

ADMINISTRATIVE HEARINGS DIVISION

December 15, 2022

STIPULATED SETTLEMENT AGREEMENT FOR ONE MARIJUANA VIOLATION CASE

1. Charites Gardens, LLC
MNG Holdings, LLC, Member
Michael Ng, Member
Patrick Martin, Member
dba **FALCON WHOLESale**

(Wholesaler)

ORAR 845-025-5700(1) - On or about March 12, 2021, Licensee failed to comply with the Oregon Health Authority's marijuana testing rules in ORAR 333-007-0300 to 333-007-0490 and ORAR 333, Division 64, specifically ORAR 333-007-0320(1)(a), (5), and ORAR 333-007-0400(1)(2)(a), prior to the sale or transfer of a marijuana item, when Licensee and/or Licensee's employees, agents, or representatives transferred package ending 19040 on manifest number 0003096267 to Licensee Hunter Distributing, LLC, wholesaler license number 100835384A4, which was a package of marijuana flower (buds) that had failed pesticide testing for the analyte Pyrethrins on January 27, 2021, and was not reanalyzed or remediated in accordance with ORAR 333-007-0450(1), (9)(c)(e).

(Category I)

Note: Licensee was charged with this violation by Notice dated July 26, 2022. The standard sanction for this violation is license cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: – This wholesaler accidentally transferred a package made from a larger package containing usable marijuana that failed pesticide testing about two months prior to the accidental transfer. The product was caught prior to reaching any consumer and returned to Falcon Wholesale, which then contacted OLCC for an order of destruction. This was an isolated failure and was therefore mitigated downward from cancellation under rules promulgated pursuant to SB 408.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category I violation. This violation 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.
2. The standard sanction for this violation is license cancellation. However, Licensee demonstrated to the satisfaction of the Commission that the conduct that led to the violation was not persistent. ORAR 845-025-8590(5)(d)(D). Accordingly, the Commission mitigated the penalty downward from proposed cancellation to a proposed 40-day license suspension.
3. The Commission will reduce the sanction to a 28-day suspension, with the option to pay a civil penalty in lieu of 21 days, and the remaining seven days mandatory.

(continue **FALCON WHOLESALE**)

4. Licensee will either pay a \$5,250.00 civil penalty before 5:00 PM on January 17, 2023, and serve a seven-day license suspension beginning at 12:00 PM (noon) on January 24, 2023 and ending at 12:00 PM (noon) on January 31, 2023 **OR** serve a 28-day license suspension beginning at 12:00 PM (noon) on January 24, 2023 and ending at 12:00 PM (noon) on February 21, 2023.
5. Licensee withdraws the request for hearing.
6. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on the charge, the licensee agrees to accept a Letter of Reprimand for the violation. 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 the licensee.
7. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their December 2022 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.