

ADMINISTRATIVE POLICY & PROCESS DIVISION
December 20, 2018

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Gregory Pierce
Linda Pierce
dba **POSITIVE VIBRATIONS**
1195 Newmark Avenue, Suite A
Coos Bay, OR 97420
(Retailer)

OAR 845-025-8040(1)(b) – Licensees and/or their employees, agents or representatives posted marijuana advertising on the internet via Licensees’ Instagram account, website blog, and/or Facebook page, which contained content that could reasonably be considered to target individuals under the age of 21, by posting cartoon images as part of its marijuana advertising. (On or about January 13, 2018, March 29, 2018, April 5, 2018, and April 6, 2018).

(1st Level Category IV)

OAR 845-025-8040(1)(f) - Licensees and/or their employees, agents or representatives posted marijuana advertising on the internet via Licensees’ Instagram account and/or Facebook page, which displayed consumption of marijuana items. (March 29, 2018, March 31, 2018 and July 13, 2018).

(1st Level Category IV)

OAR 845-025-8040(1)(g) - Licensees and/or their employees, agents or representatives posted marijuana advertising on the internet via Licensees’ Facebook page, which contained material that encourages the use of marijuana because of its intoxicating effect, when it posted an advertisement stating: “I always smoke before I eat because food is always better stoned.” (On or about March 29, 2018).

(1st Level Category IV)

Note: Licensees were charged with these violations by Amended Notice dated October 31, 2018. The proposed sanction was a 34-day suspension or a civil penalty of \$5,610.00. Licensees wish to enter into this settlement agreement.

AGGRAVATION

Staff added six days of aggravation because Violation Number One, Number Two, and Number Four, were repeated.

(continued **POSTIVE VIBRATIONS**)

OAR 845-025-8040(1)(a) - Licensees and/or their employees, agents or representatives posted marijuana advertising on the internet via Google advertising and Licensees' Instagram account and/or Facebook page, which promised consumers a free pre-roll marijuana item in violation of OAR 845-025-2800(3)(b), a promise which could not legally be fulfilled, and was therefore deceptive, false, or misleading. (On or about April 11, 2018, April 14, 2018, and April 20, 2018).

(1st Level Category IV)

SYNOPSIS: Licensees' son's girlfriend handled most of the social media posting for the premises, which resulted in the posting on Facebook and Instagram of prohibited forms of advertising: cartoon images potentially attractive to minors, images of marijuana consumption, and statements encouraging the use of marijuana for its intoxicating effects. Licensees also placed a Google ad promoting a prohibited "free pre-roll" to prospective attendees at a special 4/20 sales event.

TERMS OF AGREEMENT

1. Licensees accept responsibility for the violations as set out in the Amended Notice. These were Licensees' first through fourth Category IV violations within two years, charged at the first level. Any subsequent Category IV violation within the same two years will be charged at the second level.
2. The standard sanction for each of these violations is a seven-day suspension or a civil penalty of \$1,155.00. Staff added six days of aggravation because Violation Number One, Number Two, and Number Four, were repeated. The total proposed sanction was a 34-day suspension or a \$5,610.00 civil penalty.
3. The Commission will reduce the sanction by eight days. This is equivalent to a 30% reduction of the standard sanction.
4. Licensees will pay a \$4,290.00 civil penalty before 5:00 PM on January 15, 2019 **or** serve a 26-day suspension beginning at 7:00 AM on January 20, 2019 and ending at 7:00 AM on February 15, 2019.
5. If a licensees' interest in the license expires or is transferred before the Commission issues a final order on this allegation, that licensee agrees to accept a Letter of Reprimand for this violation. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for a 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 December 2018 Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Licensees' hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Licensees waive 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. Greenway Ventures, LLC
Andranik Malikian, Member
dba **GREENWAY VENTURES**
(Producer)

OAR 845-025-1450(1)(a) - Licensee or Licensee's employees, representatives, or agents failed to have cameras that continuously record, 24 hours a day, in all areas where mature marijuana plants, immature marijuana plants, or usable marijuana may be present on the licensed premises, when no cameras were installed in the "clone room.". (From about July 31, 2017 to about February 5, 2018).

(Category III)

OAR 845-025-1410(3)(c) - Licensee or Licensee's employees, agents, or representatives failed to ensure that, when the Licensee was not operating, all usable marijuana and cut and drying mature marijuana plants on the licensed premises were kept in a locked, enclosed area within the licensed premises that is secured with, at a minimum, a properly installed steel door with a steel frame, when such items were kept in the "trimming room," which was not secured with a properly installed steel door with a steel frame. (On or about February 2, 2018).

