



MCR Laboratories  
c/o Michael Kahn, Owner  
85 Speen Street  
Framingham, MA

Case No. 2019A-002-10

### **Final Order and Stipulated Agreement**

This Final Order and Stipulated Agreement (hereinafter, "Order") between the Commonwealth of Massachusetts Cannabis Control Commission and MCR Laboratories (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, 935 CMR 501.405 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. Chapters 94G and 94I, and the Cannabis Control Commission 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 Cannabis Control Commission regulations, 935 CMR 500.000, *et seq.* and 935 CMR 501.000, *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 18, 2018, the Commission issued Respondent a final license to operate an Independent Testing Laboratory.

#### **Summary of Proceedings**

5. On January 14, 2019, the Commission, through its Director of Investigations, conducted an unannounced inspection of Respondent's facilities at 85 Speen Street, Framingham,



MA, after receiving a complaint alleging that vials containing marijuana and marijuana product waste had been discovered in an unsecured dumpster at the facility.

6. On January 28, 2019, the Commission, through its Director of Investigations issued a Notice of Deficiencies citing violations of the Commission's regulations.
7. On February 11, 2019, the Respondent submitted a plan of correction which proposed corrective measures related to the cited deficiencies. On February 14, 2019, the Commission, through its Director of Investigations, deemed the plan of correction acceptable.
8. On April 8, 2019, the Commission, acting through its investigators, conducted a re-inspection of the Respondent's facility and determined the plan of correction had been substantially implemented.
9. On June 26, 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 a suspension of Respondent's license to operate an Independent Testing Laboratory.
10. Respondent has complied with 935 CMR 500.300 in responding to multiple investigative inquiries and requests for production of documents.
11. On July 18 and July 24, 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.
12. 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.
13. Respondent agrees, and in lieu of proceeding with an administrative hearing and subsequent proceedings, to the following:

**Stipulated Findings**

Respondent admits the following facts and violations:

**1. Violation One – Storage of Marijuana.**

**935 CMR 500.105(12)(a); 935 CMR 501.105(10)(a).**

- a. In accordance with 935 CMR 500.105(12)(a) and 935 CMR 501.105(10)(a), all recyclables and waste, including organic waste composed of or containing finished Marijuana and Marijuana Products, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations.

- b. On January 11, January 12, January 13, and January 14, 2019, Respondent's employees deposited marijuana waste in an unlocked dumpster located on Respondent's exterior premises. The dumpster was not equipped with any locking mechanism. Respondent's employees did not attempt to secure the dumpster before or after its use.
- c. As stated above, liquid waste containing Marijuana and Marijuana Products on the property of the establishment was not stored, secured and managed in accordance with state and local laws and the regulations of the Cannabis Control Commission including 935 CMR 500.105(12)(a) and 935 CMR 501.105(10)(a).

**2. Violation Two – Disposal of Liquid Waste.**

**935 CMR 500.105(12)(b); 935 CMR 501.105(10)(a).**

- a. In accordance with 935 CMR 500.105(12)(b) and 935 CMR 501.105(10)(a), liquid waste containing marijuana or by-products of marijuana processing shall be disposed of in compliance with all applicable state and federal requirements, . . . or stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: Industrial Wastewater Holding Tanks and Containers.
- b. Respondent disposed of marijuana mixed with liquid methanol in a solid waste container located on Respondent's licensed premises.
- c. As stated above, Respondent failed to dispose of liquid waste containing marijuana or by-products of marijuana processing in accordance with 935 CMR 500.105(12)(b) and 935 CMR 501.105(10)(a).

**3. Violation Three – Waste Records and Documentation.**

**935 CMR 500.105(12)(d); 935 CMR 501.105(10)(b)(5).**

- a. In accordance with 935 CMR 500.105(12)(d) and 935 CMR 501.105(10)(b)(5), when marijuana products or waste is disposed or handled, the Marijuana Establishment must create and maintain a written or electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two Marijuana Establishment Agents present during the disposal or other handling, with their signatures. Marijuana Establishments shall keep these records for at least three years. This period shall automatically be extended for the duration of any enforcement action and may be extended by an order of the Commission.

