Phil Stephani, Restaurateur,

Thomas Wheeler, Jr., former Chicago Police commander and John Trotta, Chicago Transit Authority's former vice president of purchasing and warehousing and consulted by Green Rose Advisors who are led by Ross Morreale, the brother-in-law of former state Reps. Michael McAuliffe and also led by former State Rep. Art Turner Jr., Democratic operative Larry Luster, Jay Stewart, former director of the dispensary state agency and Ashley Barry, former director of operations for the Illinois House of Republican Organization; Illinois gaming operators, including the Jeffrey Rehberger, Chief Executive of Lucky Lincoln Gaming, a slot machine company, Marjorie C. Laws, a retired Cook County Judge, David Dorgan, a former Elgin city manager and Bobby Burns, a newly elected council member in Evanston.

53. There appear to be only a couple, wholly-owned social equity companies. Even more curious, very few of the approximately 55 qualified lottery winners have any obvious connected to the cannabis industry, begging the question of what metric could have justified their selection from among the 700+ others.

54. The Department cannot deprive any applicant from an explanation of scoring and an ability to challenge said score.

55. The way the process has been set up by the Department, Plaintiff is being denied explanation as to answer to why they did not receive a perfect score and any post announcement hearing to challenge the denial of their eligibility to participate in the Tied Applicant Lottery.

56. Absent emergency injunctive relief, by the time Plaintiff has any opportunity for judicial review in this Court, they will have no remedy. The State will argue that it is too late to afford them a License, because the Plaintiff will be provided an

explanation as to why they did not receive a perfect score, not have provided time to challenge, and the 75 dispensaries will be under construction. The State will further argue that there is no entitlement to damages because once the Lottery is over, Plaintiff could never prove definitively that their lot would have been drawn entitling them to a License.

57. This process does not comport with due process. Where the State is awarding enormously valuable Licenses to politically connected insiders, there has to be at least some opportunity for meaningful judicial review. Because the process here was specifically designed to avoid that opportunity, the Lottery should be enjoined until the State provides Plaintiff (and all others who ask) a score and the opportunity to challenge the Department's decision and the information with which to do so, as well as the ability to receive a chance for a license should the Court deem that appropriate.

## **CAUSES OF ACTION**

### **COUNT ONE – DUE PROCESS**

#### **US Constitution XIV Sec. 1 and Illinois Constitution Art. 1, Sec. 2**

58. This process does not comport with due process. Where the State is awarding enormously valuable Licenses to politically connected insiders, there has to be at least some opportunity for meaningful judicial review. Because the process here was specifically designed to avoid that opportunity, the Lotteries should be enjoined until the State provides Plaintiff (and all others who ask) an explanation as to why they did not receive a perfect score and the opportunity to challenge the Department's decision and the information with which to do so, as well as the ability to receive a chance for a license should the Court deem that appropriate. As KPMG was awarded a multimillion dollar no bid contract and throughout this process, has had a history of non communication and

incorrect, erroneous or inaccurate disqualifications as a result of inability to properly set their clocks to the proper time zone, etc., it is imperative that they are forced to explain, in detail, their reasoning of point deductions in instances where applications did not received full points and perfects scores.

59. Plaintiff realleges all allegations of this Complaint as if fully set out herein.

60. By all of the above, Defendants, and each of them, are improperly denying Plaintiff the statutory rights in the application process to which they are entitled. Defendants are also denying Plaintiff the right to an explanation for deducted points of a score and the right to participate in the lottery despite their satisfaction of the objective criteria to determine the participants. Defendants refuse to give any process to challenge their actions. As a result, Plaintiff is being deprived of property rights without due process of law and lack an effective remedy. Plaintiff has been injured as a direct and proximate result.

61. Plaintiff is entitled to an explanation as to why they did not receive a perfect score and the reason for any points deducted in its score and also entitled to sufficient notice of the Department's findings of a deficiency(ies) and the basis therefore as well as an opportunity to contest those findings. Plaintiff is also entitled to be notified of the basis, if any, underlying the Department's decision that they are not a Tied Applicant, and a fair hearing process to challenge that basis. Moreover, these processes must be afforded at a meaningful time when relief can still be effectively granted, *i.e.*, while Plaintiff still has the opportunity to participate in the Lottery or any other award mechanism.

