

ADMINISTRATIVE POLICY & PROCESS DIVISION

June 18, 2020

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Mahalo, Inc.
Frankie Powell, Pres/Sec/Dir/Stkhldr
dba **MAHALO**
353 SW Walnut Street
Hillsboro, OR 97123
(Retailer)

ORS 475B.211 and OAR 845-025-8520(1)(b) - On or about May 13, 2019, Licensee's employees, agents or representatives Lauren Barella and Steve Amato sold, delivered, transferred or made available marijuana items to a person under 21 years of age who did not hold a valid OMMP patient or caregiver card.

(1st Level Category II(b))

Note: Licensee was charged with this violation by Notice dated April 21, 2020. The total proposed sanction was a 32-day suspension. Licensee was given the option to pay a \$4,950.00 civil penalty in lieu of 30 days, with the remaining two days mandatory. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff added two days of aggravation because the violation involved more than one consumer or employee.

SYNOPSIS: – This was a minor decoy operation resulting in a sale to a minor of a \$3.00 half-gram pre-rolled marijuana joint. The selling budtender relied on a door-checker who checked ID. The selling budtender claimed that she usually re-checks ID but believed the minor was of age. The door-checker made a mistake; there was no evidence of intentional sale.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category II(b) violation. Any subsequent Category II(b) violation within the same two years will be charged at the second level.
2. The standard sanction for this violation is a 30-day license suspension or a civil penalty of \$4,950.00. Staff added two days of aggravation because the violation involved more than one consumer or employee. The total proposed sanction was a 32-day suspension. Licensee was given the option to pay a \$4,950.00 civil penalty in lieu of 30 days, with the remaining two days mandatory.
3. The Commission will reduce the sanction by nine days. Licensee will pay a \$3,795.00 civil penalty before 5:00 PM on July 15, 2020 or serve a 23-day suspension beginning at 12:00 PM (noon) on July 22, 2020 and ending at 12:00 PM (noon) on August 14, 2020.
4. Licensee withdraws the request for hearing in this matter.
5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on this allegation, the 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 that licensee.

(continue **MAHALO**)

6. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 2020 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. Plane Jane's, LLC
Patricia Wiegele, Member
dba **PLANE JANE'S DISPENSARY**
10530 NE Simpson Street
Portland, OR 97220
(Retailer)

OAR 845-025-2890(1), (4) - From about March 31, 2016 to about February 12, 2019, Licensee and/or Licensee's employees, agents, or representatives intentionally failed to collect, at the point of sale, the tax imposed on the consumer under ORS 475B.705 and/or intentionally failed to remit the tax to the Oregon Department of Revenue (DOR) in accordance with DOR rules, including OAR 150-475-2010.

Note: Licensee was charged with this violation by Notice dated February 5, 2020. Commission staff originally proposed the standard sanction of license cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

(Category I)

SYNOPSIS: Licensee was issued a Notice of Proposed License Cancellation following the receipt of a letter from the Department of Revenue, informing us that Licensee owed taxes and requesting that we suspend their license. The Commission proposed cancellation of the license rather than suspension because of the excessive amount of taxes owed. Since the investigation and issuance of the charge letter, Licensee has provided proof of compliance with a repayment plan, and is scheduled to pay off all amounts due later this year. Additionally, DOR submitted a letter to the Commission rescinding the request for suspension of the license because of the compliance with the payment plan.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category I violation.
2. Commission staff originally proposed the standard sanction of license cancellation.
3. The Commission will reduce the sanction for the violation and impose a 30-day license suspension. Licensee may pay a \$3,795.00 civil penalty in lieu of 23 days of the suspension, with the remaining seven days mandatory.
4. Licensee will either serve a 30-day suspension beginning at 12:00 PM (noon) on July 22, 2020 and ending at 12:00 PM (noon) on August 21, 2020 **OR** pay a \$3,795.00 civil penalty before 5:00 PM on July 15, 2020 and serve a seven-day suspension beginning at 12:00 PM (noon) on July 22, 2020 and ending at 12:00 PM (noon) on July 29, 2020.
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 allegation, 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 by that licensee.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 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. **MYLES MYERS**
365 SE Bridgeway Ave
Corvallis, OR 97333
(Worker Permit #393L5E)

OAR 845-025-5500(3) – On or about September 16, 2018, Permittee failed to notify the Commission in writing within 10 days of his conviction of a felony, when on September 6, 2018, Permittee was convicted of Public Indecency, ORS 163.465(2)(b), a Class C felony, and he failed to notify the Commission.

