

ADMINISTRATIVE HEARINGS DIVISION

November 17, 2022

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. CBZ, LLC
Bradley Zusman, Member/Mgr
Christina Zusman, Member/Mgr
dba **BLAZE DISTRIBUTION**

(Wholesaler)

ORS 475C.213 and OAR 845-025-8540(2)(a)(A), (C).¹- On or about October 21, 2020, Licensee and/or Licensee's employees, agents, or representatives misrepresented the contents and potency of a marijuana item to a consumer, licensee or the public, when they provided a chocolate "rice crispy" trade sample to Treestar, Retailer license no. 1007069E349, and represented it as "non-medicated," but in fact the sample contained tetrahydrocannabinol (THC), which made an employee ill after he consumed it with the belief that it would not have an intoxicating effect. The violation was without knowledge or intention under OAR 845-025-8540(2)(d).

(1st Level Category II)

Note: Licensee was charged with this violation by Notice dated May 11, 2022. The total proposed sanction for this violation is a 32-day license suspension. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Two days of aggravation was added because the violation caused injury to a consumer.

SYNOPSIS: – Licensee, a wholesaler, transferred to a marijuana retailer edible rice crispy trade samples, which were included with their order. A retail employee ate one of the samples labeled non-medicated and began to feel intoxicated and ill. The marijuana retailer recovered the uneaten portion and sent it to a lab for testing, which confirmed it contained THC. When Licensee was notified of the incident, measures were immediately taken to quarantine and then destroy all samples. Licensee's internal investigation found no evidence identifying a cross contamination event. The incident was unintentional and no other complaints were received. Licensee implemented additional risk-mitigation controls, which included changing the sample size and shape of the medicated and non-medicated samples, and increased separation measures between non-medicated products and medicated products.

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. The violation was without knowledge or intention. Any subsequent Category II violation within the same two years will be charged at the second level. The 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.

¹ All citations are to rules in effect at the time of the incidents in question. ORS 475B was renumbered ORS 475C in December 2021 without substantive change, and therefore statutory citations are to the current renumbering. The Notice incorrectly cited OAR 845-025-8540(2)(c) in the Determining the Penalty section.

(Continued **BLAZE DISTRIBUTION**)

2. The standard sanction for a Category II violation is a 30-day license suspension. Commission staff recommended aggravating the penalty because the violation caused injury to a consumer. Commission staff originally recommended a 32-day license suspension.
3. Mitigation is applied because Licensee has demonstrated to the satisfaction of the Commission that the conduct that led to the violation is not persistent, and because Licensee demonstrated a willingness and ability to control the licensed premises' inventory. OAR 845-025-8590(5)(d)(D) and (E).
4. The Commission will reduce the sanction for the violation to a 19-day license suspension, with the option to pay a \$4,250.00 civil penalty in lieu of 17 days, and the remaining two days mandatory.
5. Licensee will either pay a \$4,250.00 civil penalty before 5:00 PM on December 15, 2022 and serve a mandatory two-day license suspension beginning at 12:00 PM (noon) on December 22, 2022 and ending at 12:00 PM (noon) on December 24, 2022 **OR** serve a 19-day suspension beginning at 12:00 PM (noon) on December 22, 2022 and ending at 12:00 PM (noon) on January 10, 2023.
6. Licensee withdraws its request for a hearing.
7. 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. 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.
8. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their November 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. MJAI Oregon 1, LLC
Craig Frank, Manager
Chad Craig, Manager
Marijuana Holdings Americas, Inc.,
Member
Craig Frank, Pres/VP Sec/Dir/Stkhldr
Kaya Holdings, Inc., Stockholder
Craig Frank, Pres/Sec/Treas
Dir/Stkhldr
dba **KAYA SHACK**
5757 Commercial St SE, Suite 108
Salem, OR 97306

(Retailer)

OAR 845-025-8540(3)(a) - From approximately February 4, 2019 to February 10, 2020, Licensee and/or Licensee's employees, agents, or representatives supplied adulterated (as defined in OAR 845-025-1015(2)(a)(c)(e)(f)(g)(h)) marijuana items when pre-rolled marijuana joints and useable marijuana pre-packs adulterated with broken glass were sold to consumers or transferred to other licensees for ultimate sale to consumers, from one or more of the following packages, and packages derived from these packages:
1A4010300010BF9000006539;
1A40103000168F2000000097;
1A40103000168F2000000216;
1A401030000940E000000855;
1A4010300006E95000001535;
1A40103000070E5000001956;
1A40103000070E5000001968;
1A40103000012625000003547;
1A4010300001223D000003581;
1A4010300001223D000003577; and
1A4010300010BF9000006729.

(Category I)

OAR 845-025-8540(4)(a) - On multiple occasions from approximately February 4, 2019 to May 28, 2020, Licensee, including Managers Frank and Craig, and/or Licensee's employees, agents, or representatives, including Marijuana Holdings Americas, Inc. stockholder William David Jones, intentionally asked or encouraged employees to conceal potential evidence of violations of OAR chapter 845 division 025, by telling them not to ever speak directly to the OLCC and/or by threatening employees with termination or lawsuits if they were to report issues of concern to the OLCC.

(Category I)

Note: Licensee was charged with these violations by Notice dated January 25, 2022. Staff proposed the standard sanction for each violation of license cancellation and seizure and destruction of marijuana items. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Both violations were aggravated for personal involvement of licensees, intentional misconduct, repeated violation, and involvement of more than one consumer or employee.

(KAYA SHACK)

SYNOPSIS: OLCC investigation disclosed that this licensee, a marijuana retailer, more likely than not had attempted to sift out broken glass from some of its dropped jars of usable marijuana and then sell it to consumers, rather than discard it or send it for processing into extract (which would get all glass out). The evidence in this case was complex and contested, relying in part on four prior employee anonymous complainants and an OLCC visit at the premises where an inspector was told about and saw the sifting process. The OLCC never received any consumer complaints regarding glass in the licensee's products. Management also attempted to silence employees from reporting this issue to OLCC inspectors and had employees sign a NDA stating they could be subject to a fine if they made any negative comments about licensee. Sixty-five percent of the ownership of this company is publicly traded by pure investors with no part in the wrongdoing. Staff determined that this would be an appropriate case to accept a sale-surrender settlement.

TERMS OF AGREEMENT

1. Licensee elects not to contest Violation Number One, and accepts responsibility for Violation Number Two as set out in the Notice. These were Licensee's first and second Category I violations within two years. These violations 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. Both violations were aggravated for personal involvement of licensees, intentional misconduct, repeated violation, and involvement of more than one consumer or employee. Commission staff proposed the standard sanction for each violation of license cancellation and seizure and destruction of marijuana items.
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 February 1, 2023, whichever is earlier. If Licensee's license expires on or before February 1, 2023 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 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 or permit by that licensee.
6. Licensee agrees that any marijuana or 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 November 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.