

July 9  
June \_\_, 2020

Garden Remedies, Inc.  
License No. MC281504  
License No. MP281381

Case No. 2019A-0028-14

### FINAL ORDER AND STIPULATED AGREEMENT

This Final Order and Stipulated Agreement (hereinafter, "Order") between the Commonwealth of Massachusetts Cannabis Control Commission (the "Commission") and Garden Remedies, Inc. (the "Respondent") is offered for the purposes of settlement and to avoid the uncertainty and cost of future administrative action.

The Commission finds that resolution of this matter serves the purposes of 935 CMR 500.450 and 935 CMR 500.500 because Respondent has accepted responsibility for the violations set forth in this Order, has cooperated in the Commission's investigation, has made efforts to remediate the cited violations, and has instituted reforms to improve company culture and operations.

Accordingly, the Commission and Respondent submit to and agree as follows:

1. The Cannabis Control Commission has jurisdiction over licensed marijuana establishments and licensed medical marijuana treatment centers and the subject matter herein pursuant to the provisions of the Commonwealth's marijuana laws, M.G.L. Chapters 94G and 94I, and the Commission's regulations, 935 CMR 500.000, *et seq.*, 935 CMR 501.000, *et seq.*, and 935 CMR 502.000, *et seq.*;
2. Respondent has been subject to an investigation conducted by the Commission's investigators. The Commission alleges violations of the Commission's regulations, 935 CMR 500.000, *et seq.*;
3. Pursuant to 935 CMR 500.360, the Commission may issue an order to show cause as to why a fine or other financial penalty against Respondent should not be imposed upon determining that Respondent's acts or omissions have violated the Commonwealth's marijuana laws. Such order to show cause can include an assessment of administrative fines, an order for corrective action, or both. 935 CMR 500.500 affords Respondent an



- opportunity to be heard and to show cause as to why adverse action taken pursuant to 935 CMR 500.360 should not be imposed;
4. On or around September 17, 2018, Respondent submitted applications for adult-use cultivation and adult-use product manufacturing licenses in connection with its premises located at 307 Airport Road, Fitchburg, Massachusetts (the “facility”);
  5. Respondent received provisional licenses for both adult-use applications on or around December 13, 2018. Respondent’s adult-use cultivation license number is MC281504 and its adult-use product manufacturing license number is MP281381;
  6. On January 11, 2019, Commission inspectors performed an Adult-Use Post-Provisional License Inspection at the facility in connection with Respondent’s adult-use cultivation and product manufacturing applications;
  7. During the inspection, Commission inspectors found an EPA-registered pesticide, Wood’s Rooting Hormone, in one of the cultivation areas in the facility
  8. During the inspection, Commission inspector Michael Yee (“Yee”) asked Respondent’s Chief Financial Officer to produce financial records including Respondent’s bank statements, payroll, general ledger, financial statements, and invoice documents;
  9. On or around January 14, 2019, the Commission issued a Notice of Deficiency to Respondent citing its noncompliant use of pesticides. Respondent timely submitted a Plan of Correction and documented disposal of the pesticide found onsite by a third party contractor;
  10. On January 15, 2019, Respondent’s Chief Financial Officer emailed Yee the financial records requested, including invoices documenting Respondent’s purchases of cultivation supplies from its vendor, Green Harvest Hydroponics (“Green Harvest”), during the time period of September–December 2018;
  11. On or around March 7, 2019, Respondent received final licenses to operate adult-use cultivation and product manufacturing at the facility;
  12. On or around April 19, 2019, the Commission authorized Respondent to commence adult-use cultivation and product manufacturing operations at the facility;
  13. The Commission last approved renewal of Respondent’s License No. MC281504 and MP281381 by its notice dated December 23, 2019;
  14. On or around April 20, 2019, Yee received a call from an anonymous employee complainant alleging that Respondent had committed fraudulent acts in connection with the records provided during its Adult-Use Post-Provisional License Inspection;
  15. On or around April 25, 2019, the Commission initiated an investigation to review the records given to Yee by Respondent on January 15, 2019;
  16. The Commission’s investigation concluded that the Green Harvest invoices sent by Respondent’s Chief Financial Officer on January 15, 2019 had been falsified to conceal



purchases of another EPA-registered pesticide, Clonex Rooting Gel (“Clonex”), made during the period of September–December 2018;

