

ADMINISTRATIVE HEARINGS DIVISION

January 21, 2021

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Marcus Flynn
Mike Flynn
Carol Flynn
dba **MR. GREENE ORGANICS**

(Producer)

OAR 845-025-1450(2)(e) - On or about October 12, 2018, Licensees and/or Licensees' employees, agents, or representatives failed to have off-site back up video surveillance recordings of the surveillance room or area.

(withdrawn Category I)

OAR 845-025-1175(1) - On or about October 12, 2018, Licensees and/or Licensees' employees, agents, or representatives made physical changes to the licensed premises that materially or substantially altered the licensed premises or the usage of the licensed premises from the plans originally approved by the Commission without the Commission's prior written approval when Licensees were constructing an unreviewed and/or unapproved second story above the Trim Area, a new enclosed structure abutting the Security Room, a new enclosed area around the Trim Area, and an additional, unapproved canopy area within the Trim Area, and were renovating the inside of the Trim Area.

(1st Level Category III)

OAR 845-025-1440(1)(a), (b), (d) - On or about October 12, 2018, Licensees and/or Licensees' employees, agents, or representatives failed to have cameras that continuously recorded, 24 hours a day, in all limited access areas, as that term is defined in OAR 845-025-1015(45), when it failed to have camera coverage of the entry to the facility through the Trim Area, most of the Trim Area, the point of ingress to the security room from the break area, the clone area, a hallway used to trim and/or weigh marijuana, the point of ingress to the canopy area from the hallway, the middle of the canopy

Note: Licensee was charged with these violations by Amended Notice dated August 26, 2020. The proposed sanction was license cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff recommended aggravation because there were three or more violations within a two-year period, regardless of the category, where the number of violations indicated a disregard for the law or failure to control the premises, and because Violation Number Two was intentional.

(continue **MR. GREENE ORGANICS**)

in a greenhouse labeled GH2, the entirety of the greenhouse labeled GH1, the Drying Room conex container, a second Drying Room conex container, and/or the back canopy area.

(withdrawn 1st Level Category III)

OAR 845-025-1430(3) - On or about October 12, 2018, Licensees and/or Licensees' employees, agents, or representatives failed to have all video surveillance equipment and recordings, other than mounted cameras, stored in a locked secure area that is accessible only to the licensee, licensee representatives, or authorized personnel.

(1ST Level Category III)

OAR 845-025-1410(2) - On or before October 12, 2018, Licensees and/or Licensees employees, agents, or representatives failed to ensure that commercial grade, non-residential door locks were installed on every external door of a licensed premises when a conex container containing marijuana plants had a doorway covered with a plastic tarp that opened with a zipper.

(withdrawn 1st Level Category III)

OAR 845-025-8520(5) - On or before October 12, 2018, Licensees and/or Licensees' employees, agents, or representatives permitted the use or consumption of marijuana on the licensed premises.

(1st Category III)

OAR 845-025-2030(2) - On or about October 12, 2018, Licensees and/or Licensees' employees, agents, or representatives engaged in the privileges of the license within a residence.

(Category I)

(continue **MR. GREENE ORGANICS**)

OAR 845-025-8540(4)(c) - On or about May 5, 2020, Licensees refused to give a Commission regulatory specialist evidence when lawfully requested to do so when Licensees failed to provide OLCC Inspector D. Wernette screen shots from their stored on-site and off-site surveillance footage multiple requests to do so on April 22, 2020 and May 5, 2020.

(1st Level Category II)

OAR 845-025-1420(1) - From about February 21, 2020 to about April 22, 2019, Licensees failed to have a fully operational security alarm system, activated at all times when the licensed premises is closed for business, when its security alarm system was shut off.

(1st Level Category III)

SYNOPSIS: Over a series of site visits, Inspectors found Licensees to be out of compliance with numerous rules, including the failure to have off-site video surveillance storage, the cancellation of their alarm system, extensive unapproved alterations to the licensed premises, insufficient camera coverage of areas containing marijuana, and evidence of someone using the premises as a residence and consuming marijuana on the premises. The violations spanned from late 2018 until 2020, with no evidence that the violations were addressed or rectified. Licensees agreed to sell the business and surrender the license.

