

The North American Cannabis Report

Second Edition

EXPERT INTERVIEW



Robert Fonn
Partner,
DLA Piper's Toronto office

Robert Fonn is a Partner based in DLA Piper's Toronto office and is Co-Chair of the Global Cannabis practice. His practice is focused on corporate and securities law, with an emphasis on corporate finance and mergers & acquisitions.

Hi Rob, thanks for your time for this interview today, would you mind giving us a bit more background on yourself?

Firstly, I want to thank Prohibition Partners for the relationship that we've developed over the last few years as both DLA Piper and Prohibition Partners have grown our respective businesses and brands in the global cannabis industry. Additionally, I want to thank you for affording us the opportunity to showcase our North American capabilities and experience.

I am a DLA Piper (Canada) LLP partner, based in Toronto and, together with Dylan Kennett of DLA Piper UK LLP, Co-Chair our Global Cannabis practice. My practice is focused on corporate and securities law, with an emphasis on corporate finance and M&A. My involvement in the Cannabis industry has been advising issuers and investment dealers on Canadian capital markets transactions and advising a broad range of Canadian and international stakeholders in M&A and commercial transactions.

Can you help us understand who DLA Piper are and what they're doing in the cannabis space?

DLA Piper is a global law firm with lawyers located in more than 40 countries throughout the Americas, Europe, the Middle East, Africa and Asia Pacific, positioning us to help clients with their legal needs around the world. We serve clients ranging from multinational, Global 1000 and Fortune 500 enterprises to emerging companies developing industry-leading products and technologies and strive to be the leading global business law firm by delivering quality and value to our clients.

a. What is the size of the cannabis team in terms of headcount and financial contribution to the firm globally?

Excluding the United States, the Global Cannabis team is comprised of approximately 120 lawyers, with 32 of those in Canada. In the U.S. we have a Hemp and CBD Group, which is made up of over 30 lawyers.

Cannabis-related activity has made a demonstrable financial contribution to our Canadian practice over the last 4 years.

b. Where does the cannabis team fit within DLA Piper and what type of work do you do for your clients? What is the most active area?

We orient our service delivery by industry sector and service group. Most of our team members align with our global (i) Life Sci-

ences, and (ii) Consumer Goods, Food and Retail sectors. Our cannabis team is comprised of members from a number of our key service groups, including Corporate, Finance, Intellectual Property and Technology and International Trade, Litigation, Regulatory and Government Affairs.

Our Canadian practice has been heavily weighted towards corporate finance and M&A activity over the last 5 years. We have advised on capital markets transactions involving many of the leading Canadian licensed producers and U.S. multi-state operators that access the Canadian capital markets. We've seen a shift in the scope of services to include commercial transactions (including licensing), M&A advisory, governance, employment and restructuring.

Given U.S. federal illegality, our U.S. practice has drawn on the strength of our U.S. firm's life sciences and consumer good, food and retail sectors and focused on building our multi-disciplinary Hemp and CBD Group led by Stefanie Fogel. Our lawyers understand the hemp industry, its nuances and complexities. We have in-depth experience advising businesses on federal, state and local hemp laws and regulatory programs. Our knowledge in advising on hemp, hemp-derived cannabinoid products (e.g., CBD tinctures, CBN capsules, CBG biopharmaceuticals), and the laws and policies surrounding the marketplace, coupled with our interdisciplinary approach and our leadership as

advisors on government policy, allows us to serve clients who are exploring domestic and international opportunities involving hemp. Additionally, in 2020 we added a group with a strong background in handling product liability matters, particularly in the life sciences industry, that has extensive experience in representing companies in multi-jurisdictional product liability disputes as well as global risk assessment and mitigation.

Our US Hemp and CBD team is focused on compliance with constantly-evolving state regulations, providing a voice and input with respect to federal regulation impacted by the legislature and the FDA, the evolving playing field in terms of M&A and the goal to take companies public, R&D in the life sciences arena involving a variety of cannabinoids and health and wellness as relating to drugs and supplements, and the viability of services provided to this growing arena to include lending, marketing, and employee benefits.

Our U.S. and Canadian teams have collaborated on a number of U.S. M&A and capital markets mandates where permitted under U.S. federal law.

