

ADMINISTRATIVE POLICY & PROCESS DIVISION
October 26, 2018

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

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| <p>1. CO2 Company Auction House, LLC
Kevin Walsh, Member
Ryan Walsh, Member
dba CANNABIS & CO.
1010 SW Gibbs Street
Portland, OR 97239
(Retailer)</p> | <p>OAR 845-025-1450(2)(d)(A) – Licensee or Licensee’s employees, agents, servants, or representatives failed to keep surveillance recordings for a minimum of 90 calendar days.. (On or about April 12, 2018).</p> <p>(1st Level Category I)</p> | <p>Note: Licensee was charged with this violation by Notice dated July 31, 2018. The proposed sanction was license cancellation. Licensee requested a hearing and now wishes to withdraw that request to enter into this settlement agreement.</p> |
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SYNOPSIS: The Portland Office of Neighborhood Involvement (ONI) notified the Commission that on March 15, 2018, Licensee did not have adequate surveillance footage under Portland City Code. On 4/12/18, Inspectors followed up at the premises and found that Licensee only had 22 days of footage saved, not 90 days as required by OLCC rule.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation(s) as set out in the Notice. This was Licensee’s first Category I violation within two years.
2. Commission staff originally proposed the standard sanction of license cancellation.
3. The Commission will reduce the sanction for Violation Number One and impose a \$4,950.00 civil penalty or a 30-day license suspension.
4. Licensee will pay a \$4,950.00 civil penalty before 5:00 PM on November 15, 2018 **OR** serve a 30-day license suspension beginning at 7:00 AM on November 20, 2018 and ending at 7:00 AM on December 20, 2018.
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(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.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their October 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.

2. TopShelf Garden Centre, LLC
Nicholas Landis, Member
Elliot Ladwig, Member
dba **HEAD STASH HORTICULTURE**
(Producer)

OAR 845-025-1450(2)(d)(A) – Licensee or Licensee’s employees, agents, servants, or representatives failed to keep surveillance recordings for a minimum of 90 calendar days. (April 3, 2018).

(1st Level Category I)

Note: Licensee was charged with this violation by Notice dated August 1, 2018. The proposed sanction was license cancellation, and the seizure and destruction of marijuana items. Licensee requested a hearing and now wishes to withdraw that request to enter into this settlement agreement.

SYNOPSIS: Inspectors received complaint about on-site marijuana consumption. Visited premises to follow up and requested footage on date consumption was reported. Licensee did not have footage for at least 90 days prior to the inspector’s request. Licensee stated it was a VMS server malfunction.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. The violation was Licensee’s first Category I violation within two years.
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 the violation and impose a \$4,950.00 civil penalty or a 30-day license suspension for the violation.
4. Licensee will pay a \$4,950.00 civil penalty before 5:00 PM on November 15, 2018 **OR** serve a 30-day suspension beginning at 7:00 AM on November 20, 2018 and ending at 7:00 AM on December 20, 2018.
5. Licensee withdraws the request for a hearing.
6. 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.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their October 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.

3. Cannabis Corner, LLC
Patrick Maher, Managing Member
dba **CANNABIS CORNER**
5431 SE 72nd Ave
Portland, OR 97206
(Retailer)

OAR 845-025-1450(2)(d)(A) – Licensee or Licensee’s employees, agents, servants, or representatives failed to keep surveillance recordings for a minimum of 90 calendar days. (On or about September 7, 2017).

(1st Level Category I)

Note: Licensee was charged with this violation by Notice dated June 6, 2018. The proposed sanction was license cancellation. Licensee requested a hearing and now wishes to withdraw that request to enter into this settlement agreement.

SYNOPSIS: Inspectors received complaint from former employee of several potential violations (illegal sales; unsanitary conditions; unreported theft). Inspectors visited premises to follow up on the complaint a couple different times. On September 7, 2017, inspectors requested footage of August 16, 2017 to investigate a possible violation and Licensee could not produce the video recording. Licensee’s system was only able to produce about 14 days of recording.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. The violation was Licensee’s first Category I violation within two years.
2. Commission staff originally proposed the standard sanction of license cancellation.
3. The Commission will reduce the sanction for the violation and impose a \$4,950.00 civil penalty or a 30-day license suspension for the violation.
4. Licensee will pay a \$4,950.00 civil penalty before 5:00 PM on November 15, 2018 **OR** serve a 30-day suspension beginning at 7:00 AM on November 20, 2018 and ending at 7:00 AM on December 20, 2018.
5. Licensee withdraws the request for a hearing.
6. 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.
7. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their October 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.