TERMS OF AGREEMENT

1. Licensees accept responsibility for Violation Numbers Two, Four, Six, Seven, Eight, and Nine as set out in the Notice. Violation Number Seven was Licensees' first Category I violation. Violation Number Eight was Licensees' first Category II violation within two years. Violation Numbers Two, Four, Six, and Nine were Licensees' first through fourth Category III violations within two years.
2. Under the Verification of Compliance Program, the Commission withdraws Violation Numbers One, Three, and Five and issues a warning in lieu of a violation. A Notice of Warning for violation of OAR 845-025-1450(2)(e), OAR 845-025-1440(1)(a), (b), (d), and OAR 845-025-1410(2) will be placed on Licensees' record.
3. Commission staff recommended aggravation because there were three or more violations within a two-year period, regardless of the category, where the number of violations indicated a disregard for the law or failure to control the premises, and because Violation Number Two was intentional.
4. Commission staff proposed the standard sanction of license cancellation for the violations. Licensees have begun the process of selling the business. Licensees will surrender their license on the date the transfer of ownership of the business is completed or at 12:00 PM (noon) on March 17, 2021, whichever is earlier.

(continue **MR. GREENE ORGANICS**)

5. If Licensees' license expires on or before March 17, 2021 and Licensees choose to keep their license active beyond the expiration date, Licensees understand and agree that they will have to timely submit a renewal application and any required fees. Renewal will not create any rights beyond the final surrender date.
6. Licensees understand and agree that the Commission is not representing or guaranteeing that a new owner will have an approved license on or before March 17, 2021. Licensees understand and agree that any new owner 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.
7. Licensees relinquish any and all interest in any marijuana items in their inventory that have not been transferred before the effective date of license surrender, and agree that the Commission may seize and destroy any such marijuana items.
8. 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 or permit by the licensee.
9. Licensees withdraw their Request for Hearing.
10. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their December 2020 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. Nova Paths, LLC
Ash Gupte, Member
dba **NOVA PATHS**

(Wholesaler)

OAR 845-025-7700(1) and/or OAR 845-025-1300(1)(h)
On or about December 15, 2018, Licensee operated other than its license permitted when Licensee and/or Licensee's employees, agents, or representatives delivered or transferred marijuana items to NW Cannabis Club, 1195 SE Powell Boulevard, Portland, Oregon, which is not a licensed premises.

(Category I)

OAR 845-025-7540(1), (2), (4) - From about December 13, 2018, to about December 15, 2018, Licensee and/or Licensee's employees, agents, or representatives intentionally entered data into the METRC Cannabis Tracking System (CTS) that did not fully and transparently account for all inventory tracking activities when marijuana items that had been the subject of a "virtual manifest" from Licensee were in fact retained under Licensee's custody and control and used for promotional purposes at an event called "Retail Worker Appreciation Night," but not recorded in CTS as being in Licensee's inventory.

(Category I)

OAR 845-025-1330(4) - On or about December 15, 2018, Licensee and/or Licensee's employees, agents, or representatives gave away trade samples of marijuana items that were not recorded in CTS, at a promotional event called "Retail Worker Appreciation Night."

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated February 25, 2020. The proposed sanction was license cancellation for these violations. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: This wholesaler licensee sponsored an unlicensed trade show. In order to get product out of the Cannabis Tracking System for use in providing samples at the event, this licensee prevailed upon a retailer to sell back Nova Path's own product to its employees at a greatly reduced price. The retailer has already been sanctioned. Licensee requested a hearing which had been set for December 3-4

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first and second Category I violations, and first Category III violation. 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.