The North American cannabis market has been on a bit of a wild ride since 2018, with significant investor interest and a substantial market correction, where do you see the market now? Are you still doing a lot in M&A, public financings?

We were at the forefront of the wave of U.S. industry participants accessing the Canadian capital markets in 2018, representing Charlotte's Web, Trulieve and Acreage Holdings on Canadian going-public transactions. We were also fortunate to represent Canaccord Genuity, a leading investment dealer in the global cannabis industry, and number of other investment banks, on other similar transactions and follow-on financings. The enthusiasm and available capital was unlike anything our team had then experienced. That euphoria subsided in the second half of 2019 and most of 2020 as capital sources evaporated.

The Georgia senate run-off election results in early January 2021 led to the market perception of a higher likelihood of federal U.S. cannabis legalization. That market sentiment and rising share prices for most of the U.S. MSOs led to a new financing wave. In January alone, our team was involved in offerings for Curaleaf, Columbia Care, Jushi Holdings, Verano and HempFusion.

The positive regulatory outlook also led to a further wave of prospective new capital market participants and industry consolidation and associated M&A activity, which we've been actively advising on.

Solely focusing on hemp/CBD and not cannabis, we see the market in a transitional phase. 2018-2020 was like the wild west for hemp and CBD as there was no robust regulatory framework guiding the industry. Now, a framework is starting to appear as more federal agencies issue rules and guidance and as more research is conducted on hemp and CBD. During and post COVID, the market focused on health and wellness in addition to ecommerce and we expect those trends to continue.

What are your predictions for this year and what is the most important development on your radar?

The most important development on our radar is U.S. federal legalization and the impact it will have on our Canadian practice. Canada has been fortunate to develop industry leaders and attract international participants to our capital markets. If and when U.S. federal legalization occurs, we're focused on translating our industry leading capabilities and experience to our global DLA Piper client base to the U.S. market and ensuring that our Canada based clients and beyond remain relevant in a global market.

Being an international law firm we also have a long-view globally and keenly keep abreast of international developments. We have established a presence in over 20 jurisdictions where we see those markets as the next in line for liberalisation and growth. Given our leading experience in the North American market we are ideally placed to help clients quickly take advantage of opportunities as soon as other markets open up. The United Kingdom, continental Europe, Africa and Australasia are all key focusses for us, as our clients expand their reach (or look to partner or acquire with overseas businesses).

What about the United States, what do you think we'll see for 2021 there?

The cost of capital for North American industry participants remains high. The development we're most closely monitoring, even more so than broad U.S. federal legalization, is legislation to permit broader access to banking and capital sources for North American industry participants.

I think we'll also see increased north-south relationships develop, similar to the Canopy Growth and Acreage Holdings arrangement, as the likelihood of U.S. federal legalization increases.

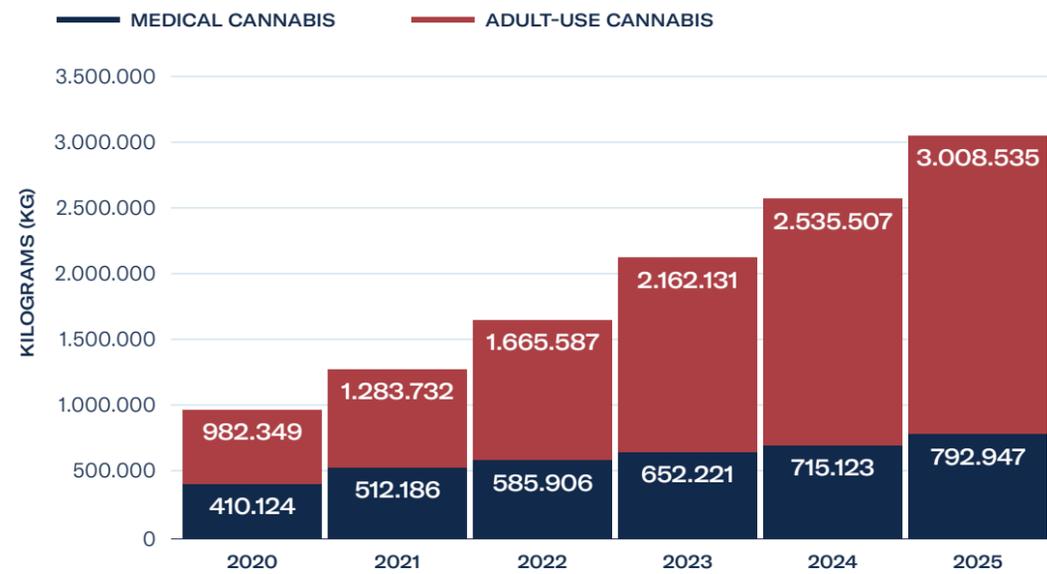
In the U.S., we predict that 2021 is going to be a big year for criminal justice reform and CBD products. In particular, we're keeping an eye out for the FDA's guidance regarding CBD

