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## Amid state crackdown, large cannabis operator revises deals with local companies

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As the state campaigns to rein in the expansion of large cannabis businesses, multi-state operator Tilt Holdings Inc. is significantly walking back its agreements with several local companies, new documents show.

The disclosure was detailed in meeting documents posted in advance of Thursday's Cannabis Control Commission meeting. The documents said that Cambridge-based Tilt had dissolved its management contracts with smaller entity Elev8 Cannabis, which has three locations planned in Western Massachusetts, and would work to eliminate others.

Tilt has said it will scrub its management contracts with all four cannabis operators with whom it's involved, and renegotiate traditional loan financing devoid of purchasing requirements and other fees.

Such contracts have been criticized by regulators for enabling operators to distribute product to and ultimately profit from more licenses than it outright owns, effectively skirting the state's licensing limit. [The Boston Business Journal](#) and others have recently detailed how large marijuana operators are establishing an outsized presence in the state through management agreements.

Already the state has refined its definitions around what it means to control a license and hired an outside firm to help it audit these contracts. But Tilt's decision sets a new precedent for how larger operators interact with local entrepreneurs.

According to investigation documents filed by the commission's enforcement team, cannabis regulators first started looking at Tilt's relationship with Elev8 when Elev8 applied for recreational dispensary licenses in Athol, Orange and Williamstown. The review revealed a number of contracts Elev8 had signed with Tilt, including agreements that Elev8 would purchase 70% of its product from Tilt. Elev8 would also pay Tilt a \$3 fee for every item it sold, and offer Tilt the right of first refusal for future equity or capital requests.

Elev8's revenue was also tied to the larger company, with Elev8 agreeing to prepay 70 percent of any excess cash flow to Tilt in repayment of its \$1 million loan, which carried 8% interest. The loan was also secured against the license's assets and real estate through a mortgage and security agreement.

The commission said the contracts effectively gave Tilt control over the license, with every component of Elev8's business tied into Tilt.

"Prior to termination of the... agreements, Tilt exercised decision-making authority over management and operational decisions," commission enforcement staff said in the memo to commissioners. "Tilt controlled at least 70% of the inventory Elev8 could offer and established a per-item revenue sharing arrangement. Tilt held a Right of First Refusal over any offering Elev8 sought for debt or equity financing. Elev8 could not freely choose to cancel or renegotiate these arrangements because Tilt's provision of capital under the loan agreement was expressly contingent on Elev8's agreement and adherence to the supply and right of first refusal agreement. Further default on the loan could impact Elev8's real property which was subject to a mortgage and security agreement in connection with the Tilt loan."

In a July meeting with the commission, Tilt volunteered to terminate management agreements with Elevate and three other entities — Herbology Group, Verdant and Ermont — in favor of more straight-forward loan agreements.



GARY HIGGINS

Seun Adedeji, the founder of Elev8 Cannabis, discusses his application at the CCC public meeting in December.

Tilt Chief Operating Officer Tim Conder said in an interview that the regulatory environment — including the commission's tighter focus on management agreements and the commission's close look of Elev8's license — played a role in the Tilt review of the agreements. But Tilt was also reevaluating these contracts anyway in light of the departure of former Tilt CEO Alex Coleman in May 2019.

"The complexity of the agreements, in my estimation, was unnecessary," Conder said. "The true spirit of the loan — and I wanted to make sure the documents reflected that — (was) partnership. And the true spirit of these partnership agreements wasn't to capitalize on products, or ability to distribute product into retailers, but support retailers."

Elev8's has been the first agreement to be renegotiated. Conder said Elev8's loan still has 8% interest, but is not backed by any collateral or asset.

Conder said he's hopeful that others will follow Tilt's lead to provide smaller operators more generous access to capital.

"It's no secret to me as I've operated in the cannabis space that we're standing on the shoulders of those who came before us... we have an obligation to repay that debt," he said.

Still unclear is what effect the change of contract terms will have on Elev8's license. In its investigation, enforcement staff said Elev8 didn't disclose in its initial license to the state that Tilt had controlling interest — a violation that could lead to a denial. Yet there's no evidence that Tilt had asked the applicant to lie or that the applicant misled regulators on purpose, commission staff said.

"Any past failure to disclose an interest on the application was not intentional or bad-faith," enforcement staff said, adding that it's recommending the commission approve the license.

Seun Adedeji, the founder and CEO of Elev8 Cannabis, was not immediately available for comment on Wednesday.

The commission is set to vote on Thursday on a provisional license for Elev8.

**Jessica Bartlett**  
Reporter  
*Boston Business Journal*