Note: Permittee was charged with this violation by Notice dated May 13, 2020. The total proposed sanction was permit revocation. Permittee requested a hearing and now wishes to enter into this settlement agreement.

(Category I)

SYNOPSIS: This worker permittee failed to give the Commission written notice of a felony conviction within 10 days, as required by law. Permittee is in school and relies on this employment, and was given a strong recommendation by his employer.

TERMS OF AGREEMENT

1. Permittee accepts responsibility for the violation as set out in the Notice. This was Permittee's first Category I violation. Any subsequent violation of this type may result in permit revocation.
2. Commission staff recommended the standard sanction of permit revocation for this violation.
3. The Commission will reduce the penalty to a 30-day suspension or a \$750.00 civil penalty.
4. Permittee will pay a \$750.00 civil penalty before 5:00 PM on July 15, 2020 **or** serve a 30-day suspension beginning at 7:00 AM on July 22, 2020 and ending at 7:00 AM on August 21, 2020.
5. Permittee withdraws the request for hearing in this matter.
6. If Permittee's worker permit expires and is not renewed, or is surrendered before the Commission issues a final order on this allegation, Permittee agrees to accept a Letter of Reprimand for the violation. This reprimand will become a permanent part of Permittee's Commission file and may be considered in any future application for any permit by the Permittee.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 2020 Commission 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 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.

4. Green Box, LLC
Adrian Wayman, Member
Robert Wayman, Member
dba **GREEN BOX**
7966 SE Foster Rd
Portland, OR 97206
(Retailer)

OAR 845-025-7540(1)(2) - On or about February 3, 2019, Licensee and/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 with respect to 2 units of "Meteorite (Sativa)" combined bud and concentrate/ extract marijuana items that were delivered from the premises to a consumer on manifest #63003 but entered on the manifest and in CTS as 12 units.

(1st Level Category III)

OAR 845-025-2900(3)(c) - On or about January 2, 2019, January 4, 2019, January 25, 2019, and/or February 19, 2019, prior to the sale or transfer of marijuana items for medical purposes, Licensee and/or its employees, agents or representatives failed to verify that the individual who was purchasing the marijuana items for medical purposes was currently registered with the Oregon Health Authority (Authority) by viewing an Authority-issued registry identification card or designated primary care giver card, or a receipt issued by the Authority, and making sure that the card was current or the receipt had not expired.

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated March 17, 2020. The total proposed penalty was a 22-day suspension or a \$3,630.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: OLCC analytics team located an irregularity in the transfer of medical marijuana without recording an OMMP number. Follow-up investigation revealed a METRC Cannabis Tracking System (CTS) error in recording the quantity of a marijuana item.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first and second Category III violations, charged at the first level. Any subsequent Category III violation within the same two years will be charged at the second level.
2. Commission staff proposed for each of these violations the standard sanction of a 10-day license suspension or a \$1,650.00 civil penalty. Commission staff proposed aggravating the penalty by two days because Violation Number Two was repeated. The total proposed penalty was a 22-day suspension or a \$3,630.00 civil penalty.
3. The Commission will reduce the sanction by six days.

(continue **GREEN BOX**)

4. Licensee will pay a \$2,640.00 civil penalty before 5:00 PM on July 15, 2020 **OR** serve a 16-day suspension beginning at 12:00 PM (noon) on July 22, 2020 and ending at 12:00 PM (noon) on August 7, 2020.
5. Licensee withdraws its Request for Hearing in this matter.
6. 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.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 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.

