

ADMINISTRATIVE HEARINGS DIVISION

February 15, 2023

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. **JEFFREY VILLANUEVA**
(WP #242AE3)

OAR 845-025-5590(1)(a) - On August 26, 2021, you were convicted of two counts of Assaulting a Public Safety Officer, ORS 163.208, Class C felonies involving violence, which were within two years of your permit application date of March 6, 2021.

(Category I)

OAR 845-025-5500(3) - On or before September 5, 2021, you failed to notify the Commission in writing within 10 days of a conviction for a felony when you did not disclose your August 26, 2021 convictions for two counts of Assaulting a Public Safety Officer, ORS 163.208, Class C felonies.

(1st Level Category II)

Note: Permittee was charged with this violation by Notice dated December 6, 2022. Staff originally proposed the standard sanction of permit cancellation. Permittee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATED

Staff added two days of aggravation to the penalty because Violation Number One was repeated.

SYNOPSIS: – The incident underlying Mr. Villanueva’s felony convictions occurred on 12/31/2020 and he was criminally charged in January 2021. The two charges stem from the same incident. Villanueva applied for a permit in March 2021 and OLCC issued him a permit in April 2021. The convictions occurred in August 2021 and Villanueva did not report it to OLCC. He was not using the permit at that time. During OLCC’s investigation, Villanueva responded with certificates of completion for treatment programs and a letter of recommendation through his drug court program. Settlement is proposed based on Villanueva’s cooperation with the investigation, his compliance with probation, and successful completion of court ordered treatment.

TERMS OF AGREEMENT

1. Permittee accepts responsibility for Violations Number One and Number Two, as set out in the Notice. Violation Number One was Permittee’s first Category I violation. Violation Number Two was Permittee’s first Category II violation within two years. Any subsequent Category II violation within the same two years will be charged at the second level. These violations will become a permanent part of Permittee’s Commission file and may be considered in any future application for any license or permit by Permittee.
2. The standard sanction for the Category I violation is permit cancellation. The standard sanction for a Category II violation is a 30-day permit suspension. Commission staff originally proposed the standard sanction of permit cancellation. Staff added two days of aggravation to the penalty because Violation Number One was repeated.
3. The Commission will reduce the sanction for Violation Number One to a 32-day permit suspension or \$800.00 civil penalty. The Commission will reduce the sanction for Violation Number Two to a 21-day permit suspension.

(continue **JEFFREY VILLANUEVA (WP 242AE3)**)

4. Licensee will either pay an \$800.00 civil penalty before 5:00 PM on March 15, 2023 and serve a 21-day permit suspension beginning at 7:00 AM on March 22, 2023 and ending at 7:00 AM on April 12, 2023 **OR** serve a 53-day suspension beginning at 7:00 AM on March 22, 2023 and ending at 7:00 AM on May 14, 2023.
5. Permittee withdraws the request for a hearing.
6. If Permittee's permit expires or is surrendered before the Commission issues a final order on these incidents, Permittee agrees to accept a Letter of Reprimand for the violations. This reprimand will become a permanent part of the Permittee's Commission file and may be considered in any future application for any license or permit by Permittee.
7. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their February 2023 meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Permittee's hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Permittee 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.

2. Thurman Street Gallery, LLC
Robert Wald, Member
dba **THURMAN STREET
COLLECTIVE**
2384 NW Thurman St
Portland, OR 97210
(Retailer)

ORS 475C.245(3), OAR 845-025-8540(2)(a)(A)(B)(C),
OAR 845-025-1300(1)(f), and OAR 845-025-2785(7).
On or about September 28, 2021, Licensee and/or
Licensee's employees, agents, or representatives
misrepresented to consumers and the public the
content, testing results, and potency of marijuana items
Select CBD Drops Broad Spectrum Hemp CBD
Tincture-30mL, as containing listed ingredients
"Fractionated coconut oil (MCT) and Hemp
concentrate," and showed a potency of "CBD: 3.28%
984.00mg/container" and "THC: <LOQmg/container,"
but in fact the product contained significant amounts of
Tetrahydrocannabinol (THC) ranging from 24.9 mg/mL
to 36.6 mg/mL of THC and a non-detectable or trace
amount of Cannabidiol (CBD), when two units were sold
to a consumer after an OLCC Product Recall Notice
was issued for these marijuana items on September 21,
2021.

(1st Level Category II)

Note: Licensee was charged with this violation by
Notice dated October 12, 2022. Commission
staff originally recommended a 28-day license
suspension. Licensee requested a hearing
and now wishes to enter into this settlement
agreement.

SYNOPSIS: – A retail premises sold two marijuana items that were subject to an OLCC recall five days after the recall took effect. The two items sold were labeled CBD and were recalled because they in fact contained THC. The store manager was out of town at the time the recall notice was sent, but Licensee personally called the store and instructed all similar type product from the brand be pulled. Two days later when the recall was expanded to include additional similar type items of the brand, Licensee's employees realized that they had originally pulled more items from the brand than what had been recalled. It was at this point that Licensee believes a new employee became confused about which products were subject to the recall and mistakenly put the affected items back out on the shelves.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category II violation within two years. Any subsequent Category II violation within the same two years will be charged at the second level. The 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 a Category II violation is a 30-day license suspension. Mitigation was applied because Licensee demonstrated to the satisfaction of the Commission that the conduct that led to the violation was not persistent. OAR 845-025-8590(5)(d)(D). Commission staff originally recommended a 28-day license suspension.
4. The Commission will reduce the sanction for the violation to a 20-day license suspension, with the option to pay a \$4,500.00 civil penalty in lieu of 18 days, and the remaining two days mandatory.

(continue **THURMAN STREET COLLECTIVE**)

5. Licensee will either pay a \$4,500.00 civil penalty before 5:00 PM on March 15, 2023 and serve a mandatory two-day license suspension beginning at 12:00 PM (noon) on March 22, 2023 and ending at 12:00 PM (noon) on March 24, 2023 **OR** serve a 20-day suspension beginning at 12:00 PM (noon) on March 22, 2023 and ending at 12:00 PM (noon) on April 11, 2023.
6. Licensee withdraws its request for a hearing.
7. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on the allegation, the licensee agrees to accept a Letter of Reprimand. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for a license or permit by that licensee.
8. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their February 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.