17. On or around July 15, 2019, the Commission issued a Notice of Deficiency to Respondent finding that the Green Harvest invoices produced by Respondent on January 15, 2019 were purposefully inaccurate or fraudulent;
18. On or around July 26, 2019, Respondent submitted a Plan of Correction admitting to its prior use of Clonex and notifying the Commission of corrective action measures taken in agreement with the Commission’s finding that fraudulent information had been provided;
19. Respondent’s corrective action plan included terminating its Director of Operations from employment, issuing a two-day unpaid suspension and final warning to the executive member responsible for supervising its Director of Operations, requiring Respondent’s Human Resources Director to report directly to the Chief Executive Officer, creating a Vice President of Operations position, and ending its business relationship with Green Harvest;

#### Applicable Law

20. Information provided by a Marijuana Establishment that was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, in and of itself, constitutes full and adequate grounds for suspending or revoking a Marijuana Establishment license. *935 CMR 500.450(2)*;
21. A Marijuana Establishment’s failure to comply with any requirement of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G or 935 CMR 500.000, or any applicable law or regulation, in and of itself, constitutes full and adequate grounds for suspending or revoking a Marijuana Establishment’s license. *935 CMR 500.450(3)*;
22. Application of Pesticides shall be performed in compliance with M.G.L. c. 132B and the regulations promulgated at 333 CMR 2.00 through 333 CMR 14.00. *935 CMR 500.120(5)*;
23. The cultivation process shall use best practices to limit contamination including, but not limited to, mold, fungus, bacterial diseases, rot, pests, Pesticides not in compliance with 935 CMR 500.120(5), mildew, and any other contaminant identified as posing potential harm. Best practices shall be consistent with state and local law including, but not limited to, the Commission’s Guidance on Integrated Pest Management. *935 CMR 500.120(9)*;
24. Pesticides means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. *935 CMR 500.002*;



### Stipulated Findings

25. The Commission, through its Executive Director, and Respondent have come to mutual agreement and understanding, and jointly propose to the Commission a resolution of the alleged violations in lieu of proceeding through an administrative hearing to determine the merits of such allegations. The terms and conditions of this Order and Stipulated Agreement are expressly subject to ratification of the Commission by majority vote of its Commissioners;
26. In lieu of proceeding with an administrative hearing and subsequent proceedings, Respondent further agrees to the stipulated findings set forth in Paragraphs 27–28, inclusive of all subparagraphs:
27. Respondent provided deceptive, misleading, false or fraudulent information, or information that tends to deceive or create a misleading impression, grounds for suspending or revoking Respondent’s license under 935 CMR 500.450(2):
  - a. On January 11, 2019, Commission inspectors performed an Adult-Use Post-Provisional License Inspection at the facility in connection with Respondent’s applications for adult-use cultivation and product-manufacturing licenses;
  - b. During the inspection, Yee asked Respondent’s Chief Financial Officer to produce financial records including Respondent’s bank statements, payroll, general ledger, financial statements, and invoice documents;
  - c. On January 15, 2019, Respondent’s Chief Financial Officer emailed Yee invoices regarding its purchase of cultivation products from its vendor, Green Harvest during the time period of September–December 2018 (the “digital invoices”);
  - d. After a reinspection on January 30, 2019, Commission inspectors determined Respondent compliant with 935 CMR 500.000 *et seq.* and recommended final licensure for License No. MC281504 and MP281381;
  - e. Respondent advanced in the application process. On or around April 16, 2019, Commission inspectors performed a Post-Final License Inspection and the Commission issued a Notice of Commence Operations dated April 19, 2019 permitting Respondent to begin adult-use cultivation and product manufacturing at the facility;
  - f. On or around April 20, 2019, Yee received a call from an anonymous employee complainant alleging that Respondent had manipulated the digital invoices submitted on January 15, 2019 in connection with its Post-Provisional License Inspection;
  - g. On April 29, 2019, Commission investigators conducted an unannounced inspection at the facility. During the inspection, investigators requested paper copies of Respondent’s Green Harvest invoices covering the same time period as the digital invoices submitted by Respondent’s Chief Financial Officer on January 15, 2019;
  - h. Commission investigators compared the paper invoices with the digital invoices and found that the paper invoices of purchases made in the months of October, November, and December 2018 differed from the digital invoices for that same time period;