5. JIMO Holdings, LLC
Joseph Cohen, Member
Idan Magal, Member
Arman Davtian, Member/Manager
dba **PARADISE FOUND**
10735 NE Halsey St
Portland, OR 97220
(Retailer)

OAR 845-025-2800(2)(a), (2)(c)(C), (3)(j) - On or about December 14, 2018 and/or December 15, 2018, Licensee operated other than its retailer license permits when Licensee and/or its employees, agents or representatives sold approximately 416 marijuana items listed on Manifest No. 0001173286 to Nova Paths, a licensed wholesaler (License #1003261D0E0), who was not a consumer, and the sale was not a return entered in the METRC Cannabis Tracking System (CTS) to the inventory of the licensee who had originally transferred the marijuana items to Licensee.

(Category I)

OAR 845-025-7540(1), (2), (4) - On or about December 14, 2018, Licensee and/or Licensee's employees, agents, or representatives intentionally entered data into CTS that did not fully and transparently account for all inventory tracking activities when marijuana items that had been the subject of a "virtual manifest" from Nova Paths, a licensed wholesaler (License #1003261D0E0), were accepted into Licensee's inventory but in fact were never physically held at Licensee's premises, and when such items were never manifested back to Nova Paths but were instead created into new packages and then finished by Licensee as if sold to consumers when they were in fact retained by Nova Paths.

(Category I)

Note: Licensee was charged with these violations by Notice dated February 25, 2020. Staff originally proposed for these violations the standard sanction of license cancellation and seizure and destruction of marijuana items remaining at the premises. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: This retailer allowed itself to be used by another licensee as part of a scheme to get marijuana out of the METRC Cannabis Tracking System (CTS) so the other licensee could take it to an unapproved trade show. In doing so, this retailer transferred marijuana contrary to its license privileges, and intentionally entered misleading data into CTS. Licensee admits that he erred in relying on the other licensee's assertion that this conduct was allowable, and now reaches out to OLCC staff when he has questions about licensee requirements.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first and second Category I violations.

(continue **PARADISE FOUND**)

2. Commission staff originally proposed for these violations the standard sanction of license cancellation and seizure and destruction of marijuana items remaining at the premises. Commission staff proposed aggravation because Licensee Davtian personally committed Violation Number One.
3. The Commission will reduce the sanction on Violation Number One to a 32-day suspension or a \$5,280.00 civil penalty, and on Violation Number Two to a 30-day suspension or a \$4,950.00 civil penalty.
4. Licensee will pay a \$10,230.00 civil penalty before 5:00 PM on July 15, 2020 **or** serve a 62-day suspension beginning at 12:00 PM (noon) on July 22, 2020 and ending at 12:00 PM (noon) on September 22, 2020.
5. Licensee withdraws its Request for Hearing in this matter.
6. If a licensee's interest in the license expires or is transferred before the Commission issues a final order, the 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 that licensee.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 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.

6. Winds of Charge, LLC
James McQuade, Member
dba **WINDS OF CHANGE**
(Producer)

Immediate Suspension:

OAR 845-025-2020(1)(2)- From about March 31, 2016 to about February 12, 2019, Licensee and/or Licensee's employees, agents, or representatives intentionally failed to collect, at the point of sale, the tax imposed on the consumer under ORS 475B.705 and/or intentionally failed to remit the tax to the Oregon Department of Revenue (DOR) in accordance with DOR rules, including OAR 150-475-2010.

(Category I)

Violation Case:

OAR 845-025-2020(1)(2) - On or about August 28, 2019, Licensee (who holds a recreational marijuana producer license) or Licensee's representatives, employees, or agents, operated other than as the license permits in OAR 845-025-2020 (Producer Privileges) when they engaged in or allowed a person to engage in the processing of marijuana items, including processing of a cannabinoid extract, as that term is defined in ORS 475B.015(4), without a processor license.

(Category I)

OAR 845-025-8540(1)(a) and (b) - On or about August 27, 2019, Licensee James McQuade made an intentional false statement or representation to the Commission in order to induce or prevent action or investigation by the Commission when he told Inspector Smoot that marijuana bud listed on an inventory sheet had been destroyed the week before.

(Category I)

Note: An investigation by Commission staff resulted in the Commission issuing an Order of Immediate Suspension and Notice of Opportunity for Hearing, dated September 13, 2019 (Immediate Suspension), and a Notice of Proposed License Cancellation, Seizure and Destruction of Marijuana Items, and Refusal to Renew License, dated October 1, 2019. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Commission staff recommended aggravation because Violation Number Two was personally committed by Licensee James McQuade, and because Violations Number Three, Number Four, and Number Six were repeated.