- b. On or about January 30, 2019, Respondent provided the Commission with exported data from its Laboratory Inventory Management System (LIMS) containing entries for approximately 7,520 samples received by Respondent between the dates of November 1, 2018 and January 23, 2019.
- c. Respondent's waste documentation lacked the manner and location of disposal or handling of all marijuana sample entries recorded in Respondent's LIMS.
- d. As stated above, Respondent failed to accurately document the manner and location of disposal in accordance with 935 CMR 500.105(12)(d) and 935 CMR 501.105(10)(b)(5).
- e. In accordance with 935 CMR 500.105(12)(d) and 935 CMR 501.105(10)(b)(5), no fewer than two Marijuana Establishment Agents must witness and document how the marijuana waste is disposed or otherwise handled (recycled, composted, etc.) in accordance with 935 CMR 500.105(12).
- f. Respondent's waste documentation lacked the signature of at least two ITL agents witnessing the disposal of all marijuana sample entries recorded in Respondent's LIMS.
- g. As stated above, Respondent failed to ensure two agents were present during the disposal and handling of marijuana sample entries and document their signatures on the waste disposal record pursuant to 935 CMR 500.105(12)(d) and 935 CMR 501.105(10)(b)(5).

#### **Incident Reporting and Corrective Actions**

- 14. On March 1, 2019, Respondent self-reported an unrelated incident involving missing disposal quantities for approximately sixty (60) individual samples. Respondent's affirmative self-reporting and corrective action did not result in a deficiency finding and was not considered as part of this Agreement's resolution, except that Respondent's efforts to self-report were considered as evidence of Respondent's commitment to ongoing corrective action.
- 15. Respondent has taken significant corrective steps in accordance with and in addition to its plan of correction. See Exhibit A, MCR Corrective Actions.

#### **Stipulated Remedy**

- 16. Respondent agrees to the following stipulated remedy:
  - a. Respondent agrees to pay a monetary fine in the amount of two hundred thousand twenty-five thousand dollars (\$225,000.00) made payable by

certified check or money order payable to the order of the Cannabis Control Commission.

- b. Payment shall consist of six (6) monthly installments due and payable pursuant to the following schedule:

Due Date	Amount
30 days from date of this order	\$56,250.00
60 days	\$56,250.00
90 days	\$28,125.00
120 days	\$28,125.00
150 days	\$28,125.00
180 days	\$28,125.00

- c. Payments must be postmarked on or before the dates specified above and mailed to the following address:

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

- d. Respondent will create, hire, and make good-faith efforts to retain two positions consisting of a Facility and Security Manager and Compliance Manager. Respondent agrees to register the individuals as Independent Testing Laboratory agents and notify the Commission of the onboarding date for each position.
- e. Respondent agrees to continue its engagement with an independent compliance auditor to conduct ongoing security and compliance audits, including a comprehensive security and compliance audit of all operations conducted on or about six months after the later of the onboarding dates for the Facility and Security Manager or Compliance Manager.

17. 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.

18. 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.

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- b. Payment shall consist of six (6) monthly installments due and payable pursuant to the following schedule:

Due Date	Amount
30 days from date of this order	\$56,250.00
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17. 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.

18. 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.

19. 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.
20. 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.
21. 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), 935 CMR 501.505 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.

27. 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.
28. 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.
29. 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.
30. 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.
31. 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.

[SIGNATURE PAGE FOLLOWS]



**Commonwealth of Massachusetts Cannabis Control Commission**

*Shawn Collins*  
Shawn Collins, Executive Director

September 12, 2019  
Date Signed

Ratified by Commission vote ( 5 yes, 0 no, - abstain) on September 12, 2019.

**Respondent MCR Laboratories**

*M Kahn*  
Michael Kahn, Owner

05 Sep 2019  
Date Signed



