

**STATE OF MINNESOTA****DISTRICT COURT****COUNTY OF RAMSEY****SECOND JUDICIAL DISTRICT****CASE TYPE: OTHER CIVIL**

Wild Domain, LLC,

Court File No.: \_\_\_\_\_

Plaintiffs,

v.

**COMPLAINT**

Minnesota Office of Cannabis Management;  
and Charlene Briner, in her capacity as  
Interim Director of the Minnesota Office of  
Cannabis Management,

Defendants.

**COMPLAINT FOR WRIT OF MANDAMUS AND INJUNCTIVE RELIEF**

Plaintiff Wild Domain, LLC, by and through its undersigned counsel, hereby submits this Complaint for a writ of mandamus and injunctive relief.

**SUMMARY OF CLAIMS**

1. Defendant Minnesota Office of Cannabis Management (“OCM”) has ignored its statutory obligations and violated Plaintiff’s due process and equal protection rights by incorrectly denying Plaintiff’s application for preapproval without first providing Plaintiff with a deficiency notice and an opportunity to cure the bases for denial.

2. Plaintiff is a qualified social equity applicant. Plaintiff submitted a timely application for preapproval. The OCM deemed that application incomplete and sent Plaintiff a deficiency notice regarding the uploaded photo ID and failure to click the radio button on one of their exhibits. Plaintiff cured that deficiency within the timeframe allowed

3. Nevertheless, the OCM denied Plaintiff’s preapproval application, barring Plaintiff from participating in the forthcoming preapproval lottery. The Department’s denial was not based on the items identified in the deficiency notice (which had been cured), but was based on Plaintiff’s alleged failure to provide trade name information and a point of contact.

But Plaintiff provided the requisite trade name information and point of contact in its original preapproval application.

4. To make matters worse, the OCM has informed Plaintiff that it has no right to challenge the OCM's decision, telling Plaintiff that it "is not eligible to appeal or request a hearing."

5. The OCM's handling of Plaintiff's application has been flawed from the start and has violated Plaintiff's due process and equal protection rights in a myriad of ways: (1) the OCM failed meet its statutory obligation and give Plaintiff a deficiency and opportunity to cure all the items in the application that OCM deemed incomplete; (2) OCM gave similarly situated applicants a deficiency notice and right to cure all items in their applications that the OCM deemed incomplete; (3) the OCM denied Plaintiff's application for plainly incorrect and arbitrary reasons; and (4) the OCM failed to give Plaintiff a meaningful opportunity to challenge the denial at a meaningful time.

#### **THE PARTIES**

6. Plaintiff Wild Domain, LLC is a Minnesota limited liability company that submitted a preapproval application for a cannabis retailer license.

7. Plaintiff is wholly owned by David Womack, social equity qualifier.

8. Defendant OCM is a Minnesota government entity entrusted with, among other things, carrying out a true and fair application and lottery process for the issuance of cannabis licenses that will entitle the winners to operate cannabis businesses within Minnesota.

9. Defendant Briner is the Interim Director of the OCM. Ms. Briner and the OCM will be referred to collectively as the "OCM."

## JURISDICTION AND VENUE

10. Jurisdiction is proper under Minnesota Statute, Sections 586.11 (giving district courts exclusive jurisdiction in all cases of mandamus) and 543.19(1)(3) (providing for jurisdiction when defendant commits acts in Minnesota causing injury).

11. Venue is proper in this Court pursuant to Minnesota Statute, Section 542.03(1) because the OCM took the complained of actions, and the causes of action arose, in Ramsey County.

## FACTS COMMON TO ALL COUNTS

### **The Minnesota Legislature legalizes cannabis for adult use and creates a fair, equitable, and user-friendly preapproval process for social equity applicants.**

12. In 2023, the Minnesota Legislature passed Minnesota Statute, Section 342.01 *et seq.* (the “Act”), legalizing cannabis for adult use in Minnesota.

13. In 2024, the Minnesota Legislature amended the Act during the regular legislative session (the “Session Law”). *See* Chapter 121, Art. 2 & 3.

14. Like many states that have legalized adult-use cannabis, the Minnesota Legislature focused on ensuring that the adult-use cannabis market in Minnesota was equitable and advanced the interests of social equity applicants.

15. Like many states creating adult-use cannabis markets with a focus on social equity, the Minnesota Legislature sought to ensure that bona fide social equity applicants were not shut out from receiving licenses due to the complexities and costs associated with applying for adult-use cannabis licenses.