- i. Respondent's financial accountant provided the financial department's record of Green Harvest invoices to investigators on April 29, 2019 (the "accounting invoices"). The accounting invoices spanned the time period of August 2016–March 2019;
- j. The digital invoices represented that Respondent had purchased two "Agrosun 100W Double Ended Bulb" for \$135.20 on October 31, 2018 ("Agrosun Bulb"), two Agrosun Bulbs for \$135.20 on November 30, 2018, and one Agrosun Bulb for \$135.20 on December 26, 2018;
- k. Under the same line item as the digital invoice dated October 1–November 1, 2018, the accounting invoice for the same period instead showed a purchase of two "Clonex Gel 1 Quart" for \$135.20 on October 31, 2018;
- l. Under the same line item as the digital invoice dated November 1–December 1, 2018, the accounting invoice for the same period instead showed a purchase of two "HydroDynamics Clonex Gel Quart (4/Cs)" for \$135.20 on November 30, 2018;
- m. Under the same line item as the digital invoice dated December 1, 2018–January 1, 2019, the accounting invoice for the same period instead showed a purchase of one "Clonex Gel 1 Quart" for \$135.20 on December 26, 2018;
- n. Clonex Rooting Gel is an EPA-registered pesticide and plant growth regulator (EPA Registration No. 79664-1) that is prohibited for use on cannabis;
- o. On May 8, 2019, Commission investigators visited Green Harvest to interview its owner. At that time, investigators requested Green Harvest's record of Respondent's invoices dating back to June 2018;
- p. On May 28, 2019, Green Harvest's owner declined to produce the invoices requested by investigators without specific authorization from the Respondent. Respondent authorized the owner of Green Harvest to provide the invoices to Commission investigators;
- q. On May 29, 2019, Respondent's attorney forwarded Commission investigator Eduardo Guardiola ("Guardiola") an email communication showing that Respondent's Director of Operations had sent the digital invoices to Respondent's Chief Financial Officer on January 14, 2019, the day before the Chief Financial Officer sent the digital invoices to Yee;
- r. On May 29, 2019, Respondent's also forwarded Guardiola an email communication showing that on January 2, 2019, Green Harvest's manager had sent the Director of Operations Respondent's monthly statement for the month of December 2018;
- s. According to that correspondence, the Director of Operations sent the same statement to Respondent's financial accountant who, in turn, sent the document to the Chief Financial Officer on February 1, 2019. Consistent with the accounting invoices, the December 2018 statement documented Respondent's purchase of Clonex on December 26, 2018;
- t. On June 3, 2019, Green Harvest's owner sent its invoices to Guardiola in response to the Commission's Request for Information. The invoices provided did not list Respondent's purchase of Clonex and appeared to match the digital invoices;