(continue **NOVA PATHS**)

2. The standard sanction for these violations is license cancellation.
3. The Commission will reduce the sanction on Violations Number One and Number Two (each) to a 30-day license suspension, with the option to pay a \$4,125.00 civil penalty in lieu of 25 days, with the remaining five days mandatory. The Commission will reduce the sanction on Violation Number Three to a seven-day suspension or a \$1,155.00 civil penalty.
4. Licensee will either: (a) pay a \$9,405.00 civil penalty before 5:00 PM on February 16, 2021, and serve a 10-day suspension, beginning at 12:00 PM (noon) on February 23, 2021 and ending at 12:00 PM (noon) on March 5, 2021 **or** (b) serve a 67-day suspension beginning at 12:00 PM (noon) on February 23, 2021 and ending at 12:00 PM (noon) on May 1, 2021.
5. Licensee withdraws its Request for Hearing in this matter.
6. If a licensee's interest in the license expires or is transferred before the Commission issues a final order, 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 a license or permit by that licensee.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their January 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.

3. De Amsterdam
Linda Hopmann, Pres/Sec/Dir
Brad Wehde, Director
Jacob Hawes, Director
dba **THE HERB CENTER**
2205 NE Division Street
Bend, OR 97701

(Retailer)

OAR 845-025-8540(4)(a) – On or about September 30, 2019, Licensee Brad Wehde intentionally attempted to, or asked another person to destroy, damage, alter, remove or conceal potential evidence when during the course of a compliance inspection, he asked Inspector L. Sharp “What does it cost to have this disappear?” while discussing possible violations.

(Category I)

OAR 845-025-1440(1)(c),(e) - On or about September 30, 2019, Licensee or Licensee’s employees, agents, or representatives failed to have camera coverage for all limited access when half of the safe room, including refrigerators that stored marijuana items, were not under camera coverage.

(withdrawn Category I)

OAR 845-025-1410(3)(c) - On or about September 30, 2019, Licensee or Licensee’s employees, agents, or representatives failed to ensure that all marijuana items on the licensed retailer’s premises, except for immature marijuana plants, were kept in a safe or vault as those terms are defined in OAR 845-025-1015(77),(84), when usable marijuana was stored in a metal cabinet, a cabinet safe with a broken lock, refrigerators and/or display cases lacking the features described in OAR 845-025-1015(77),(84).

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated March 3, 2020. The proposed sanction was license cancellation for these violations. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Violation Number One was aggravated because licensee personally committed the violation.

SYNOPSIS: Licensee had jars of marijuana stored in display cases, cabinets and refrigerators with broken locks. The refrigerators were not bolted to the floor and were not under camera. A portion of the safe room was also not under camera.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for Violations Number One and Number Three as set out in the Notice. Violation One was Licensee’s first Category I violation. Violation Three was Licensee’s first Category III violation.
2. Violation Number Two is withdrawn pursuant to the Commission’s Verification of Compliance Program. A warning for violation of OAR 845-025-1440(1)(c),(e) is placed on Licensee’s record.

(continue **THE HERB CENTER**)

3. Violation Number One was aggravated because licensee personally committed the violation.
4. Commission staff proposed the standard sanction of license cancellation and seizure and destruction of marijuana items, for these violations.
5. Licensee has begun the process of selling the business. Licensee surrenders its license effective on the date the transfer of ownership of the business is completed or at 12:00 PM (noon) on April 21, 2021, whichever is earlier.
6. Licensee understands and agrees that the Commission is not representing or guaranteeing that a buyer will have an approved license on or before April 21, 2021, or that a proposed buyer will be licensable. Licensee understands and agrees that any proposed buyer 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. If Licensee's license expires on or before April 21, 2021 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.
7. 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 or pending application for any license or permit by the licensee.
8. Licensee agrees that any marijuana items on the premises after the date of license surrender that were not properly transferred to another licensee prior to the date of surrender may be seized and destroyed by the Commission.
9. Licensee withdraws its Request for Hearing in this matter.
10. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their January 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.