16. Accordingly, Section 148 of the Session Law sets forth the process by which the OCM shall preapprove social equity applicants to operate in the adult-use cannabis market.

17. Section 148(1) of the Session Law explains the preapproval process for social equity applicants and the number of preapprovals available.

18. Section 148(2) of the Session Law establishes that only qualified social equity applicants are eligible for preapproval.

19. Section 342.17 of the Act, as amended by Section 71 of the Session Law, identifies who qualifies as a social equity applicant.

20. Section 148(3) of the Session Law establishes the preapproval period, which was required to begin no later than July 24, 2024 and end on August 12, 2024.

21. Section 148(4) of the Session Law addresses what must be included in any preapproval application.

22. Of importance here, Section 148(4)(c) specifically states that “[i]f the [OCM] receives an application that fails to provide the required information or pay the applicable application fee, the [OCM] shall issue a deficiency notice to the applicant that states the amount of time that the applicant has to submit the required information or pay the application fee to the [OCM].”

23. Section 148(5) of the Session Law sets forth the process by which the OCM must verify the social equity state of applicants seeking preapproval.

24. Section 148(6) of the Session Law states that if there are more preapproved social equity applications than available preapprovals, the OCM will conduct a lottery amongst the preapproved applicants to determine which applicants receive the preapproval and can proceed to the licensing stage.

**David Womack Applies for a Preapproval as a Social Equity Applicant**

25. Plaintiff is a qualified social equity applicant because Plaintiff’s 100% owner, David Womack, received social equity verification on July 16, 2024. A redacted copy of the social equity verification report is attached as **Exhibit 1**.

26. On August 12, 2024, Plaintiff timely submitted an application for preapproval to the OCM for preapproval for a cannabis retailer license.

**The OCM provides Plaintiff with a deficiency notice and Plaintiff cures the deficiencies.**

27. On October 16, 2024, the OCM sent Plaintiff a deficiency notice (the “Deficiency Notice”) identifying the following deficiencies: “The Photo ID you provided in your application in the Accela Citizen Portal does not verify your date of birth” and “The Disclosure of Ownership and Control document that you provided in your application in the Accela Citizen Portal is missing the radio button selections on the final page.” The Deficiency Notice is attached as **Exhibit 2**.

28. On October 24, 2024, Plaintiff responded to the Deficiency Notice.

**The OCM denies Plaintiff’s preapproval for reasons not identified in the deficiency notice.**

29. On November 18, 2024 the OCM sent notice to Plaintiff that its preapproval application was denied (the “Denial Notice”). The Denial Notice is attached as **Exhibit 3**.

30. The Denial Notice indicates that Plaintiff’s application was denied because Plaintiff’s application was incomplete. *Id.*

31. Specifically, the Denial Notice asserts that Plaintiff failed to provide the requisite trade name information and failed to provide a point of contract. *Id.*

32. At no time between August 12, 2024 and November 18, 2024 did the OCM issue a deficiency notice to Plaintiff or give Plaintiff an opportunity to provide the OCM with the information identified in the Denial Notice.

33. If Plaintiff had received a deficiency notice for the missing information identified in the Denial Notice, it would have been able to show the OCM that it had already provided the required information and/or provide that information to the OCM again.

**The OCM admits that it issued deficiencies to some applicants but not others.**

34. Immediately following its denial of Plaintiff’s preapproval application, news articles appeared indicating that the OCM had rejected nearly two-thirds of the 1,817 social

equity preapproval applications that had been submitted, meaning the OCM rejected approximately 1,200 preapproval applications.

35. Interim Director Briner spoke to the media about the denials and admitted that the OCM had only sent deficiency notices to about 300 applicants seeking preapproval, meaning hundreds of applicants, including Plaintiff, were not given the opportunity required by the Act to cure certain deficiencies in their preapproval applications.

36. Interim Director Briner justified the OCM's decision to not issue deficiency notices by asserting that "allowing everyone to fix every single error would take months and delay businesses from opening." See Matt Sepic, *Cannabis regulator faces heat after rejecting over 1,000 initial applicants*, MPRNews, Nov. 20, 2024, available at: <https://www.mprnews.org/story/2024/11/20/cannabis-regulator-faces-heat-after-rejecting-over-a-thousand-initial-applicants>.