4. CO2 Company Auction House, LLC
Kevin Walsh, Member
Ryan Walsh, Member
dba **HEADWATER**
(Wholesaler)

OAR 845-025-1450(2)(d)(A) – Licensee or Licensee’s employees, agents, servants, or representatives failed to keep surveillance recordings for a minimum of 90 calendar days. (On or about April 12, 2018).

(1st Level Category I)

OAR 845-025-1410(3)(c) - During hours when the Licensee was not operating, Licensee or Licensee’s employees, agents, servants, or representatives failed to keep all usable marijuana, cut and drying mature marijuana plants, cannabinoid concentrates, extracts or products on the licensed premises in a locked, enclosed area within the licensed premises that was secured with, at a minimum, a properly installed steel door with steel frame, and a commercial grade, non-residential door lock. (On or about April 12, 2018).

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated September 18, 2018. The proposed sanction was license cancellation, and the seizure and destruction of marijuana items. Licensee requested a hearing and now wishes to withdraw that request to enter into this settlement agreement.

SYNOPSIS: The Portland Office of Neighborhood Involvement (ONI) notified Commission that on March 15, 2018, Licensee did not have adequate surveillance footage under Portland City Code. On 4/12/18, Inspectors followed up at the premises and found that Licensee only had 22 days of footage saved, not 90 days as required by OLCC rule. Additionally, Licensee was storing its product in a room that was not fully enclosed within the premises. The room’s ceiling was open to the rest of the premises, and the room did not have a steel door with a steel frame or a commercial-grade lock.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee’s first Category I and Category III violations within two years. Any subsequent Category III violation within the same two years will be charged at the second level.
2. Commission staff originally proposed the standard sanction of license cancellation.
3. The Commission will reduce the sanction for Violation Number One and impose a \$4,950.00 civil penalty or a 30-day license suspension for that violation.
4. The standard sanction for Violation Number Two is a 10-day suspension or a \$1,650.00 civil penalty. The Commission will reduce the sanction for this violation by three days. This is equivalent to a 30% reduction of the standard sanction.

(continued **HEADWATER**)

5. Licensee will pay a \$6,105.00 civil penalty before 5:00 PM on November 15, 2018 **OR** serve a 37-day suspension beginning at 7:00 AM on November 20, 2018 and ending at 7:00 AM on December 27, 2018.
6. Licensee withdraws any request for 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 October 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.

5. Pacific Partners RTG, LLC
Yotokko Kilpatrick, Managing Member
Deepak Kumar, Member
Timothy Bourke, Member
dba **WAY HIGH 101**
63049 Hwy 101
Coos Bay, OR 97420
(Retailer)

OAR 845-025-8540(1)(a) – Licensee’s employees, servants, agents or representatives Zander Shundahai and Benjamin Ennis made a false statement(s) or representation(s) to the Commission in order to induce or prevent action or investigation by the Commission, when they told OLCC Marijuana Regulatory Specialists C. Montecino and C. Girard that no one ever smoked marijuana on the premises. (On or about February 22, 2018).

(1st Level Category II)

OAR 845-025-8520(4)(a) - Licensee’s employee, agent, or representative Benjamin Ennis consumed intoxicating substances while on duty, other than as permitted under OAR 845-025-1230(6). (December 1, 2017).

(1st Level Category III)

OAR 845-025-7580(1)(a),(b) - Licensee and/or its employees, agents or representatives failed to use CTS for all inventory tracking activities at the licensed premises, and failed to reconcile all on-premises and in-transit marijuana item inventories each day in CTS at the close of business pursuant to system requirements, when trade samples containing useable marijuana bud were not entered into CTS after they were transferred to the premises. (From about December 3, 2017 to about March 7, 2018).

(1st Level Category III)

Note: Licensee was charged with these violations by Amended Notice dated September 19, 2018. The proposed sanction was a 64-day suspension or a civil penalty of \$10,560.00. Licensee requested a hearing and now wishes to withdraw that request to enter into this settlement agreement.

AGGRAVATION

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

(continued **WAY HIGH 101**)

OAR 845-025-1620(2)(a)(b) – Licensee and/or its employees, agents or representatives failed to require all persons who work in direct contact with marijuana items to conform to hygienic practices while on duty by washing hands thoroughly in an adequate hand-washing area before starting work, prior to having contact with a marijuana item and at any other time when the hands may have become soiled or contaminated, when employee Zander Shundahai was observed on video footage picking his nose and having direct contact with useable marijuana prior to washing or sanitizing his hands. (On or about February 16, 2018).

