

Winston Blunts Earnout Payment

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Following a bench trial in Fall 2024, a New York trial court ruled in March 2025 that Cresco Labs, Inc. was not required to pay a US\$45M earnout under a merger agreement. The court found that Cresco did not receive “commercially reasonable access” to New York’s adult-use cannabis market, which was supposed to be subject only to a non-competitive application or approval process. Adopting Cresco’s arguments, the court determined that only the Office of Cannabis Management and Cannabis Control Board could decide when and how applicants access the adult-use market. The court agreed that regulators required Cresco to pay a significant one-time fee, prioritized other applicants, and had broad discretion over approvals. This win supports claims that New York’s adult-use program lacks details and clear entry paths, frustrating industry leaders’ efforts to develop a robust adult-use market.

Stephen Ashkian v. Cresco Labs LLC, et al. (Case No. 656112/2021, New York County Supreme Court; Case No. 2023-02994, New York Appellate Court, First Department)

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