



Cultivate Holdings, LLC
c/o Samuel Barber
1764 Main Street
Leicester, MA 01524

Case No.2019A-005-14

Final Order and Stipulated Agreement

This Final Order and Stipulated Agreement (hereinafter, “Order”) between the Commonwealth of Massachusetts Cannabis Control Commission and Cultivate Holdings, LLC (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 500.340 and 935 CMR 500.550 because Respondent has accepted responsibility for the violations set forth in the Order, cooperated in the Commission’s investigation and corrected outstanding deficiencies necessary to abate risk to public health, safety or welfare.

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

1. The Cannabis Control Commission has jurisdiction over licensed marijuana establishments and the subject matter herein pursuant to the provisions of the Commonwealth’s marijuana laws, M.G.L. Chapter 94G, and the Cannabis Control Commission regulations, 935 CMR 500.000, *et seq.*
2. Respondent has been subject to an investigation conducted by the Commission’s investigators. The Commission alleges violations of the Cannabis Control Commission regulations, 935 CMR 500.000, *et seq.*
3. Pursuant to 935 CMR 500.550, the Commission may impose a monetary fine after investigation and opportunity for a hearing at which the Respondent shall be afforded an opportunity to be heard and show cause as to why a fine or other financial penalty against the licensee should not be imposed for any acts or omissions determined to be in violation of the Commonwealth’s marijuana laws.
4. On October 5, 2018, the Commission issued Respondent final licenses to operate cultivation, product manufacturing and retail facilities and authorized commencement of operations on November 16, 2018. Respondent commenced operations on November 20, 2018.
5. On January 30, 2019, the Commission, through its investigators, conducted an unannounced inspection of Respondent’s cultivation, product manufacturing and retail facilities at 1764 Main Street, Leicester, MA after identifying inventory discrepancies



during an audit of Respondent's inventory entered in the Commission's seed-to-sale System of Record.

6. During its inspection on January 30, 2019, the Commission, through its investigators, observed violations of the Cannabis Control Commission regulations, 935 CMR 500.000, *et seq.*
7. On February 1, 2019, the Commission, through its Executive Director, issued a Summary Cease and Desist and Quarantine Order requiring the Respondent to quarantine and cease sale, transfer, transportation, destruction or distribution of any marijuana or marijuana product deemed non-compliant with the Commission's mandatory labeling requirements. Pursuant to the order, Respondent was required to physically segregate quarantined product and place such product on administrative hold within the Commission's seed-to-sale System of Record. Further, the order required Respondent to post the order in a conspicuous location at Respondent's facility.
8. On February 4, 2019, the Commission, through its investigators conducted a re-inspection of the facility and conducted a physical count of inventory and evaluation of re-labeled products.
9. On April 30, 2019, the Commission, acting through its Chief of Investigations and Enforcement, notified Respondent of its intent to seek issuance of an Order to Show Cause and Notice of Hearing seeking the imposition of monetary fines against Respondent.
10. On May 9, 2019, the Commission, acting through its Chief of Investigations and Enforcement, and Respondent participated in a voluntary dispute resolution conference held at the offices of the Cannabis Control Commission.
11. The Commission, through its Executive Director, and Respondent have come to mutual agreement and understanding and jointly proposed to the Commission a resolution of 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 the ratification of the Cannabis Control Commission by majority vote of its Commissioners.
12. Respondent agrees, and in lieu of proceeding with an administrative hearing and subsequent proceedings, to the following:
 - a. Respondent admits the following facts and violations:
 - i. On January 30, 2019, the Commission, acting through its investigators, conducted an unannounced inspection of Respondent's cultivation (License No. MC281266), product manufacturing (MP281305) and retail facilities (MR281268).



ii. Violation One - 935 CMR 500.105(5) (Product Labeling)

