



State of New Jersey
CANNABIS REGULATORY COMMISSION

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SHEILA Y. OLIVER
Lt. Governor

October 15, 2021

Salem Botanicals Corporation
1300 Helen Drive
Suite 201
Newark, DE 19702

Re: FINAL AGENCY DECISION
Denial of Cultivation Permit Endorsement to Operate an Alternative Treatment Center ("ATC") Pursuant to the 2019 Request for Application ("RFA") Process

Dear Olga Feldman,

The New Jersey Cannabis Regulatory Commission ("CRC") has received and reviewed your application for a cultivation permit endorsement, submitted on 8/21/2019, to operate an Alternative Treatment Center ("ATC") pursuant to N.J.S.A. 24:6I-1 et seq. For the reasons stated below, the CRC has denied your application for a cultivation permit endorsement.

By way of background, on July 1, 2019, the Department of Health ("Department") posted a Request for Applications ("RFA") to operate up to twenty-four ATCs, of which up to eight such centers would be in the Northern and Central regions of the state, up to seven would be in the Southern region of the state, and one would be in a region to be determined at the time of award based on patient need. The RFA sought to award permits for up to fifteen dispensaries, five cultivation sites, and four vertically integrated ATCs (granting the ability to cultivate, manufacture, and dispense medical cannabis and medical cannabis products). On August 2, 2019, the RFA was updated to clarify provisions related to the application fees required for vertically integrated permit applications.

To allow for a robust industry with room for different operators, prospective applicants were restricted in the number of applications they could submit. Applicants seeking a vertically integrated permit could submit only one application and could not seek any other permit or endorsement. Applicants not seeking a vertically integrated permit were allowed to submit up to one application per region for a maximum of three applications, and only one application could be for a cultivation endorsement.

No applicant could be awarded more than one permit under the 2019 RFA, and no applicant could hold more than one cultivation endorsement, one manufacturing endorsement, and one dispensary endorsement as a result of the awards made pursuant to the RFA.

Applications for cultivation permit endorsements were due to the Department no later than August 22, 2019, at 3:00 PM. Applicants had the choice of whether to submit the application online and only submit

signed coversheets and checks in person, or to submit the whole application in hard copy/paper form.

The Department received a total of 198 applications, including 40 applications for cultivation permit endorsements, 109 applications for dispensary permit endorsements, and 49 applications for vertically integrated permits. An initial completeness review of all 198 applications was conducted by the Department. Of the 198 applications, 2 were submitted as incomplete applications.

Pursuant to N.J.A.C. 8:64-6.2 (now N.J.A.C. 17:30A-6.2 and 6.4), the Department convened a selection committee in conjunction with the RFA. The selection committee was composed of a total of nine individuals in full-time State service from the Department of Health, the Department of the Treasury, the Department of Environmental Protection, and the Department of Labor.

Selection committee members possessed the following expertise:

- Three members were experienced in the regulation of the cultivation, manufacturing and dispensing of medical cannabis;
- One member had expertise in quality assurance, public health, and emergency preparedness;
- One member had expertise in public health, pharmaceutical assistance, and fiscal management;
- One member had expertise in the management of environmental resources and public affairs;
- One member had expertise in workforce development;
- One member had expertise in labor compliance; and
- One member had expertise in business development and the certification of minority-owned, women-owned, and veteran-owned businesses.

Prior to beginning work on the selection committee, members completed a confidentiality agreement and a business disclosure form so the Department could verify that none of the selection committee members had any outside business interests that would conflict with their work on the committee. Once the completeness review concluded, selection committee members were provided a list of the applicants they would be scoring, including the names of principals, owners, and directors. Every selection committee member signed a certification stating they had no conflicts of interest with respect to the applicants.

The Department organized three trainings for selection committee members:

- Two initial trainings, one on September 19, 2019, and one on September 23, 2019. Each selection committee member attended one of these trainings.
- A refresher training on February 23, 2021, after the stay on proceedings was lifted on February 17, 2021 (discussed in further detail below).

The trainings included an overview of the Department's regulations, an overview of the medical cannabis market as it existed in September of 2019, a comprehensive review of the terms of the RFA and scoring criteria, and the assignments for each team.

The selection committee was divided into three teams of three, with each team responsible for scoring a portion of each permit endorsement application in accordance with specific measures. Each team was responsible for a maximum of 100 points for every permit endorsement sought (100 points for cultivation

and dispensary applications, and 300 points for vertically integrated applications, which includes three permit endorsements).

In December of 2019, following a challenge by several disqualified applicants, the Superior Court of New Jersey, Appellate Division, issued a stay that barred the Department from undertaking any additional work on the 2019 RFA. Despite the Department’s efforts to continue reviewing applications while the Court reviewed the appellants’ claims, the Department was prohibited from reviewing, scoring, and awarding any permits under the 2019 RFA process. The stay imposed by the Appellate Division was vacated on February 18, 2021¹.

