

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

In the Matter of the Application of

DAVID FEDER

For a Judgment Pursuant to Article 78 of the CPLR,
Petitioners,

-against-

**NEW YORK STATE OFFICE OF CANNABIS
MANAGEMENT,**

Respondents.

Index No.: _____

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OF VERIFIED PETITION

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5. EPMMNY was not a passive investor but the entire operational backbone of the winning application and proposed NYCANNA business, providing: (a) the entire operations team, including cultivation experts, extraction specialists, and management personnel; (b) proprietary formulations for medical cannabis products; (c) manufacturing standard operating procedures; (d) quality control and testing procedures; and (e) compliance officers and security personnel.
6. As part of the winning application, I submitted a "Schedule A" to the New York State Department of Health ("DOH") indicating my ownership interest in operational role in New York Canna, Inc.'s business, listing me as Director of Operations of New York Canna, Inc. and coming into contact with the medical cannabis as part of my operational role in the business. As such, I was thoroughly vetted by DOH, which conducted extensive background checks and reviewed my qualifications. DOH approved me as part of the ownership and management team authorized to manufacture controlled substances for seriously ill patients.
7. Upon information and belief, DOH's evaluation favorably assessed the operational expertise, cultivation and manufacturing protocols, and quality control systems developed and contributed by the EPMMNY team.

The Regulatory Framework Prohibiting Transfers

8. The regulations governing medical cannabis registrations contain explicit prohibitions on transfers. 10 NYCRR §1004.8(a) states categorically: "Registrations issued under this part shall be effective only for the registered organization named on the registration. Registrations are not transferable or assignable."

9. 10 NYCRR §1004.10(b)(5) further provides that registered organizations "shall not change the composition of the entity which is the registered organization, including, but not limited to, a change in director, officer, manager, partnership, stockholder, member, or membership interest... without the prior written approval of the department."
10. These provisions exist to prevent trafficking in state licenses, ensure only vetted entities operate in this highly regulated industry, protect minority stakeholders from dilution, and maintain transparency in the cannabis market for the protection of patient health and wellbeing, and I relied on them in my decision to contribute my name, trade secrets, time and effort to apply for licensure with the NYCANNA Inc. submission.

The Bait-and-Switch Scheme

11. Despite NYCANNA, **Inc.** being the entity that won the sixth-place license based on my qualifications and those of the EPMMNY team and the application we submitted, DOH permitted a completely different entity,- NYCANNA, **LLC**, a newly formed out-of-state Delaware limited liability company,- to hijack the license, displacing NYCANNA, **Inc.**, and its shareholders, managers, directors and officers.
12. NYCANNA, LLC had nothing to do with the winning application. It was a different legal entity with a completely different ownership structure and formed in 2016, long after the NYCANNA, Inc. license application was submitted, vetted and secured the sixth-place license award. None of the operators, manufacturers, cultivators, or cannabis experts who had been vetted and approved by DOH for licensure,- including myself, who had submitted a Schedule A,- were part of NYCANNA, LLC.

13. Upon information and belief, nearly fifty new owners submitted Schedule A forms to DOH in connection with the transfer. Each of these forms contained explicit attestations that the new owner: (a) "Will not participate in the day-to-day operations"; (b) "Will not come into contact with medical marijuana"; and (c) is a "passive investor only."
14. Despite these sworn attestations disclaiming any operational role, these "non-operators" immediately and without notice, removed me and the entire EPMMNY team,- every cultivator, extractor, lab technician, and compliance officer who had been vetted and approved by DOH,- and took complete control of the facility.
15. Upon information and belief, no replacement operational team was ever submitted to DOH for approval. No new standard operating procedures were filed. The entire foundational team whose names, qualifications, and roles were reviewed and relied upon in 2015 was eliminated without notice, hearing, or public process,- and replaced with nothing.

The Chain of Wrongful Transfers

16. The wrongful transfer to NYCANNA, LLC was only the beginning. Upon information and belief, NYCANNA, LLC subsequently transferred ownership/control interests to Acreage Holdings, Inc.,- again without proper vetting of the new operators.
17. Upon information and belief, control of the license has now been further transferred to Canopy Growth Corporation, a Canadian conglomerate under one of its affiliate shell-entities. Upon information and belief, there are current discussions or plans to effectuate yet another transfer.

18. Throughout this chain of transfers, I and the other vetted, qualified individuals who won the license have been entirely displaced by individuals and entities who were never approved to manufacture controlled substances for New York's patients.

The FOIL Requests

19. The FOIL requests at issue seek precisely the documents that would reveal the circumstances of these apparent regulatory violations, including: (a) any "prior written approval" for the transfer as required by §1004.10(b)(5); (b) the Schedule A forms submitted by the new owners; (c) communications between DOH/OCM and Acreage Holdings or their representatives; and (d) internal memoranda discussing the transfer's validity.
20. On September 13, 2022, I submitted FOIL Request No. R000030-091322 to OCM. A true and correct copy is attached as Exhibit A.
21. On October 25, 2022, I submitted FOIL Request Nos. R000061-102522 and R000062-102522 to OCM. True and correct copies are attached as Exhibits B and C.

OCM's Pattern of Delay and Broken Promises

22. From September 2022 through early 2024, OCM failed to respond substantively to any of the three FOIL requests.
23. On or about March 3, 2023, OCM issued a determination rejecting NYCANNA, LLC's (Acreage Holdings') claim that the responsive records constituted "trade secrets" exempt

from disclosure under POL § 87(2)(d). A true and correct copy of OCM's Trade Secrets Determination is attached as Exhibit D.