1. On January 30, 2019, the Commission identified approximately 14 batches of marijuana and marijuana products, previously acquired by Respondent through a wholesale transaction with a medical marijuana treatment center, and made available for adult-use retail sale, that contained inconsistent and non-compliant labeling due to missing certain required label information including:
 - a. Commission-issued mark for warning product “CONTAINS THC;”¹
 - b. Commission-issued mark for warning the product “NOT SAFE FOR KIDS;”²
 - c. Batch identification numbers;³
 - d. Serving size;⁴ and
 - e. Directions for use.⁵
2. The following Metrc tags were associated with marijuana products lacking required warnings, serving size and directions for use:
 - a. 1A40A0300000003000000221 Bubba Kush Cartridges: remaining inventory (101ea.); total sold (139 ea.);
 - b. 1A40A0300000003000000225 Cherry Cookies Cartridges: remaining inventory (211ea.); total sold (101 ea.);
 - c. 1A40A0300000003000000236 Lemon Skunk (LITT); remaining inventory (455ea.) total sold (45 ea.);
 - d. 1A40A0300000003000000223 Lemon Skunk (Cold Pressed): remaining inventory (245ea.); total sold (254 ea.);
 - e. 1A40A0300000003000000234 Lemon Sunshine Cartridges: remaining inventory (137ea.); total sold (128 ea.);
 - f. 1A40A0300000003000000224 White Echo Cartridges: remaining inventory (422ea.); total sold (77 ea.);
 - g. 1A40A0300000003000000240 RC1:1 Massage Oil Rosemary: remaining inventory (166 ea.); total sold (39 ea.);

¹ 935 CMR 500.105(5)(a)(8); 500.105(5)(c)(14); 500.105(5)(d)(12).

² 935 CMR 500.105(5)(a)(9); 500.105(5)(c)(15); 500.105(5)(d)(13).

³ 935 CMR 500.105(5)(a)(4).

⁴ 935 CMR 500.105 (5)(c)(7).

⁵ 935 CMR 500.105(5)(c)(10); 500.105(5)(d)(8).

- h. 1A40A0300000003000000246 RC Lemongrass Massage Oil: remaining inventory (183 ea.); total sold (15 ea.);
 - i. 1A40A0300000003000000254 Shea Butter Lavender: remaining inventory (239 ea.); total sold (21 ea.);
 - j. 1A40A0300000003000000251 Shea Butter Cooling Mint: remaining inventory (61 ea.); total sold (60 ea.);
 - k. 1A40A0300000003000000248 Shea Butter Cooling Mint: remaining inventory (50 ea.); total sold (0); and
 - l. 1A40A0300000003000000246 Shea Butter THC Lemon: remaining inventory (194 ea.); total sold (6 ea.).
3. The following Metrc tags were associated with marijuana lacking required warnings and batch identification numbers:
- a. 1A40A0300000003000000133 Orange Harambe 3.5g: remaining inventory (3,569.5g); total sold (4,186g); and
 - b. 1A40A0300000003000000136 Orange Harambe 7g: remaining inventory (2,416g); total sold (4,375g using the 7g conversion).
4. Respondent admits to the conduct described above and accepts responsibility for violation of 935 CMR 500.105(5)(a)(4), (8) and (9); 500.105(5)(c)(7), (10), (14) and (15); 500.105(5)(d)(8), (12) and (13).

iii. Violation Two - 935 CMR 500.105(8) (Seed-to-Sale Real-Time Inventory)

- 1. On January 30, 2019, Commission investigators reviewed Metrc records and the Respondent's secondary seed-to-sale tracking and point-of-sale system (Greenbits) and performed a physical count of marijuana and marijuana products associated with above-mentioned Metrc tags and identified discrepancies between the physical count and reported inventory in the two systems. After conducting a count of physical inventory, all marijuana and marijuana products were physically accounted for, however discrepancies between the physical count and Metrc records and between Metrc records and Greenbits records resulted in inventory violations including:

