

ADMINISTRATIVE POLICY & PROCESS DIVISION

April 16, 2020

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Trees Portland, LLC
Trevor Hoffman, Member/Mgr.
Gregory Goodman, Member/Mgr.
dba **TREES PORTLAND**
1234 NE 102nd Avenue
Portland, OR 97220
(Retailer)

OAR 845-025-1450(2)(d)(A) - On or about August 21, 2018, Licensee or Licensee's employees, agents, servants, or representatives failed to keep onsite surveillance recordings for a minimum of 90 calendar days, when Licensee Gregory Goodman admitted to having, at most, seven to 10 days of onsite backup recordings.

(Category I)

OAR 845-025-7540(1)(2) - On or before August 21, 2018, Licensee or Licensee's employees, agents, or representatives failed to enter data into the METRC Cannabis Tracking System (CTS) that fully and transparently accounted for all inventory tracking activities when marijuana items identified in CTS as being at the licensed premises were not located at the licensed premises, when marijuana item weights listed in CTS did not match the actual weights of the products at the licensed premises, and when marijuana items were identified as having negative weights.

(Category III)

Note: Licensee was charged with these violations by Notice dated August 7, 2019. Commission staff originally proposed the standard sanction of license cancellation and seizure and destruction of marijuana items. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation because the violation was repeated.

SYNOPSIS: – During a retail inspection Licensee had surveillance recordings for approximately 10 of the required 90 days. An audit revealed numerous discrepancies in Licensee's physical inventory and data in METRC CTS, showing Licensee had substantially failed to reconcile inventory. Licensee's explanation was that when items sold out further sales of like-named items continued to be pulled from the same package tags. Licensee has since upgraded its DVR system and data in CTS shows reconciled inventory.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violation One was Licensee's first Category I violation. Violation Two was Licensee's first Category III violation. Any subsequent Category III violation within two years will be charged at the second level.

(continue **TREES PORTLAND**)

2. Commission staff originally proposed the standard sanction of license cancellation and the seizure and destruction of marijuana items.
3. The Commission will reduce the sanction for Violation One and impose a \$4,950.00 civil penalty or a 30-day license suspension for the violation.
4. The standard sanction for Violation Two is a 10-day license suspension or a \$1,650.00 civil penalty. Staff added two days of aggravation because the violation was repeated. The Commission will reduce the sanction for Violation Two by three days.
5. Licensee will pay a \$6,435.00 civil penalty before 5:00 PM on May 15, 2020 **OR** serve a 39-day suspension beginning at 12:00 PM (noon) on May 22, 2020 and ending at 12:00 PM (noon) on June 30, 2020.
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(s), the licensee agrees to accept a Letter of Reprimand for the violation(s). This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for any license by that licensee.
8. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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.

2. JR Organic Farms, LLC
Rod Eisenberg, Member
dba **FERN RIDGE FARMS**
(Producer)

OAR 845-025-1450(2)(j) - On or about June 13, 2019, Licensee Rod Eisenberg failed to make video surveillance records and recordings available immediately upon request to the Commission in a format specified by the Commission for the purpose of ensuring compliance with ORS Chapter 475B and OAR Chapter 845 Division 025, when Inspector D. Green asked Eisenberg to show him 90 days of surveillance back up recordings and Eisenberg was unable to do so.

(1st Level Category II)

OAR 845-025-7520(1)(c) - On or about June 13, 2019, Licensee and/or its employees, agents or representatives failed to tag individual marijuana plants with a unique identification (UID) tag no later than when the plants reached a height of 24 inches or were identified as female, when an inspection found that all plants on the premises were identified as female and only 3 of 46 plants had UID tags affixed.

(1st Level Category III)

OAR 845-025-7540(1), (2) - On or about June 13, 2019, Licensee and/or its employees, agents or representatives failed to enter data into CTS that fully and transparently accounted for all inventory tracking activities with respect to 380 marijuana plants shown in Licensee's CTS inventory that were not physically present at the licensed premises.

(1st Level Category III)

Note: Licensee was charged with these violations by Amended Notice dated March 19, 2020. The total proposed sanction was the standard sanction of a 61-day license suspension, with the option to pay a \$5,115.00 civil penalty in lieu of 31 days, with the remaining 30 days mandatory. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

Staff added four days of aggravation because Violations Number Two and Number Three were repeated.

(continue **FERN RIDGE FARMS**)

OAR 845-025-1230(9)(a) - At or before the time of the Inspector's visit on June 13, 2019, Licensee and/or its employees, agents or representatives failed to record in CTS the permit number and name of employee Evan Petree.

(1st Level Category IV)

SYNOPSIS: This Licensee failed to understand how to operate his surveillance system, and was therefore unable to demonstrate compliance with the 90-day backup requirement at the time of inspection. Licensee and his IT consultant at a later date demonstrated to the inspector that they were in compliance with the 90-day requirement. There were 43 untagged plants, and 380 plants in CTS inventory that were not on premises. An investigation failed to substantiate diversion or intentional misconduct. Licensee has been proactive in communicating with OLCC and attempting to fix problems.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first Category II and first Category IV violations, and first and second Category III violations, charged at the first level. Any subsequent Category II, Category III, or Category IV violation within the same two years will be charged at the second level.
2. Commission staff originally proposed the standard sanction of a 61-day license suspension, with the option to pay a \$5,115.00 civil penalty in lieu of 31 days, with the remaining 30 days mandatory. This includes four days of aggravation because Violations Number Two and Number Three were repeated.
3. The Commission will reduce the suspension by 17 days.
4. Licensee will either pay a \$3,795.00 civil penalty before 5:00 PM on May 15, 2020 **and** serve a 21-day suspension beginning at 12:00 PM (noon) on May 22, 2020, and ending at 12:00 PM (noon) on June 12, 2020, **OR** serve a 44-day suspension beginning at 12:00 PM (noon) on May 22, 2020, and ending at 12:00 PM (noon) on July 5, 2020.
5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order, that licensee agrees to accept a Letter of Reprimand for these 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 by the licensee.
6. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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.

