



Finkle Law Office

May 17, 2021

Governor Gavin Newsom
1303 10th Street, Suite 1173
Sacramento, CA 95814

RE: Administration of the California Cannabis Equity Act.

Dear Governor Gavin Newsom:

I am writing to you on behalf of our client, the California Cannabis Equity Alliance, an organization that speaks for equity businesses and workers throughout California, about the State's administration of the California Cannabis Equity Act (the "Act"). As you know, the Act was passed in 2018 to begin remedying those material harms suffered by communities ravaged by the War on Drugs by providing them with a unique economic opportunity. Specifically, the State set out to "[a]ssist local equity applicants or local licensees... to gain entry to, and to successfully operate in, the state's regulated cannabis marketplace" (*California Business and Professions Code*, § 26244(b)(1)). I am writing to inform you that the State of California has failed to achieve this lofty policy goal and that Finkle Law Office is prepared to file a writ of mandate to ensure that the State fulfills its duty of providing these benefits to its marginalized communities.

The State's duty to provide economic opportunity to the equity communities simply is not being fulfilled, and very few equity applicants have ever seen funding or support come their way. Further, what little funding and support is trickling through to equity applicants is not preparing them to enter the regulated market. Most equity business owners do not have a background in business, nor can they afford the legal support necessary to ensure that contractual agreements protect their interests. Trusting that the Act, and all the promises that surround it, would provide them with funding and the knowledge necessary to take advantage of a once-in-a-lifetime opportunity, many people previously harmed by the War on Drugs threw themselves and their lifesavings into cannabis businesses. Unfortunately, that trust was misplaced, and the State's failure to ensure that the funds actually reach and benefit these equity applicants has caused material economic and emotional harm. Meanwhile, wealthy white cannabis business owners are thriving in the regulated market. Many in the equity community feel as if they were set up to fail.

Both LaNaisha Edwards and Anibal Mejia, who bravely allowed their stories to be included here, experienced the State's dereliction of duty quite acutely. LaNaisha first heard about cannabis equity programs in 2018. Policy talking points like, "opportunity for those negatively impacted or disproportionately impacted by the War on Drugs" piqued her interest. She thought, "How can me and my family get involved? We were impacted by this. We are those people that you're speaking about. That's us." LaNaisha grew up with a mother, father, and over 10 male and female cousins cycling in and out of incarceration due to the War on Drugs. It destroyed their lives, ruined their families, and caused most of her family to grow up in poverty. Like many in her Los Angeles community, she threw herself head-first into the cannabis market, hoping to gain some generational wealth for her and her family. Anibal had the same thought: "when we heard about

this program... it was like a light at the end of the tunnel. Like, OK, this is going to change my family's life. This is an opportunity where, if we work hard, we're going to open this business and the future is going to be better... It was like God heard our prayers."

However, the cannabis market in California is densely regulated, and it comes with a high price of entry. Expensive application fees, rent prices, and a thousand other startup costs prohibit most equity applicants from entering the market. The Act was, in large part, supposed to remedy this. Or, as the Governor's Office of Business and Economic Development ("**Go-Biz**") put it, the purpose of the grant programs created by the Act was to provide, "support to local jurisdictions as they promote equity and eliminate barriers to enter the newly regulated cannabis industry" (*Grant Application Solicitation*, 4). Equity applicants depended on this, said LaNaisha, "[i]t was presented as a promise, not [just] a dream." Unfortunately, like many equity applicants, neither LaNaisha nor Anibal saw these funds or programs come through for them. When it came to access to capital, LaNaisha succinctly summarized the sentiment of most equity applicants: "Access to capital? What capital?" Many in the equity space sold their possessions and/or took out second mortgages to compensate for the lack of funding and to avoid missing out on the opportunity. Others, like Anibal, turned to opportunistic investors who expected disproportionate returns. Without access to these promised funds, he was entirely dependent on, "the rich man" to get his cannabis business off the ground.