37. Neither Interim Director Briner nor anyone from the OCM has explained how the OCM determined who would receive the deficiency notices required by the Act, and who would not.

**Plaintiff will suffer immediate and irreparable harm if the OCM conducts the preapproval lottery without its participation.**

38. On information and belief, the OCM plans to proceed with the preapproval lottery imminently, likely during the week of December 2, 2024.

39. As it currently stands, Plaintiff would not be included in the preapproval lottery.

40. Should the preapproval lottery proceed without Plaintiff, Plaintiff will suffer immediate and irreparable harm because applicants will be selected for a limited number of preapprovals, and there will be no additional preapprovals available even if Plaintiff prevails in this action

**COUNT I**  
**WRIT OF MANDAMUS**

41. Plaintiff realleges Paragraphs 1-40 as if fully set forth herein.

42. Section 148(4)(c) *requires* the OCM to issue a deficiency notice and provide an applicant with an opportunity to cure an incomplete application prior to denying that application.

43. The OCM failed to perform the obligations required by Section 148(4)(c) of the Act when it denied Plaintiff's preapproval application with first providing Plaintiff with a deficiency notice and an opportunity to cure all the information allegedly missing from its application.

44. The OCM's failure to perform its obligations has caused serious injury to Plaintiff, who was deprived of an opportunity to correct its incomplete preapproval application and participate in the upcoming lottery.

45. Plaintiff has no other adequate legal remedy. If the OCM does not issue a deficiency notice to Plaintiff before the lottery, the lottery will proceed without Plaintiff and all the available preapprovals will be taken.

**COUNT II**  
**VIOLATION OF SUBSTANTIVE DUE PROCESS**  
**(Failure to Provide Deficiency Notice)**

46. Plaintiff reallages paragraphs 1-40 as if fully set forth herein.

47. The Act provides Plaintiff with an unequivocal property interest in receiving a deficiency notice if its application is incomplete.

48. The OCM deprived Plaintiff of that property interest when it failed to provide Plaintiff with the deficiency notice required by the Act and an opportunity to cure all the information purportedly missing from its application.

49. As detailed herein, the OCM's actions have been inconsistent, incorrect, confusing, arbitrary, and patently unfair to Plaintiff, a bona fide social equity applicant.

50. Plaintiff has been injured as a direct and proximate result of OCM's actions

**COUNT III  
VIOLATION OF PROCEDURAL DUE PROCESS  
(Failure to Provide Deficiency Notice)**

51. Plaintiff reallages paragraphs 1-40 as if fully set forth herein.

52. A fundamental precept of procedural due process is the right to be heard at a meaningful time and in a meaningful manner regarding the deprivation of property.

53. The Act provides Plaintiff with an unequivocal property interest in obtaining preapproval if it meets the requirements of the Act.

54. The deficiency notice (and corresponding right to cure) is critical to ensuring applicants have an opportunity to be heard at a meaningful time and in a meaningful manner regarding the denial of a preapproval application.

55. In denying Plaintiff's preapproval application without providing Plaintiff with a deficiency notice and opportunity to cure the purportedly missing information, the OCM has deprived Plaintiff of its property right without an opportunity to be meaningfully heard.

**COUNT IV  
AS APPLIED VIOLATION OF EQUAL PROTECTION  
(Failure to Provide Deficiency Notice)**

56. Plaintiff reallages paragraphs 1-40 as if fully set forth herein.

57. The OCM has violated Plaintiff's right to equal protection under the law by providing some similarly situated applicants with deficiency notices and an opportunity to cure all the alleged deficiencies in their preapproval applications but not affording Plaintiff with that same opportunity.

58. Plaintiff's preapproval application was submitted at the same time as the applications of the similarly situated preapproval applicants who received deficiency notices and an opportunity to cure all purported deficiencies as required by Section 148.

59. Upon information and belief, many of those similarly situated preapproval applicants cured all their deficiencies and received preapproval for entry into the lottery.

60. The OCM intentionally and arbitrarily denied Plaintiff's preapproval application without providing the statutorily required deficiency notice and opportunity to cure because it determined it would take too long to allow all preapproval applicants to provide complete information, despite the statutory requirement to do so.