24. In that determination, OCM found that "the Statement does not establish that the records contain 'trade secrets' or information which, if disclosed, would cause 'substantial injury to the competitive position of the subject enterprise.'" OCM ordered the records released on March 13, 2023 absent an appeal.
25. Despite this determination nearly three years ago that the records should be released, OCM has produced nothing.
26. The trade secrets claim is particularly offensive because any trade secrets contained in the responsive records — the cultivation protocols, extraction methods, formulations, and standard operating procedures — were developed by me and the EPMMNY team as part of the winning NYCANNA, Inc. application. NYCANNA, LLC and Acreage Holdings contributed nothing to the development of these trade secrets. They are seeking to use trade secret protection which we requested to protect our contributed trade secrets, to prevent the actual creators of the intellectual property from learning how that property was taken from them.
27. In February-March 2024, my counsel pressed OCM for timelines. OCM acknowledged the requests and promised action. See Exhibit E.
28. On May 20, 2024, OCM promised a response by June 30, 2024, citing Acreage Holdings' trade secret claims. See Exhibit F. That deadline passed without response.

29. On July 15, 2024, OCM advised that Acreage had withdrawn certain trade secret claims and that a partial release was imminent. See Exhibit G. No documents were produced.

The Appeals Officer Determination and Continued Non-Compliance

30. On March 6, 2025, OCM's FOIL Appeals Officer granted my appeal and directed OCM to respond within twenty business days. See Exhibit H.
31. On March 31, 2025, and April 7, 2025, my counsel demanded compliance. See Exhibits I, J. OCM has not responded.
32. As of this date, OCM has produced no documents in response to any of the three FOIL requests that have been pending for over two and one-half years.

Irreparable Harm and Patient Safety Concerns

33. OCM's obstruction is not merely a procedural violation,- it is complicity in concealing what appears to be an elaborate bait-and-switch scheme in which DOH permitted unvetted, unqualified "non-operators" to take control of a medical cannabis manufacturing facility.
34. Vulnerable patients who rely on medical cannabis products manufactured under this license trust that DOH and OCM have ensured that only qualified, vetted individuals manufacture the controlled substances they consume. If, as I believe, nearly fifty new owners submitted Schedule A forms explicitly disclaiming any operational role,- yet those same individuals maneuvered control over the manufacture of medicine for seriously ill patients,- this represents a public health emergency.

35. The pharmaceutical scientists, master cultivators, and compliance officers who DOH vetted and approved have been replaced by passive investors who filed sworn statements refusing to touch cannabis. Critical processes involving volatile solvents, precise dosing, and contamination prevention are now overseen by unknown, unvetted individuals.
36. Without immediate judicial intervention, OCM may continue to withhold records indefinitely, further transfers may be finalized, and the evidentiary value of the records sought may be destroyed.

Exhibits

37. The following exhibits are attached hereto:

Exhibit A: FOIL Request No. R000030-091322 (September 13, 2022)

Exhibit B: FOIL Request No. R000061-102522 (October 25, 2022)

Exhibit C: FOIL Request No. R000062-102522 (October 25, 2022)

Exhibit D: OCM's Trade Secrets Determination March 1, 2023

Exhibit E: Representative correspondence, February-March 2024

Exhibit F: OCM letter dated May 20, 2024

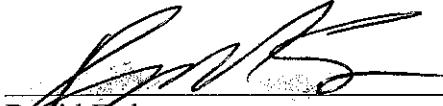
Exhibit G: OCM correspondence dated July 15, 2024

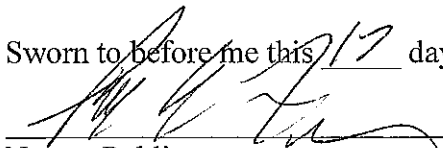
Exhibit H: Appeals Officer Determination dated March 6, 2025

Exhibit I: Counsel's letter dated March 31, 2025

Exhibit J: Counsel's letter dated April 7, 2025

38. Based on the foregoing, I respectfully request that this Court grant the relief requested in the Verified Petition and the Order to Show Cause.


David Feder

Sworn to before me this 17 day of March, 2026

Notary Public



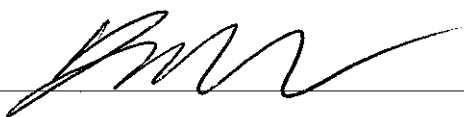
Saul E. Feder, Esq.
NOTARY PUBLIC
STATE OF NEW YORK
Registration No. 01FE1176960
Qualified in Richmond County
My Commission Expires
November 30, 2026

CERTIFICATION OF COMPLIANCE WITH WORD COUNT LIMIT

Pursuant to this Court's Individual Rules regarding Length of Papers – Word Count Limits, I hereby certify that:

1. This Affidavit contains **1769** words, exclusive of the caption, table of contents, table of authorities, index of exhibits, and signature block.
2. This document complies with the 7,000-word limit set forth in paragraph (a)(i) of the Court's rules.
3. In making this certification, I have relied on the word count of the word-processing system used to prepare the document.

Dated: New York, New York ~~January~~ ^{March} 17, 2026



David Feder, Esq. Attorney for Petitioners