4. HSCP Oregon, LLC
 Christopher Tolford, Manager
 Kevin Murphy, Member
 High Street Capital Partners, LLC,
 Member
 Acreage Holdings America, Inc.,
 Member
 George Allen, Pres/Secretary
 Glen Leibowitz, Treasurer
 Kevin Murphy, Director
 Acreage Holdings, Inc., Stkhldr
 George Allen, President
 James Doherty, Secretary
 Glen Leibowitz, Treasurer
 Kevin Murphy, Director
 dba **CANNABLISS AND CO.**
 8701 SE Powell Blvd
 Portland, OR 97266
 (Retailer)

OAR 845-025-2800(4)(b)(A)(B) – From about May 1, 2019 to May 31, 2019, June 1, 2019 to June 30, 2019, July 1, 2019 to July 31, 2019, August 1, 2019 to August 31, 2019, and October 1, 2019 to October 31, 2019, Licensee or Licensee’s employees, agents, or representatives knowingly exceeded the 32-ounce monthly sales limit for useable marijuana sold or transferred to a single Oregon Medical Marijuana Program (OMMP) cardholder or designated primary caregiver when it sold 39.51 ounces of marijuana to one OMMP cardholder in May; approximately 32.59 ounces of marijuana to one OMMP cardholder in June; approximately 52.51 ounces of marijuana to one OMMP cardholder in July; approximately 44.16 ounces of marijuana to one OMMP cardholder in August; and approximately 39.51 ounces of marijuana to one OMMP cardholder in October.

(Category I)

OAR 845-025-2820(2)- On or about April 17, 2019 and/or September 7, 2019 Licensee or Licensee’s employee, agent, or representative failed to store marijuana items offered for sale in such a manner that the items were only accessible to authorized representatives until such time as the final sale to the consumer was completed, when on April 17, 2019 during a premises inspection an OLCC inspector observed Licensee’s employee leave three jars of marijuana unattended and accessible to consumers, and on September 7, 2019, when an employee left multiple jars of marijuana on the counter within reach of a consumer, who subsequently stole one of the jars.

(1st Level Category III)

OAR 845-025-7540(1) - On or about February 8, 2019 Licensee or Licensee’s employees, agents, or representatives failed to enter data into CTS that fully and transparently accounted for all inventory tracking activities when during an inspection multiple marijuana

Note: Licensee was charged with these violations by Amended Notice dated December 30, 2020. The proposed sanction was license cancellation for these violations. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Commission staff proposed aggravating Violation One and Two because they were repeated.

(continue **CANNABLISS AND CO.**)

items, including one package of sativa 5-pack capsules, one package of sativa 10-pack capsules, one package of indica 10-pack capsules and two edible Golden ACAI fruit chews, listed in Licensee's inventory in CTS were unable to be physically located at the licensed premises.

(withdrawn 1st Level Category III)

SYNOPSIS: From about May to October 2019, the business made multiple over the monthly sales limits of medical marijuana. Licensee attributed the over-limit sales to issues with its point of sale system. In April and September 2019, there were also two instances where marijuana items were left unattended and within reach of consumers. Licensee revised and implemented new standard operating procedures enhancing OMMP cardholder check in procedures to address these issues, including weekly audits of all medical sales, and more stringent procedures for handling product for consumer sales.

TERMS OF AGREEMENT

1. The Commission withdraws Violation Three because the violation has been determined by Commission staff to be eligible for the Verification of Compliance (VOC) Program. The Commission hereby issues a warning for Violation Three in lieu of a violation.
2. Licensee accepts responsibility for Violations One and Two as set out in the Notice. Violation One was Licensee's first Category I violation, and Violation Two 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. 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.
3. Commission staff proposed the standard sanction of license cancellation because Violation One is a Category I violation. The standard sanction for a Category III violation is a 10-day suspension or a \$1,650.00 civil penalty. Commission staff proposed aggravating Violation One and Two because they were repeated.
4. The Commission will reduce the sanction for Violation One and impose a 32-day suspension or a \$5,280.00 civil penalty. For Violation Two the Commission will impose a 12-day suspension or a \$1,980.00 civil penalty.
5. Licensee will either pay a \$7,260.00 civil penalty before 5:00 PM on February 15, 2021 **OR** serve a 44-day suspension beginning at 12:00 PM (noon) on February 22, 2021 and ending at 12:00 PM (noon) on April 7, 2021.
6. Licensee withdraws the 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 allegations, the 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.

(continue **CANNABLISS AND CO.**)

8. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their January 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.