

ADMINISTRATIVE HEARINGS DIVISION

January 19, 2023

STIPULATED SETTLEMENT AGREEMENT FOR ONE MARIJUANA VIOLATION CASE

1. EEK, Inc.
Mike Kirkwood, Pres/Sec/Stkhldr
dba **EEK**¹

(Wholesaler)

ORS 845-025-3500(1), (2) - On or before October 23, 2019, Licensee and/or Licensee's employees, agents, or representatives operated other than their license permitted when they engaged in the processing of marijuana, as defined in OAR 845-025-1015(68)(a),² on the licensed premises by combining cannabinoid concentrates (marijuana terpenes) and CBD extract with coconut oil to create vape cartridges, when Licensee did not hold a processor licensee for the licensed premises.

(Category I)

OAR 845-025-1300(f) - On or before January 8, 2020, Licensee and/or Licensee's employees, agents, or representatives misrepresented a marijuana item to a customer and/or the public when they used a hemp handler certificate number in place of the processor license number on the label of their Angel Wings .5 gram Vape Cartridge product, thereby misrepresenting the entity that processed the product.

(Category I)

OAR 845-025-7700(10), (11) - On or about September 3, 2019, Licensee and/or Licensee's employees, agents, or representatives failed, upon receipt of inventory, to ensure that the marijuana items received were as described in the transport

Note: Licensee was charged with this violation by Notice dated November 17, 2021, and amended on December 7, 2022. The standard sanction for this violation is license cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATED

Staff recommended aggravation because Licensee was personally involved in Violation Number Three and because Violation Number Two was intentional.

1 Eek's tradename was changed to ABC 1 on January 15, 2020.

2 References are to the Rules in effect at the time of the incidents.

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manifest and/or document any differences between the quantity specified in the transport manifest and the quantities received when they failed to weigh packages they received on Manifest No. 0001775548 or document the fact that what they received was, at least in part, trim instead of the bud that was listed on the manifest.

(1st Level Category III)

SYNOPSIS: – OLCC conducted an investigation after receiving an intake regarding weight discrepancy in marijuana products transported by Licensee to Grown Rogue Distribution. The investigation disclosed Licensee’s failure to accurately document a portion of the products received as trim instead of bud and Licensee’s failure to weigh the products resulted in approximately 58 extra pounds of marijuana products not accounted for. A second investigation uncovered a misrepresentation of a marijuana item to consumers when Licensee used its hemp handler certificate number in place of the processor license number on the label of a Vape Cartridge product. For their Vape Cartridge, when licensee combined cannabinoid concentrates and CBD extract with coconut oil they needed a processor license. At the time of the violation, Licensee held a separate processor license at a different licensed premise, but not at this premise. They now have a processor license at this premise.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice.
2. These were Licensee’s first and second Category I violations, and first Category III violation within two years. Any subsequent Category III violation within the same two years will be charged at the second level. These violations will become a permanent part of each licensee’s Commission file and may be considered in any future application for any license or permit by that licensee.
3. Commission staff proposed the standard sanction of license cancellation. Staff recommended aggravation because Licensee was personally involved in Violation Number Three and because Violation Number Two was intentional.
4. The Commission will reduce the sanction for Violation Number One and impose a \$10,000.00 civil penalty for that violation. The Commission will reduce the sanction for Violation Number Two and impose a 32-day license suspension, with the option to pay a \$3,250.00 civil penalty in lieu of 13 days, and the remaining 19 days mandatory. The Commission will impose a nine-day or \$1,485.00 civil penalty for Violation Number Three.
5. Licensee will either pay a \$14,735.00 civil penalty before 5:00 PM on February 15, 2023 and serve a 19-day license suspension from 12:00 PM (noon) on February 22, 2023 to 12:00 PM (noon) on March 13, 2023 **OR** pay a \$10,000.00 civil penalty before 5:00 PM on February 15, 2023 and serve a 41-day license suspension beginning at 12:00 PM (noon) on February 22, 2023 and ending at 12:00 PM (noon) on April 4, 2023.
6. If a licensee’s interest in the license expires or is transferred before the Commission issues a final order on the allegations, the licensee agrees to accept a Letter of Reprimand for the violations. This reprimand will become a permanent part of the licensee’s Commission file and may be considered in any future application for any license or permit by that licensee.

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7. Licensee withdraws its Request for Hearing in this matter.
8. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their January 2023 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Licensee's hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Licensee waives any and all rights to a contested case hearing under the Administrative Procedures Act (ORS Chapter 183) and to judicial review, or to otherwise challenge this agreement and the final order.