Based upon the selection committee’s impartial and thorough review of the applications against the criteria set forth in the RFA, the following applicants received the highest composite scores for cultivation permit endorsements:

| Control # | Name of Applicant | Region | Canopy Size (Sq. Ft.) | Total Scores |
|------------------|---|---------------|------------------------------|---------------------|
| 19-0145 | Hillview Med, Inc. | North | 30,000 | 273.67 |
| 19-0154 | CYOUR NJ LLC | North | 30,000 | 269.67 |
| 19-0164 | Green Medicine NJ LLC | Central | 30,000 | 268.00 |
| 19-0023 | Bloom Medicinals of PA, LLC | South | 30,000 | 260.67 |
| 19-0058 | GCSS Management LLC | North | 20,000 | 257.33 |
| 19-0030 | NJ Nectar Ventures LLC | Central | 20,000 | 251.67 |
| 19-0057 | ZY Labs LLC | Central | 20,000 | 251.33 |
| 19-0192 | Garden State Releaf, LLC | South | 30,000 | 249.67 |
| 19-0172 | The NAR Group Inc. | Central | 20,000 | 241.00 |
| 19-0194 | Unity Alternative Therapy of New Jersey | North | 30,000 | 240.33 |
| 19-0149 | Herbiculture NJ Inc. | Central | 20,000 | 235.00 |
| 19-0182 | Ethereal Green, LLC | South | 20,000 | 234.00 |
| 19-0176 | Noble Valley Harvest Company | Central | 5,000 | 231.00 |
| 19-0089 | Marzy Designs LLC | Central | 20,000 | 228.00 |
| 19-0156 | KARE LLC | South | 20,000 | 225.67 |

This table shows the top fifteen scoring cultivation applications returned by the selection committee. The

¹ Pursuant to N.J.S.A. 24:6I-24(a), the CRC has assumed all responsibility for the Medicinal Marijuana Program from the Department of Health on April 12, 2021. With this transfer of authority came the responsibility to review and approve or deny applications submitted pursuant to the 2019 RFA.

highest possible score for cultivation endorsement applications was 300 points. Total scores for all applications ranged from 117.67 points to 273.67 points.

The CRC selected award recipients in accordance with an objective methodology that ensures that there is an adequate supply of medical cannabis to meet the needs of registered patients, which is a significant component of the purpose and intent of N.J.S.A. 24:6I-1 et al. The selection methodology formulated by the CRC and the post-award measures (1) address patient need; (2) prioritize the highest scoring applicants while also complying with the distribution set out in the 2019 RFA; (3) are driven by data; and (4) include accountability measures that ensure that awardees operate to the standards proposed in their applications. The resulting awardees are expected to get up and running quickly and begin addressing patient need as soon as practicable.

Additionally, to keep pace with expanding patient enrollment, which has continued even after the broad decriminalization of marijuana, the CRC decided to double the cultivation awards issued under the 2019 RFA from five to ten. Doubling the number of cultivation awards issued is consistent with the statutory charge and authority of the CRC to meet patient need and is reflective of expansion of the patient population over the last two years, the projected expansion in the future, and the anticipated loss of capacity that may be associated with the launch of personal-use cannabis sales in the future. Increasing the number of ATCs that can operate in the market also encourages product innovation and price reductions (driving ATCs to compete for the support of the medicinal cannabis patient community) while allowing for a more resilient marketplace (having operators available to supply medicinal cannabis items even if one operator fails).

Furthermore, the CRC has a cohort of qualified applicants who have been waiting for two years to help serve New Jersey's medicinal market and increasing the number of awards issued will put these awards more in line with actual market needs for 2021 and beyond, while enabling market players to better deliver value, access, and product availability to New Jersey's patients.

Consistent with these goals, the CRC selected the top two scorers in each canopy tier – that is, the two highest scoring applicants in the 30,000 square foot tier, the two highest scoring applicants in the 20,000 square foot tier, and the highest scoring applicant in the 5,000 square foot tier – as specifically indicated in the 2019 RFA, providing a total of up to 225,000 square feet of canopy. Next, the CRC selected the next five highest scoring applicants, such that there are at least two cultivators selected from the Northern Region, at least two selected in the Central Region, and at least one selected in the Southern Region. Maintaining this regional distribution should help combat high pricing. The current medicinal cannabis market has failed to produce adequate supply on a consistent basis to keep pace with demand, and by doubling the number of cultivation awards and setting the original permit numbers per region and per canopy tier as a floor and not a ceiling, the CRC is issuing awards that align with its principles outlined above.

