



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Mass. Atty Charged In Pot Shop 'Pay-To-Play' Scheme

By **Brian Dowling**

Law360 (June 24, 2022, 4:37 PM EDT) -- A Massachusetts attorney floated an illegal "pay-to-play scheme" to bribe a local police chief for his vote of approval for a proposed marijuana store in the city, federal prosecutors said Friday.

Attorney Sean O'Donovan allegedly approached a relative of the police chief in Medford, Massachusetts, with a plan to pay \$25,000 in cash or a fake loan in exchange for the chief's vote on a city panel that ranked proposed cannabis shops.

The attorney, who the government said acted without his client's approval, also allegedly sought the chief's help in persuading Medford's mayor to ink a critical host community agreement with the pot shop he represented.

First Assistant U.S. Attorney Joshua S. Levy told reporters Friday morning the allegations were "a case about greed and attempted public corruption," while FBI Special Agent in Charge Joseph R. Bonavolonta said O'Donovan hoped the "pay-to-play" scheme would let him "capitalize on his insider access by attempting to bribe the Medford police chief."

The indictment doesn't identify O'Donovan's client, but the New England chain Theory Wellness confirmed to Law360 Friday that it had hired O'Donovan.

Boston-based Theory Wellness said in a statement it is cooperating with authorities and has ended its relationship with O'Donovan as a result of the "disturbing" allegations.

"Theory Wellness is currently evaluating options for potential legal claims against the defendant," said a company spokeswoman, Lizzy Guyton of South & Hill Strategies.

Prosecutors said O'Donovan drew a \$7,500 monthly retainer from the marijuana company and stood to reap a lucrative 1% of the store's gross profits if Medford approved it for one of its three licenses — an annual sum that could reach \$100,000.

Massachusetts' retail marijuana regulatory scheme granted towns and cities the ultimate approval authority for dispensaries in requiring the local executive's sign-on for a host community agreement. The state's highest court has **urged the legislature** to button up aspects of the law that let communities seek excessive fees from cannabis businesses.

The concentration of local power over the growing industry has already proved ripe for corruption, as the former mayor of Fall River was **convicted** by a federal jury in 2021 for extorting businesses hoping to open shop in the coastal city.

Prosecutors said Theory Wellness hired O'Donovan in late 2018 to assist its efforts to get a host community agreement for a retail store in Medford.

The attorney called a relative of the Medford police chief on Feb. 10, 2021, and allegedly said he'd pay \$25,000 to speak with the chief about the client, according to the indictment.

Prosecutors say the chief and his relative called federal agents and cooperated with the resulting investigation by handing over text messages and recording phone calls and in-person meetings with O'Donovan.

During a meeting in September 2021 between O'Donovan and the chief's relative, the attorney spelled out the deal: "If he [the Chief] gives them a high vote and they get it, you're getting paid," according to the indictment.

The relative asked how he'd get paid, and O'Donovan allegedly replied, "Cash, I'll give you cash," explaining that the pot company would cut him a check, he'd pay taxes on it, and then give the chief's relative the difference.

Later that month, O'Donovan proposed giving the relative a \$5,000 loan, which would be forgiven and supplemented with \$20,000 if the marijuana company got the local approval, according to the indictment.

The attorney asked the CEO of the marijuana company if he could pay \$25,000 to a consultant if they won the host community agreement, prosecutors said. But the proposal was rebuffed as the CEO said they were an "aboveboard company."

O'Donovan's attorney Martin G. Weinberg of Martin G. Weinberg Law PC said Friday the government's indictment of his client "stretches the federal bribery statutes well beyond the scope of their precedence."

"If the heart of federal criminal bribery is to prevent payments to public officials, this is a case where attorney O'Donovan never spoke to and never made an offer to pay a public official, and we will test the limits of honest services and federal programs bribery in his defense," Weinberg told Law360.

The government is represented by Kristina E. Barclay of the U.S. Attorney's Office for the District of Massachusetts.

O'Donovan is represented by Martin G. Weinberg of Martin G. Weinberg Law PC.

The case is U.S. v O'Donovan, case number 1:22-cr-10141, in the U.S. District Court for the District of Massachusetts.

--Editing by Andrew Cohen.