- u. On July 10, 2019, Commission investigators returned to the facility and interviewed Respondent's finance department. At that time, investigators obtained accounting statements of Respondent's Green Harvest purchases during the period of October–December 2018 directly from Respondent's payment processing software system;
  - v. The accounting statements from Respondent's payment processing software system documented its purchase of Clonex on October 31, 2018 and November 30, 2018;
  - w. As early as January 28, 2019, certain members of Respondent's executive-level staff were aware of the discrepancies between the digital invoices submitted to the Commission on January 15, 2019 and the accounting invoices. Respondent's executive staff did not inform the Commission of the discrepant documents;
28. Respondent performed noncompliant applications of pesticides in violation of 935 CMR 500.120(5):
- a. On January 11, 2019, Commission inspectors performed an Adult-Use Post-Provisional License Inspection of the facility in connection with Respondent's applications for adult-use cultivation and product-manufacturing licenses;
  - b. During the inspection, Commission inspectors discovered a bottle of Wood's Rooting Hormone in one of the cultivation areas of the facility;
  - c. Wood's Rooting Hormone is an EPA-registered pesticide (EPA Reg. No. 43905-1) and plant growth regulator that is prohibited for use on cannabis;
  - d. According to the product label, Wood's Rooting Hormone is permitted for use in greenhouses and nurseries. The product label directs users to dip cuttings to the desired rooting length and then place it into the propagation media;
  - e. During the inspection on January 11, 2019, Commission inspectors also requested Respondent's financial records, including invoices of its cultivation supply purchases from Green Harvest during September–December 2018;
  - f. The digital invoices provided by Respondent's Chief Financial Officer in response to the Commission's request had been falsified to conceal Respondent's purchases of Clonex;
  - g. Respondent's accounting invoices document a history of Clonex use dating back to December 2017;
  - h. Clonex is an EPA-registered pesticide and plant growth regulator (EPA Registration No. 79664-1) that is prohibited for use on cannabis;
  - i. According to the product label, Clonex is used to ensure root production of cuttings on plants. The label directs users to dip plant cuttings into Clonex to the desired depth;
  - j. Respondent purchased the pesticide on the following occasions of record: December 28, 2017; January 3, 2018; March 22, 2018; March 29, 2018; April 29, 2018; May 1, 2018; June 8, 2018; June 12, 2018; June 27, 2018; July 12, 2018; August 9, 2018; October 31, 2018; November 30, 2018; and December 26, 2018;



**Stipulated Remedy**

29. In lieu of proceeding with an administrative hearing and subsequent proceedings, Respondent further agrees to the stipulated remedies and terms set forth in Paragraphs 30–53, inclusive of all subparagraphs:
30. Respondent agrees to pay a monetary fine in the amount of two-hundred thousand dollars (\$200,000.00) made payable by check or money order, payable to the order of the Cannabis Control Commission Marijuana Regulation Fund. Payment shall consist of seven (7) installments due and payable pursuant to the following schedule:

<b>Due Date</b>	<b>Amount</b>
60 days from the date of Commission approval of this order	\$30,000
90 days	\$30,000
120 days	\$30,000
150 days	\$30,000
180 days	\$30,000
210 days	\$30,000
240 days	\$20,000

31. Payment shall be mailed to the following address:

Cannabis Control Commission  
2 Washington Square  
Worcester, MA 01604

32. Respondent submits that satisfaction of the corrective action measures identified in Paragraphs 33–38 on or before September 1, 2020 is a reasonable time for correcting the violations identified herein;
33. Respondent shall cease and desist the use of pesticides not labeled for use in cannabis cultivation;
34. Respondent shall submit to a two-year probationary period during which any and all test results reporting detection of pesticides at a level other than Non Detect, whether written or verbal, shall be reported by Respondent to the Commission within 24 hours;
35. Respondent shall maintain an accurate application record of every kind of chemical used in Respondent’s facility including, but not limited to, EPA-registered, 25b, and OMRI-listed products;
36. Respondent shall disclose all product information, including documentation of products purchased, relating to Respondent’s cultivation operations, including any and all growing media, immediately upon request;



