

Cannabis Group Of The Year: Dentons

By **Sam Reisman**

Law360 (January 26, 2024, 2:02 PM EST) -- The cannabis group at Dentons helped steer Canada-based Canopy Growth Corp.'s entrance into the U.S. marijuana market and shepherded multiple blockbuster deals, including The Parent Co.'s merger with its California neighbor Gold Flora, making the team one of Law360's 2023 Cannabis Groups of the Year.

Oakland-based partner Kelly Fair, with help from Chicago-based partner Eric Berlin, who leads the firm's cannabis group, Chicago-based partner Joanne Caceres and others, led the effort to consolidate Ontario-based Canopy's U.S. assets into a new holding company, Canopy USA LLC, as part of a move the company said would help realize the full value of its U.S. investments.

The firm's novel strategy came about in the aftermath of multiple cannabis transactions that sputtered out in recent years after being structured to go into effect the moment cannabis became federally legal in the United States — an event that still hasn't occurred.

"This was really an interesting matter for us and for the industry because it represents how companies with interests in the U.S. market are responding to the delays in legalization," Berlin told Law360.

The effort united Dentons attorneys from multiple disciplines — including corporate M&A, regulatory compliance, tax and employment — in order to reposition Canopy's several U.S.-based investments under the new holding company.

"I don't really think there are many other firms that could have done all that work together and in such a cohesive way," Joanne Caceres, a Chicago-based partner in the Dentons cannabis group, told Law360.

"It was almost like Canopy was the only LP that could have conceived of a deal like that and pushed it forward," she added. "And I think Dentons was the only legal partner that could have helped them bring that vision to reality."

Dentons attorneys structured the deal in such a way in order to allow Canopy to remain in compliance with both U.S. and Canadian listing rules, and to position it to acquire interests in other U.S.-based cannabis assets and brands.

"This is a really interesting example of what Canopy, a publicly traded Canadian licensed producer, did to



pave a way into the United States, by basically setting up what will become its own [multistate operator]," Berlin said.

In addition to the Canopy endeavor, Dentons attorneys acted as lead counsel in a major California merger, representing The Parent Co., or TPCO Holding Corp., in its acquisition of fellow Golden State pot firm, the producer Gold Flora, to create one of the largest vertically integrated operators in the country.

Berlin described the deal as "more straightforward, but it was significant because of the size of the companies." The combined entity was expected to comprise 20 retail stores, six cultivators, three distribution sites and a manufacturing plant, the companies said in their announcement last year.

Beyond advising cannabis firms on mergers, Dentons has led the way in representing companies in what it describes as strategic investments, including Toronto-based cannabis producer Organigram's partnership with Phylos Bioscience Inc., a cannabis genetics company based in Portland, Oregon, that focuses on the development of hybrid cannabis seeds that can yield high potency flower.

The deal came about in the year following a disclosure from the U.S. Drug Enforcement Administration that it did not consider marijuana seeds to be a controlled substance in and of themselves since they necessarily fall below the 0.3% delta-9 THC threshold and are therefore federally legal hemp.

According to Caceres, the Organigram matter is "a nice complement to Canopy" because it touches on the similar theme of how "different market players are looking to become involved in the U.S. or advance this business in light of federal legalization not happening."

She added that the representation marks an example of how the marijuana sector is coming out of the shadows and maturing in a way that more closely brings it into alignment with other industries.

"There's all this knowledge and efficiency and technology in industrial agriculture that is slowly making its way into cannabis [and] can help make cannabis businesses more efficient and profitable," she said.

For Berlin, who helped launch Dentons' cannabis group in the pioneering days of the legal industry's involvement in cannabis, the matter speaks to how far marijuana has come and points to the direction the industry can go if given the opportunity to bring more specialized and sophisticated products to market.

"This is one way that the legal market is going to beat the illicit market, hopefully," Berlin said, "through better technology and eventually cost savings as well."

Despite industry headwinds, Berlin and Caceres said their firm remains bullish on cannabis matters, recently adding attorneys in Maine, California and Kentucky, which last year became the 38th state to approve a medical marijuana program.

"Dentons has been really supportive, as they've always been, but I think they've rightfully taken the long view, and the great thing about our team is that we really are a team of true believers," Caceres said.

She added: "We're not just going to leave the industry because it faces some tough years. We're in it for the long haul because we want safe, legal, affordable, accessible cannabis in the U.S."

--Additional reporting by Tom Zanki and Al Barbarino. Editing by Kristen Becker.
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