(1st Level Category III)

SYNOPSIS: **#1 False Statement** - Complaint driven by employee that another employee had consumed marijuana on site and worked under the influence of marijuana. Initially employees Shundahai and Ennis told inspectors that no one had ever smoked at the premises. Then later when asked again on a different date (and prior to viewing the requested video footage) Shundahai recanted and admitted that another employee had regularly consumed marijuana at the premises. **#2 Consuming intoxicating substances while on duty** - This act was captured on video. Consumption was in a back room not open to public. **#3 Failed to track in METRC at close of business** - Employee is seen on video on Dec 3rd accepting trade samples. METRC showed that these were not entered into METRC until March 7, 2018. **#4 Employee failed to conform to hygienic practices prior to handling marijuana items** - While reviewing video footage as part of an investigation, an inspector observed that on February 16, 2018, an employee is seen picking his nose prior to handling marijuana without sanitizing hands or using gloves.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violation One was Licensee's first Category II violation within two years. Violations Two, Three and Four were Licensee's first, second and third Category III violations within two years. Any subsequent Category II or Category III violations within the same two years will be charged at the second level.
2. Commission staff originally proposed for Violation One the standard sanction of a 30-day suspension or a \$4,950.00 civil penalty.
3. Commission staff originally proposed for Violations Two, Three and Four the standard sanction of a 10-day suspension or a \$1,650.00 civil penalty for each. Staff added four days of aggravation because Violations Two and Three were repeated.
4. The total proposed sanction for Violations One through Four, was a 64-day suspension or a civil penalty of \$10,560.00.

(continued **WAY HIGH 101**)

5. Licensee accepts the sanction for Violation One as a \$4,950.00 civil penalty or a 30-day license suspension.
6. The Commission will reduce the sanction for Violation Two, Three and Four by three days for each violation. This is equivalent to a 30% reduction of the standard sanction.
7. Licensee will pay a \$9,075.00 civil penalty before 5:00 PM on November 15, 2018 **OR** serve a 55-day suspension beginning at 7:00 AM on November 20, 2018 and ending at 7:00 AM on January 14, 2019.
8. Licensee withdraws the request for a hearing.
9. 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.
10. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their October 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.

6. Oregon Bud Works, LLC
James Alexander, Managing Member
dba **OREGON BUD WORKS**
(Producer)

OAR 845-025-1175(1) – Licensee made physical changes to the licensed premises that materially or substantially altered the licensed premises or the use of the licensed premises from the plans originally approved by the Commission without the Commission’s written approval when Licensee constructed a new building on the premises and added Conex shipping containers to the premises. (On or about July 20, 2017 and on or about January 9, 2018).

(1st Level Category III)

OAR 845-025-7540(1),(2), and (4) - Licensee or Licensee’s designated Cannabis Tracking System (CTS) administrator, representatives, employees, or agents failed to enter data into CTS that fully and transparently accounted for all inventory tracking activities when they listed usable, drying marijuana as “destroyed.” This failure constituted intentional misrepresentation. (On or about January 3, 2018 and on or about January 4, 2018).

(1st Level Category I)

OAR 845-025-7540(1),(2), and (4) - Licensee or Licensee’s designated Cannabis Tracking System (CTS) administrator, representatives, employees, or agents failed to enter data into CTS that fully and transparently accounted for all inventory tracking activities when they continued to report 653 immature plants on the premises when there were approximately 120 immature plants on the premises.

(1st Level Category III)

Note: Licensee was charged with these violations by Amended Notice dated October 4, 2018. The proposed sanction was to cancel the license and seize and destroy any remaining marijuana items. Licensee requested a hearing and now wishes to withdraw that request to enter into this settlement agreement.

(continued **Oregon Bud Works**)

OAR 845-025-1440(1)(b) and (d) – Licensee or Licensee’s representatives, employees, or agents failed to have camera coverage for all limited access areas as that term is defined in OAR 845-025-1015 when it failed to have camera coverage for multiple Conex containers, greenhouses, canopy areas, the ‘Veg’ room, and other portions of the licensed premises where marijuana items were processed, stored, weighed, packaged, labeled, or sold, or at all points of entry to or exit from the Conex containers and greenhouses. (On or about July 20, 2017, on or about September 13, 2017, on or about January 9, 2018, and on or about April 17, 2018).

(1st Level Category III)

OAR 845-025-1450(1)(a)(b) - Licensee or Licensee’s representatives, employees, or agents failed to have cameras that continuously recorded, 24 hours a day in all areas where mature marijuana plants, usable marijuana, or products may be present on the licensed premises. (On or about July 20, 2017, on or about September 13, 2017, on or about January 9, 2018, and on or about April 17, 2018).

(1st Level Category III)

OAR 845-025-1450(2)(d)(B) - Licensee failed to keep surveillance recordings for a minimum of 30 calendar days, when Licensee had only 17 days of recordings available. (On or about January 9, 2018).

