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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

JLPR, LLC, a Utah limited
liability company;

Plaintiff

v.

Utah Department of Agriculture and food,
Utah Division of Purchasing, General
Services, The State of Utah, Scott Ericson,
Kerry Gibson, Kelly Pehrson, Andrew Rigby,
Cody James, Natalie Callahan, Mellissa Ure,
Brandy Grace, Christopher W. Hughes, Mark
Anderson, Zac Christensen, Stephanie Casta,
Standard Wellness Utah, LLC, and True
North of Utah, LLC.

Defendants.

COMPLAINT AND JURY DEMAND

Case No. 2:21-cv-00436

District Judge: Ted Stewart

Plaintiff JLPR, LLC (“JLPR” or “Plaintiff”) through the undersigned counsel, sues the Utah Department of Agriculture and Food (“DAF”), the Utah Division of Purchasing and General Services, the State of Utah, Scott Ericson, Kerry Gibson, Kelly Pehrson, Andrew Rigby, Cody James, Natalie Callahan, Mellissa Ure, Brandy Grace, Christopher W. Hughes, Mark

Anderson, Zac Christensen, Stephanie Casta, Standard Wellness Utah, LLC, and True North of Utah, LLC.

INTRODUCTION

In 2018 Utah voters approved the Utah Medical Cannabis Act, AKA “Proposition 2.” The law, as later revised by the State Legislature, provided for “the cultivation, processing, medical recommendation, and patient use of medical cannabis” within the State of Utah.

Unlike some states in which there are an unlimited number of cultivation licenses or a large number of cultivation licenses, the Utah Legislature chose to strictly limit the number of available licenses to ten (later changed to eight). This limitation has made these licenses extremely valuable. Indeed, on information and belief, at least one cultivation license recipient quickly turned around and sold its company for millions of dollars after obtaining a license.

In June of 2019, the State of Utah opened up an application process for licenses to cultivate medical marijuana within the state of Utah (Solicitation #DB199063).

Plaintiff JLPR timely applied for a license to cultivate medical cannabis in the state. However, due to a variety of improper conflicts of interest, scoring irregularities, scoring collusion among evaluators, alteration of evaluators’ scores to align with senior management’s favored companies, biases, failures to follow the law, and other failures of the DAF (as will be detailed more fully below), JLPR was not awarded a cultivation license.

JLPR timely appealed the DAF’s denial of a Cultivator License to a DAF Protest Officer, who denied the protest, and then to the Procurement Board of the Utah Division of Purchasing and General Services who also denied JLPR’s appeal. The Procurement Board’s decision is extremely sparse. The entire discussion of the merits of the appeal consists of only two single short paragraphs and concludes, without support or discussion, that “JLPR failed to provide any

facts or evidence in support of its claims” and accepting the Protest Officer’s decision that he “found no evidence of the evaluation committee violating the Utah Procurement Code or failing to follow a provision of the Solicitation in its proceedings.”

The Panel simply ignored the evidence and facts provided by JLPR.

The Panel’s decision is especially troubling in light of the clear conflicts of interest that existed among multiple panel members, which will be detailed below.

After this denial, JLPR and its attorneys sought documents from the DAF through a GRAMA request. The DAF challenged this GRAMA request, providing some documents while withholding others. JLPR appealed this refusal and, after a formal settlement conference before the State Department of Records in which the DAF agreed to provide some additional documents, JLPR agreed to dismiss the remainder of this GRAMA appeal.

The documents which JLPR obtained through its GRAMA request and other investigations JLPR has undertaken further show widespread bias, conflicts, errors, failures to follow the law, and other problems with the evaluation process.

On November 17, 2020 the Office of the State Auditor published an audit of the DAF, including of the evaluation process used to select cannabis grower licenses (the “Audit” or “Report”). The stated purpose of this Audit was in response and to “asses the validity” of allegations that the Department failed to comply with the law, as have been raised by JLPR in its formal protest and appeal and this Complaint, as well as in the news media and elsewhere.

The State Auditor’s Office “reviewed the scoring from the evaluation process used to award cannabis grower licenses for propriety and compliance with Utah Code” and “performed a statistical analysis designed to identify groupings among evaluation committee member scores.”

This Audit found “Concerns Regarding UDAF Administration,” and “weaknesses in UDAF’s control environment” which the Auditor concluded “resulted in... Concerns regarding bid selection [and] Undisclosed conflicts of interest.”

The Audit also noted “concerns about certain factors and conditions that call into question the independence of the process” of the evaluation.

The official Audit of DAF records details serious problems with the cannabis cultivation license evaluation scoring under the headers “Significant Score Correlation Could Indicate Lack of Scoring Independence” and “Significant Modifications to Scores Aligned with Senior Management Preferences.”

The conflicts of interest, scoring problems, and failures to follow the law uncovered by the Audit during the evaluation process for cannabis cultivation licenses were so severe that the State Auditor’s Office issued a formal recommendation that the UDAF “[r]eassess the licenses awarded.”

This Audit confirmed and further detailed many of the serious problems with the license selection process and further demonstrates that JLPR was unlawfully denied a cultivation license.

PARTIES

1. Plaintiff JLPR, LLC is a Utah Limited Liability Company with its principle place of business in the State of Utah.
2. Defendant the Utah Department of Agriculture is an agency of the State of Utah.
3. Defendant the Utah Division of Purchasing and General Services is an agency of the Sate of Utah.
4. Defendant the State of Utah is a state government.

5. Defendant Scott Ericson is an individual residing in the state of Utah who was at one time the Deputy Commissioner of the Department of Agriculture. Mr. Ericson conspired with the other Defendants, including state officials, to deprive JLPR of its federally protected rights.
6. Defendant Kerry Gibson is an individual residing in the state of Utah who was at all relevant times the Department Commissioner of the DAF. He is sued in his individual capacity.
7. Defendant Kelly Pehrson is an individual residing in the state of Utah who was at all relevant times a DAF Evaluation Committee member for Solicitation #DB199063. He is sued in his individual capacity.
8. Defendant Andrew Rigby is an individual residing in the state of Utah who was at all relevant times a DAF Evaluation Committee member and chair for Solicitation #DB199063. He is sued in his individual capacity.
9. Defendant Cody James is an individual residing in the state of Utah who was at all relevant times a DAF Evaluation Committee member for Solicitation #DB199063. He is sued in his individual capacity.
10. Defendant Natalie Callahan is an individual residing in the state of Utah who was at all relevant times a DAF Evaluation Committee member for Solicitation #DB199063. She is sued in her individual capacity.
11. Defendant Mellissa Ure is an individual residing in the state of Utah who was at all relevant times a DAF Evaluation Committee member for Solicitation #DB199063. She is sued in her individual capacity.

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