- a. Insufficient inventory tracking control procedures;⁶ and
 - b. Inaccurate inventory in the Commonwealth's seed-to-sale tracking system;⁷
 2. On January 30, 2019, the Commission identified inventory violations involving failure to properly affix physical tags to marijuana plants and packages. Through its inspection, the Commission identified inventory violations including:
 - a. Inaccurate tagging of marijuana plantings in stages of cultivation, finished marijuana, and marijuana product and inaccurate physical inventory at the Marijuana Establishment;⁸
 3. Respondent admits to the conduct described above and accepts responsibility for violation of 935 CMR 500.105(8)(b); 500.105(8)(c); and 500.105(8)(e).
- iv. Violation Three - 935 CMR 500.340(2) (Posting of Summary Order)**
1. On February 1, 2019, the Commission issued Respondent a summary order to cease and desist and quarantine any inventory improperly labeled or inaccurately tracked in the Commission's seed-to-sale System of Record. In addition, condition no. 4 of the order required Respondent to post notice of the order in a conspicuous location at Respondent's Marijuana Establishment.⁹
 - a. During a re-inspection of Respondent's facility on February 4, 2019, Commission investigators determined that Respondent failed to post the notice as required.
 2. Respondent admits to the conduct described above and accepts responsibility for violation of 935 CMR 500.340(2).
- b. Respondent agrees to pay a monetary fine in the amount of seventy-five thousand dollars (\$75,000) made payable by certified check or money order payable to the order of the Cannabis Control Commission no later than thirty days (30) after the date of this executed order. Payment must be sent to:

⁶ 935 CMR 500.105(8)(c).

⁷ 935 CMR 500.105(8)(b).

⁸ 935 CMR 500.105(8)(e).

⁹ 935 CMR 500.340(2).

Bank of America Lockbox Services
MA5-527-02-07
Cannabis Control Commission 412144
2 Morrissey Blvd
Dorchester, MA 02125

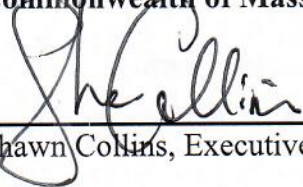
- c. As of May 23, 2019, Respondent has demonstrated that all employees and registered agents of the marijuana establishment have been credentialed in Metrc and are capable of performing individual sales transactions.
 - d. The Commission acknowledges that Respondent has abated the serious or immediate risk to public health, safety or welfare cited in the Commission's Summary Cease and Desist and Quarantine Order dated on February 1, 2019. Accordingly, the Commission's Order dated February 1, 2019 is hereby rescinded.
 - e. Any quarantined product remaining on administrative hold shall be released from hold and may be transferred or sold subject to compliance with the Commission's regulations, including but not limited to, 935 CMR 500.105(5).
13. 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.
 14. 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.
 15. Respondent agrees that the Commission may consider the Order and the facts and circumstances described therein in connection with an application for licensure or renewal of licensure.
 16. Respondent acknowledges advisement of hearing rights and process of the proceedings and wish to resolve all issues which were the subject of the investigation or in any way related to the investigation by entering into this Order.
 17. 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(2)(d) and 935 CMR 500.550, 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 the basis for further administrative action against Respondent.
 18. 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 understands the meaning and intent of this Agreement.

19. Respondent further understands and knowingly and voluntarily waive 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.
20. 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.
21. 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.
22. 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.
23. Upon majority vote of the Commission, this Order shall become a permanent part of Licensee's record and shall be open to public inspection and disclosure pursuant to the Commission's standard policies and procedures or applicable law.
24. 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.
25. 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.
26. 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.
27. For purposes of addressing any future violations of the Order, the Cannabis Control Commission regulations, 935 CMR 500.000, *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

6/13/19

Date Signed

Ratified by Commission vote (5 yes, 0 no, 0 abstain) on June 13, 2019.

Respondent Cultivate Holdings, LLC



Samuel Barber, Owner

06/11/2019

Date Signed