3. Alternative Remedies, LLC
Bryan Malicke, Member
Peter Hale, Member
dba **ALTERNATIVE REMEDIES**
(Producer)

OAR 845-025-2020(2) and/or 845-025-7700(1) – On or about September 19, 2018, Licensee acted other than its producer license permits when Licensee’s employee, agent or representative Ryan Biglione transported, transferred and delivered approximately 24 marijuana plants from the licensed premises to an unlicensed location.

(Category I)

OAR 845-025-7540(1), (2), (4) - On or about September 19, 2018, Licensee and/or its agents, employees or representatives intentionally failed to enter data into the METRC Cannabis Tracking System (CTS) that fully and transparently accounted for all inventory tracking activities with respect to approximately 24 marijuana plants that were not tracked in CTS and that were removed from the premises.

(Category I)

OAR 845-025-7700(3)(c) - On or about September 19, 2018, Licensee and/or its agents, employees or representatives failed to use CTS to generate a printed transport manifest to accompany the transport of approximately 24 marijuana plants than were transported from the premises.

(1st Level Category III)

OAR 845-025-8520(7) - On or about September 19, 2018, Licensee permitted unlawful activity on the licensed premises or in areas adjacent to the licensed premises under the control of the licensee when its employee Ryan Biglione knowingly possessed 24 marijuana plants in the parking lot adjacent to the premises while not acting in accordance with ORS 475B.010 to 475.545 or any rule adopted under ORS 475B.010 to 475.545, in that these commercially grown

Note: Licensee was charged with these violations by Amended Notice dated February 25, 2020. The total proposed sanction was license cancellation, and seizure and destruction of any remaining marijuana items. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

These violations were aggravated for three or more violations under circumstances indicating disregard for law or failure to control the premises. Violation Number One was aggravated because it was intentional.

(continue **ALTERNATIVE REMEDIES**) marijuana plants were held without any manifest, were not tracked in CTS, and were transported to an unlicensed location, and therefore Licensee's employee possessed these marijuana plants contrary to ORS 475B.337(1)(a) and ORS 475B.301(1), and delivered these marijuana plants contrary to ORS 475B.346(1).

(2nd Level Category III)

ORS 475B.261(2), OAR 845-025-5500(4) - On or about June 30, 2018, Licensee failed to verify that employee Dumisa Mofokeng had a valid marijuana worker permit before allowing Dumisa Mofokeng to perform any work at the premises of the kind described in ORS 475B.261(1) and/or OAR 845-025-5500(1).

(3rd Level Category III)

OAR 845-025-7520(1)(c) - On or before September 19, 2018, Licensee and/or its employees, agents or representatives failed to tag individual marijuana plants with a unique identification (UID) tag no later than when the plants reached a height of 24 inches or were identified as female, when 24 female marijuana plants that were removed from the premises lacked UID tags.

(4th Level Category III)

SYNOPSIS: After this producer licensee reported a theft, inspectors observed on video an employee removing plants from the premises. The employee admitted removing the plants, but claimed he did so at the direction of the licensee to move them to an illegal grow off-premises. Other employees corroborated the story told by the employee. As a result of these actions, the Commission has already cancelled the worker permit of the employee who removed the plants. Licensee will surrender this license.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Amended Notice. These were Licensee's first and second Category I violations, and first through fourth Category III violations.
2. These violations were aggravated for three or more violations under circumstances indicating disregard for law or failure to control the premises. Violation Number One was aggravated because it was intentional. Commission staff proposed the standard sanction of license cancellation and seizure and destruction of marijuana items for these violations.

(continue **ALTERNATIVE REMEDIES**)

3. Licensee has begun the process of selling the business. Licensee hereby surrenders its license effective on the date the transfer of ownership of the business is completed or at 12:00 PM (noon) on July 16, 2020, whichever is earlier. Licensee agrees that its license will not be renewed.
4. Licensee understands and agrees that the Commission is not representing or guaranteeing that a new owner will be licenseable or will have an approved license on or before July 16, 2020. Licensee understands and agrees that any new owner will have to fully complete the application process, and the application has to receive final approval by the Commission, prior to a license being issued.
5. Each licensee agrees to accept a letter of reprimand for the violations specified above. This letter of reprimand will become a permanent part of each licensee's Commission file and may be considered in any future or pending application for any license by the licensee.
6. Licensee hereby relinquishes any and all interest in any marijuana items at the licensed premises or in its CTS inventory for License No. 1000523654B that have not been properly transferred to another licensee as of the effective date of license surrender, and agrees that the Commission may seize and destroy any such untransferred marijuana items.
7. Licensee withdraws its Request for Hearing in this matter.
8. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their April 2020 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.