These solutions led to predictable ends: failed businesses, debt, and a searing sense of inadequacy. Why? Because the State failed to ensure that equity applicants actually received support and education on how to succeed in the highly regulated industry that it created. "We were told that there was money put aside to educate us on the business side, and how to read regulations, and how to process [those regulations]", remembers LaNaisha. Most equity applicants do not have a background in business. They are not fluent in legalese. Most importantly, they do not have the funds to hire professionals to educate them or to represent their interests. They trusted that, as promised by the state, with funds would come educational programs and support to navigate dense regulations. Most are still struggling to understand the business side of the industry and have resorted to forming and joining non-profit groups to compensate for the State's shortcomings. "All the information that I have now, I learned when I got to [Social Equity Operators & Workers Association]," said Anibal. "We were told that we would receive this support and this education... and the first thing we did was sit in our fear—there's a lot of shame in not knowing how to navigate these spaces," observed LaNaisha.

Because of the lack of access to funding and education, most equity applicants feel like they were set up to fail. As Anibal put it, "I feel like I won the lottery, but I lost my ticket." The economic promise made to equity applicants simply is not a reality for the great majority of them. As equity applicants struggle to get basic startup costs and necessary guidance, wealthy and predominantly white cannabis business owners are thriving. Understandably, this scene of struggling black and brown business owners fighting for basic necessities while predominantly white business owners are already consolidating their local empires evokes painful memories and a deep feeling of resentment. For equity applicants, the State's failure is about much more than lost economic opportunities. It's about posturing to the general public to gain political points. It's about commodifying the suffering of black and brown people. As LaNaisha puts it, "I think that everyone thinks that this [frustration with the State] is a cannabis issue, but it's not. This is a community issue. This is about [the State] continuing to rob us of things that are owed to us. This

is about them profiting off of our pain, but when we try to profit off of our own pain, we get shut down... I have no faith in them.”

As a result of the State’s inaction to ensure that local jurisdictions properly disbursed grant monies and provided necessary support for equity businesses, many of them have suffered significant monetary damages, a searing sense of inferiority, and a nagging guilt for letting themselves believe that anyone wanted to help them in the first place. As such, our client makes the following demands of the State to remedy its shortcomings:

- (1) Establish an Equity Oversight Commission Comprised of at Least Some Equity Stakeholders.** Governor Newsom’s proposed “Deputy Director of Equity and Inclusion” is insufficient to integrate the concerns of the equity community into the actions of State agencies. Black and Brown voices from communities impacted by the State’s actions need to be a part of the decision-making process.
- (2) Grant the Equity Oversight Commission the Power to (a) Review Grant Agreements with Local Jurisdictions, (b) Conduct Audits, and (c) Compel Local Jurisdictions to Disburse Grant Funds Received.** Current Grant Agreements with local jurisdictions contain provisions allowing the Bureau of Cannabis Control and/or Go-Biz to conduct audits of local equity programs and compel them to return unused funds. Local jurisdictions must be held to their word and only the State may do so. Empower the communities who are supposed to be benefited by the grant monies to hold local jurisdictions responsible.
- (3) Allocate \$50,000,000 to Go-Biz for Social Equity Funding as Called for by Senator Bradford in his March 13, 2021 Budget Request.** Allocate \$20,000,000 for Local Equity Grants, and \$30,000,000 for a State Cannabis Tax Fund to reduce barriers to market entry for equity applicants.
- (4) Lower the State Excise Tax on Social Equity Businesses to 5%.**
- (5) Institute State Application Fee Waivers, License Fee Waivers for Social Equity Businesses, and a Business Tax Credit.** All of which are contained in Senator Bradford’s SB 603.
- (6) Incorporate San Francisco’s Social Equity Model into the State Licensing Process, with Priority Processing for Equity-Qualifying Businesses.**
- (7) Allow Social Equity Businesses, Community-Based Organizations, and Non-Profits to Apply Directly to Go-Biz for the Social Equity Grants Authorized by the Act.**

Finkle Law Office and the California Cannabis Equity Alliance look forward to your response and would be willing to schedule a time to meet, review, and discuss how to best implement the foregoing demands. We are amenable to an amicable resolution of this matter, and it is not our desire to engage in unnecessary litigation and public posturing. However, if we do not hear from you by May 31, 2021, we will assume that you are not interested in resolving this matter without going to court.

Sincerely,



Blakely Thomas Vogel

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