(continue **WINDS OF CHANGE**)

OAR 845-025-7520(1)(c) - On or about August 27, 2019, Licensee or Licensee's employees, agents, or representatives failed to tag individual marijuana plants with a unique identification (UID) tag, as defined in OAR 845-025-1015(82)(a), no later than when each plant reached a height of twenty four inches.

(1st Level Category III)

OAR 845-025-7520(1)(d) - On or about August 27, 2019, Licensee or Licensee's employees, agents, or representatives failed to tag all inventory, including marijuana items located in the surveillance and storage rooms, with a UID tag, as defined in OAR 845-025-1015(82)(a), pursuant to the system requirements of the METRC Cannabis Tracking System (CTS.)

(1st Level Category III)

OAR 845-025-2030(2) - On or about August 27, 2019, Licensee or Licensee's employees, agents, or representatives engaged in privileges of the license, including possessing, planting, cultivating, growing, harvesting, drying, selling, delivering, transferring, transporting, purchasing, and receiving of marijuana items, within a residence.

(Category I)

OAR 845-025-8520(10)(e) - On or about August 28, 2019, Licensee or Licensee's employees, agents, or representatives permitted hemp items to be present on the licensed premises.

(Category I)

(continue **WINDS OF CHANGE**)

OAR 845-025-8520(5) - On or before August 28, 2019, Licensee or Licensee's employees, agents, or representatives used or consumed marijuana and/or alcoholic beverages in or on the licensed premises, or in surrounding areas under the control of the licensee, in a manner not permitted under OAR 845-025-1230(6)(b).

(1st Level Category III)

SYNOPSIS: The Commission issued an immediate suspension based on a Category I charge for operating other than its license permits for conducting open blasting to process marijuana into butane honey oil. In addition to the charge for operating outside license privileges, the subsequent charge letter alleged Category I violations for having hemp on the premises, intentional false statement, and producing marijuana in a location that's also a residence, as well as Category III violations for failure to tag plants and products with UID tags, and allowing consumption of alcohol and/or marijuana on the premises. Licensee has agreed to surrender his license in lieu of challenging the Immediate Suspension and violations at hearing. The terms of the Immediate Suspension allowed Licensee to harvest marijuana at the licensed premises, so the settlement agreement includes a provision that allows him to transfer the inventory that he was allowed, under the terms of the Commission's order, to harvest.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Immediate Suspension and Notice. Violations Number One, Number Two, Number Five, and Number Six in the Notice were Licensee's first through fourth Category I violations. Violations Number Three, Number Four, and Number Seven in the Notice were Licensee's first through third Category III violations within two years.
2. Commission staff recommended aggravation because Violation Number Two was personally committed by Licensee James McQuade, and because Violations Number Three, Number Four, and Number Six were repeated.
3. Commission staff proposed license cancellation for the violations in the Notice. 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 12:00 PM (noon) on August 31, 2020, whichever is earlier. Licensee agrees that the license will not be renewed.
4. Licensee understands and agrees that the Commission is not representing or guaranteeing that a new owner will have an approved license on or before August 31, 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. The Commission will withdraw the Immediate Suspension effective August 17, 2020, for the sole purpose of allowing Licensee to update its CTS account and to transfer out any marijuana items remaining in its inventory.
6. Licensee relinquishes any and all interest in any marijuana items in its inventory that have not been transferred before the effective date of license surrender, and agrees that the Commission may seize and destroy any such marijuana items.

(continue **WINDS OF CHANGE**)

7. Each licensee agrees to accept a letter of reprimand for the violations specified above. This letter of 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.
8. In consideration of the forbearance stated herein, Licensee agrees to release and waive any and all claims of any kind, known or unknown, past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or agents arising out of the matters set forth in the Third Amended Notice (including any prior versions of the Third Amended Notice) or this Settlement Agreement and the final order based hereon, including but not limited to any claim under federal or state law for damages, declaratory or equitable relief, under 42 USC §1983 *et. seq.*, and for attorneys fees or costs.
9. Licensee withdraws its Request for Hearing in these matters.
10. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their June 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.