

**STATE OF OREGON
OREGON HEALTH AUTHORITY**

IN THE MATTER OF)
)
) **DEFAULT FINAL ORDER REVOKING**
) **REGISTRATION**
Front Ave, LLC,)
MMD No: 34093)

HISTORY OF THE CASE

The Oregon Health Authority (OHA), Oregon Medical Marijuana Program (OMMP) issued a Notice of Proposed Revocation dated January 27, 2017 to Front Ave, LLC, MMD No. 34093 (Registrant) notifying Registrant of OHA's intent to revoke its dispensary registration based on Registrant's violations of applicable statutes and rules. OHA issued an Amended Notice of Proposed Revocation dated April 20, 2017 and a Second Amended Notice of Proposed Revocation dated May 9, 2017 (Notice).

The Notice offered the Registrant the opportunity to request a hearing to dispute the proposed revocation. The Notice stated that if Registrant did not request a hearing or withdrew the request for hearing, OHA may issue a final order by default revoking Registrant's dispensary registration.

To request a hearing, the Notice required the Registrant to request a hearing within 21 days. The Notice designated OHA's files, including any materials Registrant might submit, as the record for purposes of an order by default if Registrant waived the right to a hearing.

In a letter dated February 17, 2017, Registrant requested a hearing to contest the revocation. However, on May 16, 2017, Registrant withdrew the request for a hearing.

After considering the relevant portions of OHA's file in this matter, OHA enters the following:

FINDINGS OF FACT

1. Registrant has been a registered dispensary since October 16, 2015.
2. Registrant reported Kevin Clayville as the sole owner and only individual with a financial interest in the dispensary. Registrant also reported Mr. Clayville as the primary person responsible for the dispensary. Registrant has not notified OHA of any changes or additions to the owners of the dispensary or the LLC or to the individuals with a financial interest in the dispensary since its initial application.
3. Sabrina Hampton owns 10 percent or more of the ownership interests in Front Ave, LLC. Registrant did not report Ms. Hampton's ownership interest or her status as an individual with a financial interest in Front Ave, LLC to OHA.
4. Mr. Clayville was the person responsible for another dispensary, Cascade Medicinal, doing business as (DBA) Front Ave LLC, MMD# 92491 that was in business in 2015.

5. Starting October 1, 2015, and ending December 31, 2016, registered medical marijuana dispensaries were permitted to sell limited marijuana retail products to a person 21 years of age or older, without an OMMP card (non-cardholders).

6. On and after January 1, 2017, registered medical marijuana dispensaries are only permitted to sell or transfer medical marijuana to OMMP registered patients and designated primary caregivers (cardholders).

7. On December 7, 2016, OHA sent a bulletin to all dispensaries that December 31, 2016, would be the last day registered dispensaries could sell marijuana to non-cardholders.

8. On December 20, 2016, OHA sent out a press release reminding registered medical marijuana dispensaries that the last day for sales to non-cardholders was December 31, 2016.

9. On January 4, 2017, an OMMP investigator conducted a compliance check at Front Ave and obtained a printed record of Front Ave's sales transactions for January 1-3, 2017.

10. Registrant documented in the transaction record the names of the individuals to whom a marijuana item was transferred or sold for each listed transaction between January 1-3, 2017, and OMMP checked the names to determine which individuals were cardholders at the time of the documented transactions.

11. On January 1, 2017, Registrant completed 103 transactions of marijuana items to non-cardholders.

12. On January 2, 2017, Registrant completed 90 transactions of marijuana items to non-cardholders.

13. On January 3, 2017, Registrant completed 81 transactions of marijuana items to non-cardholders.

14. In total, between January 1 and January 3, 2017, Registrant completed 274 transactions of marijuana items to non-cardholders.

15. Mr. Clayville has a history of non-compliance with OHA. In 2015, Mr. Clayville entered into a settlement agreement with OHA paying a total civil penalty of \$3,900 stemming from a number of violations of medical marijuana rules by Cascade Medicinal, DBA Front Ave LLC. That settlement is incorporated by reference.

CONCLUSIONS OF LAW

Based upon OHA's findings of fact and application of existing legal standards, the OHA makes the following conclusions of law:

1. *Registrant transferred marijuana items to non-cardholders after December 31, 2016, in violation of Oregon Laws 2015, chapter 784, Section 2 and 3, ORS 475B.450, OAR 333-008-1500(2), OAR 333-008-1245, and OAR 333-008-2180(1)(c).*

Oregon law only allows a registered marijuana dispensary to transfer medical marijuana items to registered cardholders, not to non-cardholders as allowed for OLCC-licensed retailers. The Oregon Legislature passed a *time-limited* authorization that allowed registered dispensaries to sell certain marijuana items to non-cardholders between October 1, 2015 through December 31, 2016 if the individual was 21 years of age or older.

