

ADMINISTRATIVE HEARINGS DIVISION
August 19, 2021

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

- | | | |
|--|--|--|
| 1. Sun Breeze, Inc.
Brie Malarkey, Pres/Dir/Stkhldr
Jon Cunningham, Sec/Treas/Dir/Stkhldr
dba SUNNA RA ACRES

(Producer) | OAR 845-025-1450(1)(a), (b) - From about May 16, 2019 until about June 28, 2019, Licensee and/or its employees, agents or representatives failed to have cameras that continuously recorded, 24 hours a day, in all areas where mature marijuana plants, immature marijuana plants, and usable marijuana may be present on the licensed premises, and/or at all points of ingress and egress to and from such areas, when cameras 1, 4, 6, 7, 8, 9, 14, 16, and/or 21 stopped recording.

(Category I) | Note: Licensee was charged with this violation by Amended Notice dated June 1, 2021. Staff proposed the standard sanction of license cancellation and seizure and destruction of marijuana items for this violation. |
|--|--|--|

SYNOPSIS: This is a producer licensee that had nine cameras that failed to continuously record 24 hours a day. This incident was self-reported as required and according to the inspector, there had been no additional incident since 2019. The Licensee reports implementing bi-weekly camera inspections, correctly programing the alert setting, and having the monitoring procedures reviewed by management.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category I violation. 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 for this violation the standard sanction of license cancellation and seizure and destruction of marijuana items.
3. The Commission will reduce the sanction to a \$4,950.00 civil penalty or a 30-day license suspension.
4. Licensee will pay a civil penalty of \$4,950.00 before 5:00 PM on August 16, 2021, **OR** serve a 30-day suspension beginning at 12:00 PM (noon) on August 23, 2021 and ending at 12:00 PM (noon) on September 22, 2021.
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 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 or permit by the licensee.

(continue **SUNNA RA ACRES**)

6. This agreement is conditional upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2021 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. High Country Organic Farms, LLC
Christopher Kemper, Member
Kelly Morgan, Member
John Meyer, Jr., Member
Rich Meyer, Member
dba **HIGH COUNTRY
ORGANIC FARMS**

(Producer)

OAR 845-025-1450(1)(a) - On or about October 27, 2018, Licensee and/or Licensee's employees, agents, or representatives failed to ensure that they had cameras that continuously recorded, 24 hours a day, in all areas where mature marijuana plants, immature marijuana plants, usable marijuana, or marijuana waste may be present on the licensed premises when cameras were not located inside two shipping containers being used to dry marijuana.

(1st Level Category III)

OAR 845-025-1450(2)(j) - On or about October 27, 2018, Licensee and/or its employees, agents, or representatives failed to make video surveillance records and recordings available immediately upon request to the Commission when they were unable to access their video surveillance system during the October 27, 2018 inspection.

(1st Level Category III)

ORS 475B.261(2), OAR 845-025-5500(1) - On the dates indicated below, Licensee and/or Licensee's employees, agents, or representatives failed to verify that the following individuals had a valid marijuana worker permit before allowing them to perform any work of the kind described in ORS 475B.261(1) and/or OAR 845-025-5500(1). Employees Rich Meyer from about January 24, 2018 to October 30, 2018 and Christopher Kemper from about January 24, 2018 to October 29, 2018.

(1st Level Category III)

OAR 845-025-2090(1), (2) - On October 21, 2018 and October 26, 2018, Licensee and/or Licensee's employees, agents, or representatives failed to file a harvest notice before harvesting usable marijuana from any mature plant located in an outdoor canopy area.

(1st Level Category III)

Note: Licensee was charged with these violations by Second Amended Notice dated July 13, 2021. The total proposed sanction was a 46-day license suspension or a civil penalty of \$7,590.00. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Violation Number Three was aggravated for involvement of a licensee and for involvement of more than one employee. Violation Number Four was aggravated for repeated misconduct.

(continue **HIGH COUNTRY ORGANIC FARMS**)

SYNOPSIS: During an Operation Good Harvest inspection on October 27, 2018, it was discovered that Licensee had failed to notify OLCC of their harvest dates, despite educational bulletins emphasizing that requirement. In addition, two licensees were found to lack required marijuana worker permits. The licensees immediately applied for worker permits, which were granted October 29 and 30. At the first inspection on October 27, no one was able to operate the security system to demonstrate compliance. At a second inspection on October 30, 2018, the security system was demonstrated to function and have 90-days storage, but there were no cameras in the drying / storage areas. In January, 2019, Licensee provided proof that these cameras were subsequently installed.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first, second, third, and fourth Category III violations within two years, charged at the first level. Any subsequent Category III violation within the same two years will be charged at the second level. 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. The standard sanction for each Category III violation charged at the first level is a 10-day license suspension or a \$1,650.00 civil penalty. Violation Number Three was aggravated for involvement of a licensee and for involvement of more than one employee. Violation Number Four was aggravated for repeated misconduct.
3. Staff recommended a 46-day license suspension or a civil penalty of \$7,590.00.
4. The Commission will reduce the sanction for each violation by three days.
5. Licensee will either pay a \$5,610.00 civil penalty before 5:00 PM on September 15, 2021 **OR** serve a 34-day suspension beginning at 12:00 PM (noon) on September 22, 2021 and ending at 12:00 PM (noon) on October 26, 2021.
6. Licensee withdraws its Request for Hearing in this matter.
7. 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.
8. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2021 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.