

ADMINISTRATIVE HEARINGS DIVISION

June 15, 2022

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Yance Farms, Inc.
Jose Yance, Pres/Dir/Stkhdr
Bryan Yance, Treas/Dir/Stkhdr
Carmen Yance, Secretary
dba **ASTRA CANNABIS**^[1]

(Producer)

OAR 845-025-2090(1), (2) - On or about August 10, 2020 and October 28, 2020, Licensee and/or Licensee's employees, agents, or representatives harvested usable marijuana from one or more mature plants in an outdoor canopy area on the licensed 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.

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated April 26, 2022. The total proposed sanction for this violation is a 12-day license suspension or a \$3,000.00 civil penalty. Licensee wishes to enter into this settlement agreement.

AGGRAVATION

The violation was aggravated for repeated misconduct.

SYNOPSIS: – After receiving an anonymous phone call alleging an unrelated violation, OLCC Inspector D. Wernette analyzed CTS records, engaged in numerous phone calls and emails with Licensee, Licensee's employees, and attorney, and conducted a virtual inspection on March 2, 2021 (precaution due to COVID outbreak at the premises in February 2021). The Inspector determined: (1) there was insufficient evidence to substantiate the anonymous complaint; and (2) Licensee's CTS system documented outdoor harvests of mature marijuana on two dates that had not been scheduled in CTS. Licensee was aware of the requirement to provide harvest notification in CTS by 9:00AM on the date of harvest, as it had complied with this requirement in 2019 and 2018. The proposed settlement accords with standard settlement authority for Category III violations.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category III violation within two years. Any subsequent Category III violation within the same two years will be charged at the second level. This violation will become a permanent part of each licensee's Commission file and may be considered in any future application for any license or permit by that licensee.
2. The standard sanction for this Category III violation is a 10-day license suspension or a \$2,500.00 civil penalty. This violation was aggravated for repeated misconduct. Staff recommended a 12-day license suspension or a civil penalty of \$3,000.00.
3. The Commission will reduce the sanction by three days.
4. Licensee will either pay a \$2,250.00 civil penalty before 5:00 PM on July 15, 2022 **OR** serve a nine-day suspension beginning at 12:00 PM (noon) on July 22, 2022 and ending at 12:00 PM (noon) on July 31, 2022.

¹ At the time of the incidents in question the tradename was Yance Farms.

(Continued **ASTRA CANNABIS**)

5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these allegations, the licensee agrees to accept a Letter of Reprimand. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for a license or permit by that licensee.
6. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their June 2022 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. HBFRM, LLC
Nicholas Van Den Braden, Mbr
dba **HERBA FARM**

(Producer)

OAR 845-025-8520(3)(a)(A) - On or about June 4, 2020, and/or between June 4, 2020 and June 23, 2020, Licensee and/or Licensee's employees, agents, or representatives refused to admit OLCC Inspector C. Montecino (regulatory specialist) to the premises, who identified himself as an OLCC inspector and requested access during normal business hours for the purpose of ensuring compliance with ORS ch. 475B and OAR 845 division 025, affecting the license privileges.

(Category II)

Note: Licensee was charged with this violation by Amended Notice dated May 3, 2022. Staff proposed the standard sanction of a 30-day license suspension. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: OLCC Inspector C. Montecino was assigned to investigate a possible change of ownership without OLCC approval. An OLCC license investigator assigned to a change of location request stated that her investigation revealed that the current license holder, HBFRM, LLC, had sold to YW Cultivation, LLC without approval. This was confirmed in a June 4, 2020 telephone conversation with Licensee Van Den Braden. Van Den Braden stated that marijuana was not being grown at the premises, but that hemp was. Inspector Montecino requested access to the premises for purposes of an inspection to verify this statement and current compliance with OAR 845 Division 25, but the inspector was told that he would have to get permission from the current owners. The current owners refused permission to access the premises. A drive-by verified that cannabis is being grown at the premises, but the inspector could not determine whether the cannabis is hemp or marijuana. Review of ODA records shows that there was no ODA Hemp Grower Registration on file for the premises. Under the settlement, the license will be surrendered.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category II violation within two years. This violation will become a permanent part of each licensee's Commission file and may be considered in any future application for any license or permit by that licensee.
2. Commission staff proposed the standard sanction of a 30-day license suspension.
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 September 16, 2022, whichever is earlier. If Licensee's license expires on or before September 16, 2022 and Licensee chooses to keep its license active beyond the expiration date, Licensee understands and agrees that it will have to timely submit a renewal application and any required fees. Renewal will not create any rights beyond the final surrender date.
4. Licensee understands and agrees that the Commission is not representing or guaranteeing that a new owner will be licensable or will have an approved license on or before the date of surrender. Licensee understands and agrees that any purchaser 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 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 or permit by that licensee.

(Continued **HERBA FARM**)

6. Licensee agrees that any marijuana items at the premises as of the date of surrender which have not been properly transferred to another licensee may be seized and destroyed by the Commission.
7. Licensee withdraws its Request for Hearing in this matter.
8. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their June 2022 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.