62. To preserve Plaintiff's ability to obtain a remedy and this Court's

ability to afford one, the Court should order the injunctive relief described below.

### **COUNT TWO – DENIAL OF ACCESS TO COURTS**

63. Plaintiff realleges all allegations of this Complaint as if fully set out herein.

64. Defendants are refusing to afford Plaintiff a procedure at the agency level to receive an explanation as to point deduction and challenge the legitimacy of any point deductions and its decision denying them Tied Applicant Lottery.

65. Although Defendants have invited all non-eligible applicants to file lawsuits to challenge the Department's conduct and decisions, Defendants intend to deprive the court of the ability to provide relief for any violation. Specifically, Defendants intend to award the Licenses before any court can act.

66. By all of the above, Defendants, and each of them, are depriving Plaintiff of access to court. If Plaintiff proves a violation by the Department and entitlement to Tied Applicant Lottery, the Department will contend that no Licenses will remain to be awarded such that this Court has no power to grant relief. Plaintiff has been injured as a direct and proximate result.

67. To remedy at least part of Plaintiff's injuries, the Court should issue the injunctive relief demanded below.

### **COUNT THREE – DENIAL OF EQUAL PROTECTION**

68. To remedy at least part of Plaintiff's injuries, the Court should issue the injunctive relief demanded below.

69. Plaintiff realleges all allegations of this Complaint as if fully set out

herein.

70. Plaintiff in this action was treated differently than other similarly situated applicants in that those other applicants were given a perfect score for similar or deficient exhibits, whereas Plaintiff was not.

71. Had Plaintiff been given the correct perfect score, Plaintiff would have qualified for the Tied Applicant Lottery.

72. Plaintiff in this case is a member of a protected class, namely African American. The Department treated Plaintiff differently than applicants of other races in that it awarded them a perfect score for exhibits that were the same or less than the ones submitted by the Plaintiff. This disparate treatment is unjustified, subject to strict scrutiny, and is the result of prohibited animus to favor the other applicants. Plaintiff in this case is also victims of “class of one” equal protection violations in that there is no rational basis for the disparate treatment.

#### **COUNT FOUR – ADMINISTRATIVE REVIEW**

73. Plaintiff realleges all allegations of this Complaint as if fully set out herein.

74. On or about July 28, 2021, The Department awarded Plaintiff a score with one (1) exhibit that did not receive all points possible. There was no explanation as to why points were deducted from the single exhibit.

75. The Department should have reached the conclusion that Plaintiff met all requirements for the highest score and should have been deemed a Tied Applicant as to each of the applications they submitted.

76. The Department is requested to file an answer to this Complaint consisting of the entire record of the process and grading resulting in the decision on Plaintiff's application, including a score, and on the applications of those deemed Tied Applicants.

77. Plaintiffs have exhausted all available remedies under the Administrative Review Law and have no further plain, speedy, adequate remedy under the law.

### **REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiff respectfully requests this Honorable Court declare that Defendants have exceeded their authority under color of law and grant the injunctive relief sought herein, as well as any other relief available in equity or at law, including but not limited to the Licenses under consideration. The injunctive relief sought includes but is not limited to a Court Order:

A. Directing the Defendants to provide to the Plaintiff a conditional adult use cannabis license application score, as none has been provided to the Plaintiff. In the event of a non-perfect score, a detailed explanation as to any deducted points from application and a change to contest. And upon completing that review and possible contest, if Plaintiff's scores qualify for placement in the Lottery, Defendants should be further ordered to permit the Plaintiff participate.

Or alternatively:

B. Temporarily enjoin any future lotteries or license awards until the Court can adjudicate the fairness and accuracy of the Department's process and findings, including but not limited to whether the process for selecting the approximately 110 Qualifying Lottery Applicants and Social Equity

Justice Involved Lottery Applicants and Tied Lottery Applicants and excluding Plaintiff was inherently flawed, marred by conflict of interest, erroneously executed, and/or violated the Plaintiff's rights.

Or alternatively:

C. Issue Plaintiff a conditional adult use cannabis license.

Respectfully submitted,

/s/ Nicholas P. Hyde  
Attorney for Plaintiff EDBQ, LLC

Prepared by:  
Nicholas P. Hyde  
Hyde Law Offices  
1429 Elm St.  
Galena, IL 61036  
Nicholas.paul.hyde@gmail.com