(Category III)

OAR 845-025-1420(2)(a)(b)(c) - Licensee or Licensee's employees, agents, or representatives failed to have a security alarm system that was able to detect unauthorized entry onto the licensed premises and unauthorized activity within any limited access area where mature plants or usable marijuana was present; that was programmed to notify the licensee, licensee representative, or authorized personnel in the event of an unauthorized entry; or that had a mechanism to ensure that such people could immediately notify law

Note: Licensee was charged with these violations by Notice dated July 17, 2018. The proposed sanction was cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Three or more violations within a two-year period where the number of violations indicate disregard for the law or failure to control the premises. Violation four was repeated.

(continued **GREENWAY VENTURES**)

enforcement or a security company of any unauthorized entry. (On or about February 2, 2018).

(Category III)

OAR 845-025-7540(1) - 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 packages made in December 2017 and verbally reported to be stolen on February 2, 2018 were entered in CTS only after the theft, when the packages stolen on February 2, 2018 were not reported as stolen in CTS, when a package of "moldy" or "spoilage" product that was "finished" and reported to have "0 lb." on January 31, 2018 was later verbally reported to be stolen on February 2, 2018, when packages reported as "destroyed" were also reported as transferred to another licensee, when plants harvested in December 2017 were not recorded in CTS until January 2018, when 19 totes containing marijuana that could not be associated or traced to plants or harvests were unrecorded in CTS, and when 2 totes containing marijuana were identified in CTS as "finished" and containing "0 lb." or "0 g" of product. (From about July 31, 2017 to about May 21, 2018).

(Category III)

845-025-1450(2) (h) - Licensee or Licensee's employees, representatives, or agents failed to have the date and time embedded on all surveillance recordings. (On or about February 2, 2018).

(Category I)

(continued **GREENWAY VENTURES**)

OAR 845-025-1450(2) (d)(A) - Licensee or Licensee's employees, representatives, or agents failed to keep surveillance recordings for a minimum of 90 calendar days. (On or about February 27, 2018).

(Category I)

OAR 845-025-8540(4)(c) - Licensee's employee, representative, or agent Michael Horner refused to give or failed to promptly give a Josephine County Sheriff's Deputy evidence related to the February 2, 2018 theft when lawfully requested to do so. (From about February 2, 2018 to about March 20, 2018).

(Category II)

OAR 845-025-1450(2)(k) - Licensee or Licensee's employees, representatives, or agents failed to immediately notify the Commission of any equipment failure or system outage lasting 30 minutes or more. (From about May 15, 2018 to about May 21, 2018).

(Category III)

OAR 845-025-2040(3)(a) (effective July 1, 2017) and OAR 845-025-2040(1)(c)(A) (effective December 28, 2017) - Licensee or Licensee's employees, representatives, or agents engaged in the mixed indoor and outdoor production of marijuana without notifying the Commission at the time of initial licensure or at license renewal, and without Commission approval. (From about December 21, 2017 to about December 31, 2017).

(Category III)

(Continued **GREENWAY VENTURES**)

OAR 845-025-1175(1) - Licensee or Licensee's employees, representatives, or agents made physical changes to the licensed premises that materially or substantially altered the licensed premises or the usage of the licensed premises from the plans originally approved by the Commission without the Commission's prior written approval, when a "clone room" was constructed and used for marijuana propagation or cultivation. (July 31 2017 to about February 5, 2018).

(Category III)

SYNOPSIS: A burglary at the premises led to the discovery of numerous violations. Marijuana items were not secured properly, the alarm system was deficient, cameras were not properly installed, security footage was not kept for the required amount of time, and changes were made to the premises without approval. Regarding the burglary, an employee failed to cooperate with the local law enforcement investigation. Additionally, METRC CIS data was not properly kept, including 19 totes of product that could not be traced to a source plant or harvest. Licensee is surrendering the license.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violations Number Five and Number Six were Licensee's first and second Category I violations within two years. Violation Number Seven was Licensee's first Category II violation within two years. The remaining violations were Licensee's first through seventh Category III violations within two years.
2. Commission staff proposed to cancel the license for these violations.
3. Licensee has begun the process of selling the business. Licensee will surrender its license on the date the transfer of ownership of the business is completed or at 7:00 AM on March 30, 2019, whichever is earlier.
4. Licensee withdraws the request for a hearing.
5. Licensee accepts a Letter of Reprimand for these violations. This reprimand will become a permanent part of Licensee's Commission file and may be considered in any future application for any license by Licensee.
6. Licensee surrenders to the Commission for destruction 21 totes containing marijuana items identified on OLCC Evidence Logs 4455, 4459, and 4460.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their December 2018 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.