

ADMINISTRATIVE POLICY & PROCESS DIVISION
September 19, 2019

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Firehorse Trading Co., LLC
David Coy, Member/Manager
dba **FIREHORSE TRADING CO.**
233 W 7th Avenue, Suite B
Eugene, OR 97737
(Retailer)

OAR 845-025-2800(4)(b)(B) – From about January 9, 2019 to about January 29, 2019, Licensee or Licensee's employees, agents, or representatives knowingly exceeded the 32 ounce monthly sales limit for usable marijuana sold or transferred to a single Oregon Medical Marijuana Program (OMMP) cardholder or designated primary caregiver when it sold approximately 63.2 ounces of marijuana to the holder of an OMMP registry card.

Note: Licensee was charged with this violation by Notice dated July 31, 2019. Commission staff originally proposed the standard sanction of license cancellation, and the seizure and destruction of marijuana items. Licensee wishes to enter into this settlement agreement.

(Category I)

SYNOPSIS: An investigation uncovered that Licensee had made medical sales to a single OMMP cardholder that exceeded the monthly limit. The cardholder had made ten separate purchases at the store during the month, all within the daily sales limit but totaling an amount over the monthly limit. When reviewing the violation with the inspector, Licensee explained that its point of sale system (POS) did not have a mechanism for alerting an employee when a cardholder has reached or exceeded their monthly limit on sales. They subsequently worked with their POS vendor to develop a solution, whereby a Transaction History tab was added so an employee could review other recent purchases by the cardholder to determine whether they were still under the monthly limit.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation 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 the violation 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 October 15, 2019 **OR** serve a 30-day license suspension beginning at 7:00 AM on October 20, 2019 and ending at 7:00 AM on November 19, 2019.
5. 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.
6. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their September 2019 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. Next Generation Nurseries, LLC
Karen Osovsky, Member
dba **NEXT GENERATION NURSERIES**
(Producer)

OAR 845-025-2090(1), (2), (5)(a) - On or about September 15, 2018; October 15-18, 2018; and November 2, 3, 5, 8, 9, 17, 2018, Licensee or Licensee's employees, agents, or representatives harvested useable marijuana from one or more mature plants on the premises without submitting a harvest notification in the form and manner prescribed by the Commission identifying the proposed harvest dates no later than by 9:00 a.m. on the day of the harvest activity.

(2nd Level Category III)

OAR 845-025-2090(1), (3), (5)(b) - On or about September 25, 27, 28, 30, 2018; and October 1, 2, 5, 6, 7, 9, 11, 2018, Licensee or Licensee's employees, agents, or representatives notified the Commission of its intent to harvest marijuana but did not in fact harvest marijuana on those dates, and failed to properly amend these harvest notifications to show that it was not harvesting on the dates indicated.

(1st Level Category IV)

Note: Licensee was charged with these violations by Notice dated March 20, 2019. The total proposed sanction was a 41-day suspension or a \$6,765.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

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

SYNOPSIS: Licensee failed to submit harvest notifications for all days plants were harvested and failed to amend reported dates of harvest when in fact harvesting did not occur. Licensee wrongly believed that scheduling with a general timeframe complied with the harvest notification rules.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. Violation One was Licensee's second Category III violation in two years. Any subsequent Category III violation within the same two years will be charged at the third level. Violation Two was Licensee's first Category IV violation. Any subsequent Category IV violation within the same two years will be charged at the second level.
2. For Violation One the standard sanction for a second level Category III violation is a 30-day suspension or a \$4,950.00 civil penalty. For Violation Two the standard sanction for a Category IV violation is a seven-day suspension or a \$1,155.00 civil penalty. Staff added four days of aggravation because the Violations One and Two were repeated. The total proposed sanction was a 41-day suspension or a \$6,765.00 civil penalty.
3. The Commission will reduce the sanction by 11 days. This is equivalent to a 30% reduction of the standard sanction.

(continued **NEXT GENERATION NURSERIES**)

4. Licensee will pay a \$4,950.00 civil penalty before 5:00 PM on October 15, 2019 **or** serve a 30-day suspension beginning at 7:00 AM on October 20, 2019 and ending at 7:00 AM on November 19, 2019.
5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these allegations, that licensee agrees to accept a Letter of Reprimand for the violations. 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. Licensee withdraws its Request for Hearing in this matter.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their September 2019 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.

<p>3. Boundless Technology, LLC Casey Nugent, Manager Randall Elkins, Member Boundless Technology, LLC (CA LLC), Mbr. Randall Elkins, Member dba NUHARVEST (Producer)</p>	<p>OAR 845-025-1115(6) – On or about July 18, 2018, Licensee or Licensee’s employees, agents, or representatives failed to disclose to the Commission the existence of an ownership interest in the business when CCR Productions, LLC, Phytomix, LLC, Justin Tombe, Steven Jaramillo, and Scott Lazar exercised control over or were entitled to exercise control over the business, other than as employees acting under the direction of the owner; incurred debt or were entitled to incur debt or similar obligations on behalf of the business, other than as employees acting under the direction of the owner; entered into or were entitled to enter into, a contract or similar obligations on behalf of the business, other than as employees acting under the direction of the owner; and were identified as lessees of the licensed premises. This is a violation of OAR 845-025-1045(3). The Commission may revoke a license for any of the reasons that it may deny a license.</p> <p>(Category I)</p> <p>OAR 845-025-1115(6) - From about July 18, 2018 to the present, Licensee has not had access to the licensed premises. This is a violation of OAR 845-025-1115(2)(f). The Commission may revoke a license for any of the reasons that it may deny a license.</p> <p>(Category I)</p> <p>OAR 845-025-8520(10)(e) - On or about January 4, 2019, Licensee or Licensee’s employees, agents, or representatives permitted industrial hemp or hemp items to be present on the licensed premises without a control plan approved by the Commission.</p> <p>(Category I)</p>	<p>Note: Licensee was charged with these violations by Notice dated April 16, 2019. Commission staff originally proposed the standard sanction of permit cancellation and seizure and destruction of Marijuana items. Licensee requested a hearing and now wishes to enter into this settlement agreement.</p>
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(continued NUHARVEST)	<p>OAR 845-025-1450(2)(j) - On or about January 4, 2019, Licensee or Licensee's employees, agents or representatives failed to make video surveillance records and recordings available immediately upon request to the Commission when requested by Inspector Girard.</p> <p>(1st Level Category II)</p>	
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SYNOPSIS: Boundless Technology, LLC is the licensee of record. An inspection of their premises revealed that other business entities, CCR Productions, LLC and Phytonix, LLC, had taken over the premises and the business operations. Jaramillo and Lazar, members of CCR Productions, LLC, became lessees of the premises on July 18, 2018. Further, Inspectors found that hemp was growing on the premises. When Inspectors asked to view the premises' video footage, an employee of CCR Productions, LLC declined, stating that he was uncomfortable accessing a video system that did not belong to him. Licensee accepts responsibility for the violations and surrenders its license.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first, second, and third Category I violations, and first Category II violation.
2. The standard sanction for these violations is license cancellation. Licensee hereby tenders the surrender of its license and the Commission accepts surrender of Marijuana Producer License No. 11007530C806, effective as of the date of ratification of this agreement.
3. 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.
4. Licensee hereby relinquishes any and all interest in any marijuana items left at the licensed premises after the effective date of license surrender, and agrees that the Commission may seize and destroy any such marijuana items.
5. Licensee withdraws its Request for Hearing in this matter.
6. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their September 2019 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.