As of January 1, 2017, medical marijuana dispensaries were no longer authorized to sell marijuana items to non-cardholders and it is a violation for a dispensary to transfer a marijuana item to a non-cardholder.

Between January 1 and January 3, 2017, Registrant completed 274 transactions of marijuana items to non-cardholders. Registrant therefore violated Oregon Laws 2015, chapter 784, Section 2 and 3, ORS 475B.450, OAR 333-008-1500(2), OAR 333-008-1245, and OAR 333-008-2180(1)(c).

2. *Registrant failed to report the name of each individual with a financial interest in the dispensary in violation of OAR 333-008-2030(3).*

To register a medical marijuana dispensary, an applicant must submit an application that includes the name of each individual who has a financial interest in the dispensary if a business entity owns the dispensary. In addition, a registrant proposing to change who has a financial interest in the business must submit a complete form prescribed by OHA and any applicable criminal background check fees to OHA prior to making such a change. For a limited liability company such as Registrant, an individual with a financial interest in the dispensary includes any member of the company who owns ten percent or more of the ownership interest in the company.

Ms. Hampton owns ten percent or more of the ownership interest in Front Ave, LLC. Registrant did not report Ms. Hampton as an individual with a financial interest to OHA. Therefore, Registrant failed to name all individuals with a financial interest in the dispensary in violation of OAR 333-008-2030(3).

3. *OHA may revoke Registrant's registration and prohibit all individuals with a financial interest in the dispensary from applying for a dispensary registration within two years of this final order.*

OHA may revoke the registration of a medical marijuana dispensary if OHA determines that the owner, employee, or person responsible for the dispensary violated a provision of ORS 475B.400 to 475B.525 or any rule adopted there under. A dispensary registrant includes each individual who has a financial interest in the registered dispensary.

OHA may also revoke the dispensary's registration if the registrant fails to notify OHA of a change in ownership interests.

As explained above, Registrant completed 274 transactions of marijuana items to non-cardholders, in violation of applicable statutes and rules. Registrant also failed to disclose an individual with a financial interest as required for initial and continued registration. Pursuant to ORS 475B.450(9) and OAR 333-008-2190(2)(a), OHA may revoke Registrant's dispensary registration. OHA has decided to take formal enforcement action of revoking Registrant's registration based on the nature of the violations, including the lack of mitigating circumstances,

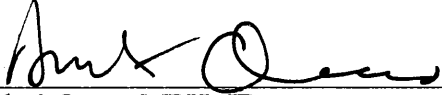
the failure to disclose required information, and based on the fact that Registrant violated one of the central limitations imposed by Oregon's marijuana regulatory structure.

Thus, OHA revokes Registrant's medical marijuana facility registration and Registrant and Registrant's owners and individuals with a financial interest in the dispensary are prohibited from applying for a dispensary registration within two years from the date this final order is issued.

ORDER

Registrant Front Ave, LLC's dispensary registration for MMD 34093 is REVOKED. Front Ave, LLC, Kevin Clayville, Sabrina Hampton, and any other owner or individual with a financial interest in the dispensary are PROHIBITED FROM APPLYING for a dispensary registration within two years from the date of this Order.

Dated this 12th day of June, 2017

By: 
Andre' Ourso MPH, JD
OMMP Section Manager
Oregon Health Authority

Appeal Rights: You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date this order is served. If this order was personally delivered to you, the date of service is the day you received the order. If this order was mailed to you, the date of service is the day it was *mailed*, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you will lose your right to appeal.

CERTIFICATE OF MAILING

On the 13th day of June 2017, I served the foregoing DEFAULT FINAL ORDER REVOKING REGISTRATION TO THE FOLLOWING PARTIES:

BY FIRST CLASS & CERTIFIED MAIL:

Joshua Wolf (Attorney to Front Ave, LLC)
220 NW 8th Avenue
Portland OR 97209

Front Ave, LLC
730 SW 1st Ave.
Portland, OR 97204


Kevin Clayville

4636 SW Kelly Ave
Portland, Oregon 97239

Michael Davis, Registered Agent
12220 SW First St.
Beaverton, OR 97005

BY ELECTRONIC MAIL:

Erin Williams, Assistant Attorney General



OMMP Staff