In accordance with the above criteria and analysis, the CRC made two selections from the highest scoring 30,000 square foot cultivation applications, resulting in awards to Hillview Med in the Northern Region and CYOUR NJ in the Northern Region. Next, the CRC selected the two highest scoring 20,000 square foot cultivation applications, resulting in awards to GCSS in the Northern Region and NJ Nectar Ventures in the Central Region. Third, the CRC selected its highest scoring 5,000 square foot cultivation

application, resulting in an award to Noble Valley in the Central Region. Finally, the CRC selected the next five highest scoring applicants that were not previously selected for a proposed award in a manner that maintains the described regional distribution of awards, resulting in awards granted to Green Medicine NJ in the Central Region, Bloom Medicinals of PA in the Southern Region, ZY Labs in the Central Region, Garden State Releaf in the Southern Region, and The NAR Group in the Central Region.

These cultivation awards add a total of 235,000 square feet of additional cultivation to the state’s existing capacity and provide for at least two awards per region. Pursuant to the methodology described above, the awards are as follows:

- a. The two highest scoring 30,000 square foot cultivation applications:

| Control # | Applicant Name | Region | Canopy Size | Total Score |
|-----------|--------------------|--------|-------------|-------------|
| 19-0145 | Hillview Med, Inc. | North | 30,000 | 273.67 |
| 19-0154 | CYOUR NJ LLC | North | 30,000 | 269.67 |

- b. The two highest scoring 20,000 square foot cultivation applications:

| Control # | Applicant Name | Region | Canopy Size | Total Score |
|-----------|------------------------|---------|-------------|-------------|
| 19-0058 | GCSS Management LLC | North | 20,000 | 257.33 |
| 19-0030 | NJ Nectar Ventures LLC | Central | 20,000 | 251.67 |

- c. The highest scoring 5,000 square foot cultivation application:

| Control # | Applicant Name | Region | Canopy Size | Total Score |
|-----------|------------------------------|---------|-------------|-------------|
| 19-0176 | Noble Valley Harvest Company | Central | 5,000 | 231.00 |

- d. The next five highest scoring applications that have not been previously selected for a proposed award, such that, among the total 10 selected applicants, there are at least two cultivators selected from the Northern Region, two selected from the Central Region, and at least one selected from the Southern Region:

| Control # | Applicant Name | Region | Canopy Size | Total Score |
|-----------|-----------------------------|---------|-------------|-------------|
| 19-0164 | Green Medicine NJ LLC | Central | 30,000 | 268.00 |
| 19-0023 | Bloom Medicinals of PA, LLC | South | 30,000 | 260.67 |
| 19-0057 | ZY Labs LLC | Central | 20,000 | 251.33 |
| 19-0192 | Garden State Releaf, LLC | South | 30,000 | 249.67 |
| 19-0172 | The NAR Group Inc. | Central | 20,000 | 241.00 |

Based on a full and thorough review of each application against the requirements set forth in the RFA, the composite scores enumerated by the Commission, the selection methodology detailed above, and in accordance with the purposes of N.J.S.A. 24:6I-1 et al. and P.L.2009, c.307 and the regulations promulgated thereunder, the CRC hereby DENIES the following application:

Applicant: Salem Botanicals Corporation

Region: South

Score: 117.67

You have the right to appeal the Commission's decision to the Superior Court of New Jersey, Appellate Division, by Monday, November 29, 2021 (45 days from the date of this letter) in accordance with the Rules Governing the Courts of the State of New Jersey. All appeals should be directed to:

Superior Court of New Jersey
Appellate Division
Attn: Court Clerk
P.O. Box 006
Trenton, New Jersey 08625

Should any awardee fail to accept their award within five (5) business days of the award notification, or if an award is rescinded due to an awardee's failure to abide by the post-award accountability terms and conditions, the next highest scoring applicant, such that the award would be consistent with the regional and canopy requirements of the 2019 RFA, will be presented to the Commission for consideration of an award.

Any applicant with questions regarding the 2019 RFA process and methodology, and any unsuccessful applicant that wishes to file a grievance with the Commission, may do so by submitting their question or grievance in writing to crc.licensing@crc.nj.gov by 5:00 p.m. Eastern Time on October 19, 2021. Multiple questions/grievances can be submitted together but must be numbered. Responses to submissions deemed relevant to the 2019 RFA process and methodology will be provided within 30 days – by 5:00 p.m. Eastern Time on November 18, 2021. The question and grievance period should only be used for the purpose of addressing questions and complaints related to the 2019 RFA process and methodology. All other questions should be submitted through the Commission website and will be answered in the regular course of business.

Pursuant to N.J.A.C.8:64-6.5 (now N.J.A.C. 17:30A-6.5) and the terms of the RFA, your check(s) valuing \$4,000.00 will be destroyed. Thank you for your interest in operating an ATC.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dianna Houenou', with a horizontal line extending to the right.

Dianna Houenou

Chairperson

New Jersey Cannabis Regulatory Commission