(1st Level Category I)

(continued **Oregon Bud Works**)

OAR 845-025-1450(2)(e) – Licensee failed to keep offsite backup recordings for a minimum of 30 days, when Licensee acknowledged failing to maintain any offsite recordings, and on April 17, 2018, when Licensee stated that cameras were not compatible with their digital video system. (On or about January 9, 2018)

(1st Level Category I)

OAR 845-025-1470(1) - Licensee failed to effectively prevent public access to all areas of the licensed premises used in the production of marijuana when two OLCC regulatory specialists were able to enter the premises and drying room. (On or about July 20, 2017).

(1st Level Category III)

OAR 845-025-1420(1) - Licensee failed to have a fully operational security alarm system, activated at all times when the licensed premises is closed for business, when portions of the alarm system were not functional and Managing Member Alexander acknowledged that the gate was not alarmed at night. (On or about July 20, 2017, on or about September 13, 2017, on or about January 24, 2018, and on or about April 17, 2018).

(1st Level Category III)

(continued **Oregon Bud Works**)

OAR 845-025-2080(1)(a)(b)(c)(d)(e)(f) – Licensee failed to physically segregate individual harvest lots from other lots, place the lots into a receptacle or multiple receptacles, assign and affix a UID tag to each receptacle linked to each plant that was harvested and record the weight of the receptacles accurately in CTS, ensure that all inventory tracking procedures were followed, and ensure that all weights for each harvest lot were designated in CTS as either usable marijuana with an assigned UID tag, waste, or moisture loss for approximately 104 or more harvest lots.

(From about September 17, 2017 to about April 6, 2018)

(1st Level Category III)

SYNOPSIS: **#1 Physical changes to premises that substantially altered the use prior to Commission approval** - Six conex containers were on premises without having been approved. Also, Licensee at a later date constructed a building without approval. The conex containers were in use but the new building discovered on January 9, 2018 was not in use. **#2 Intentional misrepresentation of data in CTS** - During an inspection Licensee admitted to having entered large amounts of drying marijuana as destroyed when inspectors discovered it in a conex shipping container. Licensee stated that the marijuana was moldy and not useable. Licensee agreed to destroy it in a burn pile during the inspection. **#3 Misrepresentation of data in CTS** - Licensee admitted there were 120 immature plants on the premises when CTS showed 653 immature plants. **#4 Insufficient camera coverage** - On multiple occasions Licensee had insufficient camera coverage in multiple conex containers, greenhouses, canopy areas, the ‘Veg’ room, and other portions of the licensed premises where marijuana items were processed, stored, weighed, packaged, labeled, or sold, or at all points of entry to or exit from the conex containers and greenhouses. Licensee failed to remedy violation for several months despite multiple instructions to do so. **#5 Failure to have continuously 24-hour camera recordings** - On multiple occasions Licensee failed to have cameras recording 24 hours a day in all areas where mature marijuana plants, usable marijuana, or product were present on the licensed premises. Licensee failed to remedy violation for several months despite multiple instructions to do so. **#6 Failure to have surveillance recordings for a minimum of 30 days** - On January 9, 2018, Licensee had only 17 days of recording available (in the areas where cameras were present). **#7 Failure to have off-site backup recordings for a minimum of 30 days** - On January 9, 2018 and April 17, 2018, Licensee failed to maintain off-site recordings for a minimum of 30 days. **#8 Failure to prevent public access to areas used in the production of marijuana on the licensed premises** - On July 20, 2017, Inspectors arrived at the premises were able to gain undetected entry to multiple areas in the licensed premises that are used in the production of marijuana. **#9 Failure to have a fully operational alarm system** - On multiple occasions Licensee failed to have an alarm system that could be activated at night. Licensee failed to remedy violation for several months despite multiple instructions to do so. **#10 Failure to segregate harvest lots assign or affix UID tags and accurately record weight in CTS** - On January 10, 2018, Inspector ran harvest Metrc report and found that out of 104 unfinished harvests ranging from September 17, 2017 to October 26, 2017, none of them had any recorded waste and five of the harvests did not have any packages.

(continued **Oregon Bud Works**)

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Amended Notice. Violation Two, Violation Six and Violation Seven were Licensee's first, second and third Category I violations. Violation One, Violation Three, Violation Four, Violation Five, Violation Eight, Violation Nine, and Violation Ten were Licensee's first through seventh Category III violations within two years.
2. Commission staff proposed to cancel the license and seize and destroy any remaining marijuana items on the licensed premises for these violations.
3. Licensee has begun the process of selling the business. Licensee will surrender its marijuana producer license on the date the transfer of ownership of the business is completed or at 7:00 AM on January 31, 2019, whichever is earlier.
4. Licensee withdraws the request for a hearing.
5. Licensee accepts a Letter of Reprimand for the violations charged in the Amended Notice. This Letter of Reprimand will become a permanent part of their Commission file and may be considered in any future application for any license by Licensee.
6. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their October 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.