37. Respondent shall ensure that all employees, including executive-level staff, participate in an ethics training on an annual basis during its two-year probationary period;
38. Respondent shall take all other action specified in its plan of correction submitted on or around January 14, 2019 and July 26, 2019 as necessary to achieve compliance with 935 CMR 500.000, *et seq.*;
39. This Order may be admissible as evidence in any future hearing before the Commission or used in connection with any future licensure or administrative actions by the Commission;
40. Any issues relating to the underlying complaint and investigation that formed the basis for this Order against Respondent (and any defenses that Respondent may have to such complaint or investigation) shall not be at issue in a proceeding against Respondent for failing to comply with the terms of this Order;
41. Respondent agrees that the Commission may consider the Order and the facts and circumstances described therein in connection with review of an application for licensure, renewal of licensure, or suitability review;
42. Respondent acknowledges advisement of hearing rights and process of the proceedings and wishes to resolve all issues which were the subject of the investigation or in any way related to the investigation by entering into this Order;
43. If approved by the Commission and upon execution of all parties, this Order shall have the same force and effect as an order entered after formal hearing pursuant to 935 CMR 500.500(12), except that it may not be appealed. Failure to comply with the terms of this Order, including but not limited to failure to make a timely payment, may constitute a basis for further administrative action against Respondent;
44. Respondent acknowledges that the Commission advised Respondent of its opportunity to consult with an attorney of their choosing and Respondent represents that they have had an opportunity to do so prior to signing the Agreement. Respondent acknowledges that they have been given a reasonable period of time in which to consider the terms of this Agreement before signing it. Respondent acknowledges and confirms that they have entered into this Agreement voluntarily and of their own free will, without duress or coercion, and that they are competent to enter into this Agreement. Respondent acknowledges that they have carefully read and fully understand the meaning and intent of this Agreement;
45. Respondent further understands and knowingly and voluntarily waives the following rights:
  - a. The right to hearing and Respondent's opportunity to request a hearing;
  - b. The right to cross-examine witnesses, subpoena witnesses, present evidence and testify on Respondent's own behalf;
  - c. The right to engage in pre-hearing discovery of the Commission's evidence; and



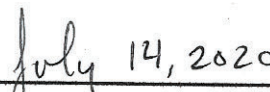
- d. The right to appeal this order.
46. Respondent consents to the terms and conditions described herein and agrees to waive its right to judicial review of this order pursuant to M.G.L. C. 30A, § 14;
  47. Upon execution by all parties, this Order shall represent the entire and final agreement of the parties. In the event that any provision of this Order is deemed unenforceable by a court of competent jurisdiction, such provision shall be severed, and the remainder of the Order shall be given full force and effect;
  48. This Order shall be binding upon Respondent and shall inure to the benefit of the parties to this Order and their respective successors and assignees and shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts;
  49. Upon majority vote of the Commission, this Order shall become a permanent part of the Licensee's record and shall be open to public inspection and disclosure pursuant to the Commission's standard policies and procedures or applicable law;
  50. The Commission may reject the terms of this Order or otherwise deny ratification and entry of the Order. In such event, the terms of the Order shall be null and void including but not limited to Respondent's admissions and waiver of opportunity for hearing upon subsequent issuance of an Order to Show Cause issued upon the Commission's approval;
  51. This Order may be executed by e-mail and any signature delivered by either method shall be deemed to be as valid as an original signature;
  52. All costs and expenses incurred by Respondent to comply with this Order shall be the sole responsibility of Respondent and shall not in any way be the obligation of the Commission; and
  53. For purposes of addressing any future violations of the Order, the Cannabis Control Commission regulations, 935 CMR 500.000, *et seq.*, 935 CMR 501.000, *et seq.*, 935 CMR 502.000, *et seq.*, shall include all later adopted regulations that are in effect at the time of the subsequent violation;

Failure to comply with the above conditions may result in administrative action against Respondent up to and including suspension and/or revocation of registration.

**Commonwealth of Massachusetts Cannabis Control Commission**



Shawn Collins, Executive Director



Date Signed



Ratified by Commission vote ( 4 yes, 1 no, 1 abstain) on [July MONTH] 9, 2020.

**Respondent Garden Remedies, Inc.**

*Karen Munkacy MD*  
Karen Munkacy MD (Jun 18, 2020 16:50 EDT)

As CEO of Garden Remedies, Inc.

Jun 18, 2020

Date Signed