in supplements and other products since the FDA issued a statement last year noting that most CBD products they tested inaccurately stated CBD (and sometimes THC) content. In January 2021, our hemp and CBD blog, Cultivate, officially launched. The blog, managed by Matt Miehler, a corporate lawyer in our Atlanta, Georgia office and Christopher Gismondi, a Litigation & Regulatory lawyer in our New York office, will have resources to help clients and readers learn about and keep up with the constantly evolving industry, including regulatory changes in the federal and state landscape, educational resources, and a forthcoming litigation tracker.

What's the most exciting thing you and your team have worked on this year?

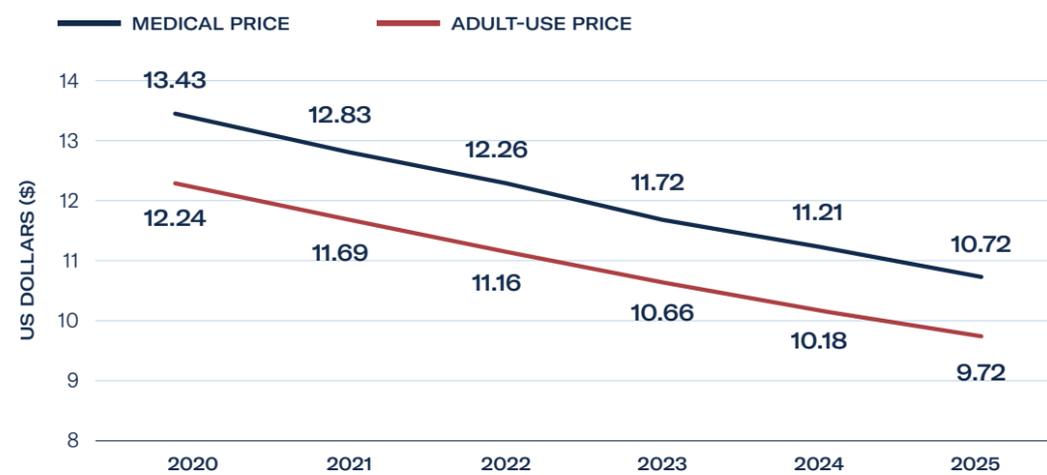
DLA Piper, with a multi-jurisdictional team led by Chris Giordano in the U.S. and Russel Drew in Canada, is representing Aphria in connection with its proposed CAD\$5 billion (USD\$3.8 billion) combination with Tilray Inc. The deal with Aphria and Tilray will create the largest company in the global cannabis industry based on reported revenue for the most recent 12 month periods of each company prior to announcement of the deal. The transaction will result in a combination of two of the leading global cannabis companies, with, among other things, retail market share of approximately 17.3% of Canada's retail cannabis market and global operations, facilities and offices in the U.S., Canada, Portugal and Germany (among other jurisdictions), and the combined company will offer a wide range of cannabis-related products in all the major categories, including flower, pre-roll, oils, capsules, vapes, edibles and beverages.

Yearly US Consumption of Cannabis*



Source: Prohibition Partners
*Includes cannabis flowers and equivalents

Yearly Average Cannabis Prices Per Gram



Source: Prohibition Partners

It is estimated that total US cannabis sales in 2020 reached US\$16.3b. Prohibition Partners projects that total cannabis sales in the US will reach US\$35.9b by 2025 at a CAGR of

14%. The projected growth of the US cannabis market is primarily driven by the expectation of further states legalising adult-use and medical cannabis sales in the next five years.

