

Ten Years Into Legal Cannabis and We Still Can't Get Social Equity Right

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On February 7, 2022, New Jersey publication, The Patch, ran a story with the headline: "NJ Hasn't Licensed Any Black Owners Since It Legalized Marijuana." The next day, journalist and civil rights activist, Shaun King, picked up the story. If the story were true, any backlash the New Jersey Cannabis Regulatory Commission (CRC) received would have been justified.

"All the writer had to do was ask someone in the industry," retorted Suzan Nickelson, a Black woman with majority ownership in retail shop Holistic Solutions, LLC. "I received approval for my license in December 2021. And I'm not alone. I think we should focus on what regulatory agencies are doing right, while holding them accountable to write legislation to change what's wrong. Lowering application fees for social equity applicants is a great start and New Jersey does that. Inflammatory and baseless claims don't do the industry or our communities of color any good."

Veteran, cannabis activist and partner of Heart Community Capital, Leo Bridgewater concurs. "Former Governor Chris Christie never wanted legal cannabis, so to be where we are under Governor Phill Murphy's vision and leadership is amazing. The CRC was formed in the summer of 2021. They're moving in the right direction. There are many states doing a terrible job with social equity. New Jersey isn't one of them."

Why the Default to Assume All Social Equity Programs are Performative?

Kika Keith, co-founder of the Los Angeles-based Social Equity Owners and Workers Association (SEOWA) feels the knee-jerk reaction to hearing that, yet another state's cannabis regulatory board failed to uphold social equity is justified. "These programs are designed to fail. That the legalization to the recreational side was a Trojan horse for multi-state operators (MSOs), and the 81 percent of white men who own existing dispensaries, they needed to do a play of compassion for voters.

"We all know by now the War on Drugs decimated communities of color. We need to repair the harms and prioritize creating Black and Brown jobs. And 'community reinvestment' is often a pretext to get it legalized. Once legalized, and it's happened in most cities, they say, 'well, we have to establish the marketplace.'"

In April 2020, SEOWA filed a lawsuit on behalf of 226 social equity applicants. The crux of the lawsuit is that an independent audit released a month earlier proved that all 226 applicants submitted their paperwork prior to the Los Angeles Department of Cannabis Regulation (DCR)'s 2019 "first come, first serve" deadline.

“It’s a stall tactic. One of the requirements is to have already leased a retail space before submitting the application. If the regulatory board holds up the process, most in our community can’t afford to pay on a space that’s not bringing in money, so eventually they drop out of the running.

“And those investors and MSOs are waiting. For those few of us who make it, the hope is that three years later, we’ll sell our licenses for pennies on the dollar. They have money to wait it out. It’s a tremendous miscarriage of justice.”

By summer 2021, SEOWA settled their lawsuit when the DCR agreed to issue 200 social equity retail licenses.

Sometimes lawsuits are filed to keep social equity out of legal cannabis. Arrested in high school for cannabis possession, Devin Alexander knew the only way he could own a plant-touching business was through social equity. In 2020, Alexander applied for a license allowing him to purchase cannabis from cultivators and manufacturers and deliver directly to consumers.

The Commonwealth Dispensary Association (CDA) filed a lawsuit against the Cannabis Control Commission (CCC) to prevent the creation of the Marijuana Delivery Operator Licenses (which were always earmarked for social equity applicants). The CDA later dropped it, conceding to the need for more diversity in the industry. In November 2021, Alexander’s Rolling Releaf became the first and only Black-owned delivery operator that is provisionally licensed in Massachusetts. Says Alexander about his experience, “Everything happens for a reason. It’s been a wild ride, but it’ll be worth it.”

[Desperate Times Call for Creative Measures](#)

Revisiting the reality that 81 percent of plant-touching businesses are owned by white men, combined with several pending lawsuits to hold states’ elected officials accountable to write legislative wrongs, it might seem hopeless for anyone with a record, or for just having dark skin, to break into the industry. However, there may be two avenues that while very different, could help Black and Brown people carve out a niche for themselves.

Let’s Talk Weed is a series of community forums in Boston, MA. Founded by Derrell Black, chapter president of the Massachusetts for Minorities for Medical Marijuana. In October 2021, they held their first event, moderated by Jeff Similien, CEO of the forthcoming Lowkey Dispensary in Dorchester, MA.

Black and Brown members of the community came seeking guidance of the panel comprising five Black CEOs in retail (including Seun Adedeji of Elev8, the youngest Black man to own a dispensary in the U.S.), cultivation and delivery service (from dispensaries to homes). All attendees walked away feeling hopeful versus defeated before they started. If one doesn’t exist, create it yourself.

Patricia Patton, an avid consumer who splits her time between New Jersey and California, wanted to be in the industry but own an ancillary business. As a dedicated wellness practitioner and patient advocate for older adults and baby boomers, Patton founded the Cannabis Business Alliance in April 2021. CBA is a community of Afro-Centric health professionals who understand the unique needs of the aging population and believe cannabis can help live a healthier, longer life. “While I believe the industry is big enough for anyone who wants to be part of it, there are innumerable opportunities for ancillary businesses to support plant-touching businesses. We should use our imaginations to fill the needs.”

The fact is most states have fallen woefully short in prioritizing social equity. As with everything in life, Black and Brown people are ready, able and willing to create our own legacy.