61. The OCM's differing treatment of Plaintiff and other similarly situated preapproval applicants amounts to invidious discrimination; the Act requires notice and an opportunity to cure, the OCM provided that notice and opportunity to similarly situated applicants but not to Plaintiff, and the OCM's denial of Plaintiff's application fails to explain the basis for the denial and purports to be unreviewable.

62. There is no discernable, let alone rational, basis for the OCM to provide some preapproval applicants with deficiency notices and an opportunity to cure all their alleged deficiencies, while denying that statutorily-guaranteed right to Plaintiff.

**COUNT V**  
**VIOLATION OF SUBSTANTIVE DUE PROCESS**  
**(Incorrect Denial of Preapproval Application)**

63. Plaintiff realleges paragraphs 1-40 as if fully set forth herein

64. The Act provides Plaintiff with an unequivocal property interest in obtaining preapproval if it meets the requirements of the Act.

65. In denying Plaintiff's preapproval application, the OCM has erroneously and arbitrarily deprived Plaintiff of its property interest.

66. The OCM denied Plaintiff's preapproval application on the grounds that Plaintiff failed to provide the requisite trade name information and failed to provide a point of contact.

67. Plaintiff provided the requisite trade name information and provided a point of contract in its original application.

68. Given Plaintiff's disclosures, the OCM had no basis to deny Plaintiff's preapproval application; its decision to do so was arbitrary and patently unfair to Plaintiff, a bona fide social equity applicant.

69. Plaintiff has been injured as a direct and proximate result of OCM's actions.

**COUNT VI**  
**VIOLATION OF PROCEDURAL DUE PROCESS**  
**(Failure to Allow Appeal or a Hearing)**

70. Plaintiff realleges paragraphs 1-40 as if fully set forth herein.

71. A fundamental precept of procedural due process is the right to be heard at a meaningful time and in a meaningful manner regarding the deprivation of property.

72. The Act provides Plaintiff with an unequivocal property interest in obtaining preapproval if it meets the requirements of the Act.

73. In denying Plaintiff's preapproval application, the OCM has expressly informed Plaintiff that "it is not eligible to appeal or request a hearing."

74. Plaintiff is entitled to understand the OCM's conclusions and receive fair process to challenge those OCM's conclusions, and this process must be afforded at a meaningful time when relief can still be effectively granted.

75. In denying Plaintiff's preapproval application without providing Plaintiff an opportunity to challenge that denial, the OCM has deprived Plaintiff of its property right without an opportunity to be meaningfully heard.

WHEREFORE, Plaintiff respectfully prays for a judgment:

- a. Holding that OCM's actions violated Section 148(4)(c) of the Act, Wild Domain, LLC's right to due process, and Wild Domain, LLC's right to equal protection.

- b. Issuing a writ of mandamus requiring the OCM to issue a deficiency notice to Plaintiff identifying the alleged deficiencies in its preapproval application and allowing it a reasonable time to cure those alleged deficiencies.
- c. Enjoying the OCM from conducting the lottery until Plaintiff's dispute has been resolved on the merits.



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Dated: November 24, 2024

GREENSPOON & MARDER LLP

s/David F. Standa

David F. Standa

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**ATTORNEYS FOR PLAINTIFF**



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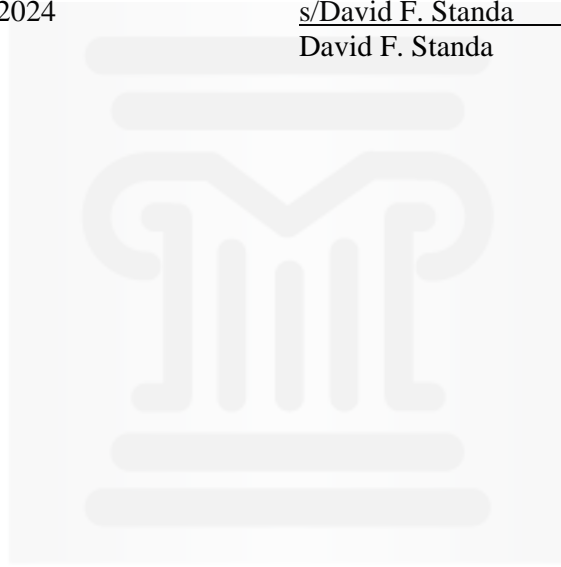
**ACKNOWLEDGEMENT**

The party upon whose behalf this pleading is submitted, by and through the undersigned, hereby acknowledges that costs, disbursements, and reasonable attorney fees and witness fees may be awarded to the party against whom the allegations in this pleading are asserted, pursuant to Minnesota Statute § 549.211.

