

Cannabis Group Of The Year: Burns & Levinson

By **Adrian Cruz**

Law360 (January 24, 2024, 2:03 PM EST) -- Burns & Levinson LLP's cannabis group spearheaded a first-of-its-kind receivership that ultimately led to a \$22 million default and eventual sale of the debtor company's assets, earning the firm a spot among Law360's 2023 Cannabis Groups of the Year.

Burns & Levinson, which is based in Boston with offices in four other New England cities and one in London, currently has 15 dedicated cannabis attorneys, according to co-founder Frank Segall. Although primarily a New England firm, he said the cannabis practice currently serves clients across the U.S., as far away as California, along with clients in Canada.

Practice co-founder Scott Moskol said Burns & Levinson first launched its cannabis group in 2013, becoming one of the pioneering practices at a time when the substance was only beginning to see medical legalization in parts of the country.

He added that the firm's first cannabis-related work came about by happenstance, as he was assisting a venture capital client that needed help with a poorly performing medical cannabis provider in Rhode Island, one of the first licensed by the state.

"I remember going to his office to discuss his portfolio, and he asked me what I knew about cannabis," Moskol said. "I told him something along the lines of, 'Well, I smoked it in college and still do every now and then,' but that's about it. We were brought in to restructure the business and bring in capital from private sources to fund the buildout of the facility."

Following these initial experiences, both Moskol and Segall said Burns & Levinson realized there was an opportunity to launch a dedicated practice with a focus on corporate finance matters within the cannabis industry as it continued to grow with the legalization of medical usage.

Moskol said that at the time of the practice group's launch, most of the attorneys in the cannabis space worked in areas such as real estate, zoning and administrative law. However, there weren't really any legal offerings related to handling the banking, corporate and financial needs of cannabis providers.

Segall added that one of the major goals Burns & Levinson had when it first launched the practice was to have a wide range of industry clients. He said some of the client types the firm currently serves include venture capital firms, banks, private equity firms, fintech companies and equipment manufacturers.



"I saw an opportunity to bring Burns & Levinson's sophisticated corporate experience and really set a mission to become one of the go-to law firms in the cannabis market, a space where there weren't really any major players at the time," Segall said. "We built it from there, and fast-forward over the next decade or so, we've built out a national practice, and we wanted to create an ecosystem of clients who could collaborate and share resources and information with each other."

One of the highlights of the past year for Burns & Levinson's cannabis team was completing the sale in March of medical cannabis operator Ermont Inc.'s assets to MariMed Inc. Far from a simple transaction, the firm said the process began when Burns & Levinson client Teneo Funds SPVi LLC approached them seeking a way to collect a debt from Ermont estimated to be around \$25 million.

Segall said Teneo was advised that a receivership of Ermont's assets would be the best way to solve its problem, but that kind of transaction had never been done before in Massachusetts.

He added that there was no precedent in the existing cannabis regulations for receivership. As a result, he and Moskol worked with the Massachusetts Cannabis Control Commission on drafting new regulations on receiverships and secured party rights, while working to obtain preapproval of a receiver to set a framework for future deals of a similar type.

"We told the commissioners that if you wanted anyone to lend to this industry, you need to have some way to recoup their investment if there's a default on a loan," Moskol added. "Banks and credit unions are used to receiverships, and because banks and credit unions can't own cannabis organizations due to the legality and because some are publicly traded, a receivership is one of the best ways of remediation."

Following the regulations' completion and approval, a third-party receiver gave the OK to sell Ermont's assets on to MariMed.

"It was a long process, and the judges here had never dealt with this type of proceeding, so they were very thoughtful and mindful about the process," Moskol said. "There was some dissent by the borrower's board, but eventually it was all resolved and the operation, licensing, inventory and the rest of the business was sold."

Another matter that Moskol said was a particular highlight for him was a similar receivership in which client and secured creditor Green Ops Group LLC was looking to collect \$21 million from a Nevada-based grower called The Source after it began to experience significant financial issues.

"We had to petition the court in Nevada, and it involved all the different areas of my expertise ranging from cannabis industry knowledge, state court receiverships, because cannabis companies can't use federal bankruptcy protection and state petitioning," he said.

The receivership was ultimately approved in July. At the time of the submission, Burns & Levinson said the receiver is currently looking for a buyer for The Source's assets.

--Editing by Andrew Cohen.