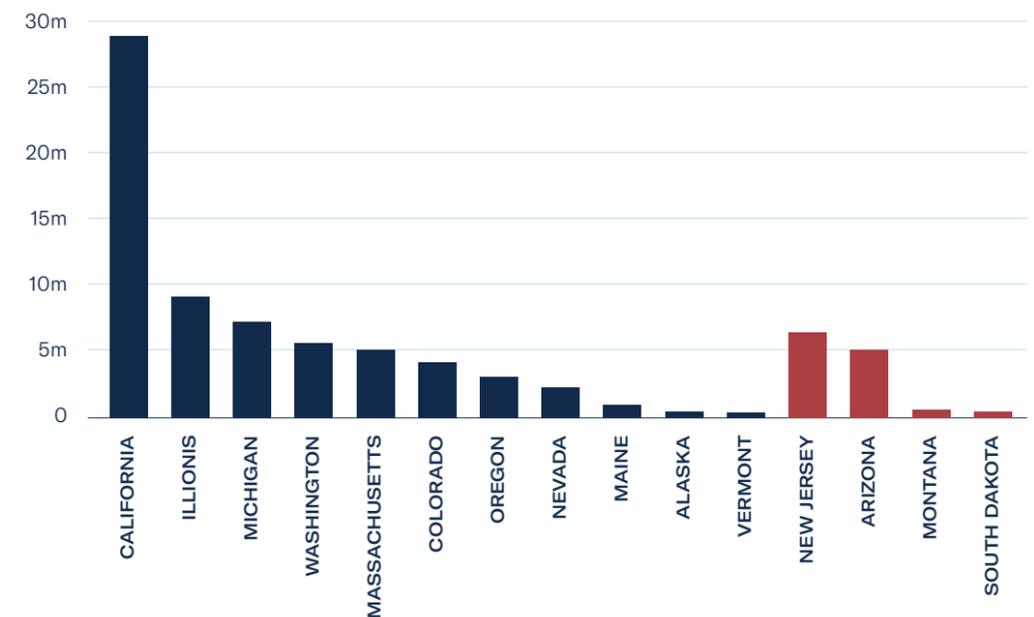
US Medical Cannabis

Medical cannabis sales for the full year of 2020 are estimated at US\$5.4b. Prohibition Partners expects a CAGR of 8% in medical cannabis sales in the next five years with 2025 sales reaching US\$8.4b. In this period we predict average medical cannabis flower prices to fall from US\$13.4 to US\$10.7 per gram. Medical cannabis sales are expected to show slower growth rates in the US compared to projected adult-use sales as 36 states, the District of Columbia, Guam, Puerto Rico and the U.S. Virgin Islands have already adopted comprehensive medical cannabis programmes. As medical cannabis programmes are regulated controlling patient access and approved suppliers, it provides little room for expansion in already existing markets. We expect that any future states adopting regulated medical cannabis programmes will contribute a considerable amount to the overall projected growth. In 2020, it is estimated that there are around 3.4 million US medical cannabis patients and it is predicted that the number will rise to 6.0 million by 2025.

US Adult-use Cannabis

US adult-use cannabis sales for 2020 are estimated at US\$10.9b. It is projected that by 2025 adult-use cannabis sales will reach US\$27.4b representing a 17% CAGR. In this period we expect adult-use cannabis flower prices to fall from US\$12.2 to US\$9.7 per gram. These projections assume that the adult-use cannabis market is growing at a confident rate. As of November 2020, states including Arizona, New Jersey, South Dakota and Montana have approved adult-use cannabis sales. Thus, 15 states and 3 territories have approved adult-use cannabis sales and we expect more states, including New York, Pennsylvania, Connecticut and New Mexico, to adopt similar measures. Prohibition Partners estimates that in 2020, 8.2 million people in the U.S consume legal adult-use cannabis products. The number is projected to reach 23.9 million by 2025 as a greater amount of the population will have considerable access to the adult-use cannabis market.

Adult Population of Legal Adult-Use Cannabis States



Source: Prohibition Partners/Census.gov