Dated: November 24, 2024

s/David F. Standa

David F. Standa



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# EXHIBIT 1



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**Creative Services, Inc.****BACKGROUND SCREENING REPORT**

Prepared for: Minnesota Office of Cannabis Management

64 Pratt Street  
Mansfield, MA 02048  
508-339-5451**Subject Information:**

Subject: WOMACK, DAVID TRENT

DOB: 11/05/XXXX

Social Security Number: 1928731

Order Number(s): 1928731

Report Disposition: CLEAR

Package Name(s): Social Equity Verification

Address: 5 STONEWOOD DR  
ALAMOGORDO NM 88310

Order Date: July 3, 2024 12:27 PM

Completion Date: August 5, 2024 09:28 PM

Time First Completed: July 16, 2024 02:21 PM

**Requestor Information:**

Requestor Name: CSI

Requestor Userid: mnocm1/admin

Requestor Phone: 508-339-5451

Requestor Email: atannock@creativeservices.com

Email: trentwomack@gmail.com

Billing Identifier 1: Cannabis Retailer License

Billing Identifier 2:

Billing Identifier 3:

**Report Summary Information:****Component****Status**

Criteria 1, page 2 COMPLETE - Not Pursued

Criteria 2, page 2 COMPLETE - Not Pursued

Criteria 3, page 2 COMPLETE - Not Pursued

Criteria 4, page 2 COMPLETE - Pursued Qualified

Criteria 5, page 2 COMPLETE - Not Pursued

Criteria 6, page 2 COMPLETE - Not Pursued

Criteria 7, page 2 COMPLETE - Not Pursued

Military History Verification, page 2 COMPLETE - Complete

Pre Adverse and Adverse Action for DAVID TRENT WOMACK, page 2 COMPLETE - Clear

Internal Quality Control Review, page 3 COMPLETE - Clear

# EXHIBIT 2



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**From:** NoReply@accela.com  
**Sent:** Wednesday, October 16, 2024 5:01 PM  
**To:** minnesotasocialequity@gmail.com; Amanda Kilroe; dwomack21@hotmail.com  
**Subject:** Cannabis License Preapproval Application: Information Required for DIS-A24-000524

**Importance:** High

Dear Applicant,

In reviewing your application, the Office of Cannabis Management has determined that additional information is needed to continue the review process. You have 14 calendar days to provide the information requested below:

- Notice: The Photo ID you provided in your application in the Accela Citizen Portal does not verify your date of birth. To ensure this application criterion is met, please upload a valid government Photo ID to your application in Accela. Photo ID to verify applicant is 21 years of age or older.
- Notice: The Disclosure of Ownership and Control document that you provided in your application in the Accela Citizen Portal is missing the radio button selections on the final page. To ensure this application criterion is met, please upload a completed Disclosure of Ownership and Control to your application in Accela AND any applicable additional documents if you select "Provided" for any of the three options.

To ensure these application criteria are met, please upload this documentation to your application in Accela by logging into your **Accela Citizen Access account** [aca-prod.accela.com]. Select "Search Application" to locate and open your record. Then, select "Record Info" and then select "Attachments." Click the "Add" button, select your files, click "Continue" (you may add description if you like) and then click "Save."

Templates can be downloaded at the following site: <https://mn.gov/ocm/businesses/equity-applicants/download.jsp> [mn.gov]. Please note that while all templates are provided in the link, you should **only choose the template(s) that apply to the information requested above**. A video tutorial is provided at the link above to help provide upload instructions.

Failure to provide the requested information by Wednesday, October 30 at 11:59 p.m. CDT will result in your application being denied. If you have any questions, please feel free to contact us at [cannabis.info@state.mn.us](mailto:cannabis.info@state.mn.us).

Thank you,

Office of Cannabis Management

# EXHIBIT 3



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**Re: Cannabis Retailer Application DIS-A24-000524**  
**Reasons for Application Denial**

Document	Description	Status
Proof of Trade Name Registration	Applicant provided Trade Name Registration documentation for the company name, with assumed name or DBA listed on the registration if applicable.	Fail
Preliminary Operation Plan	Applicant provided at minimum, one (1) controlling person(s) or managerial employees as agents who shall be responsible for dealing with the office on all matters.	Fail

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