

ADMINISTRATIVE HEARINGS DIVISION

July 21, 2022

STIPULATED SETTLEMENT AGREEMENT FOR MARIJUANA VIOLATION CASE

1. Iron Cross Enterprises, LLC
Fred Tamayo, Member/Manager
dba **IRON CROSS**

(Producer)

OAR 845-025-1430(2)(c) - On or about October 20, 2020, Licensee failed to have a video surveillance system that was equipped with a failure notification system that provided, within one hour, notification to the Licensee or an authorized representative of the Licensee of any prolonged surveillance interruption or failure, when all its cameras failed for more than 30 minutes, and Licensee and/or its employees, agents or representatives did not receive timely notification of these surveillance interruptions or failures.

(1st Level Category III)

OAR 845-025-7750(1)(c)(A) - On or about November 5, 2020 and November 13, 2020, Licensee failed to hold waste on the licensed premises for at least three business days under camera coverage prior to disposal, when Licensee and/or its employees, agents or representatives destroyed approximately 125 marijuana plants that were greater than 24 inches tall at a time when the premises did not have camera coverage.

(1st Level Category III)

OAR 845-025-1450(7) - On or about October 27, 2020, November 5, 2020, November 13, 2020, and November 18, 2020, Licensee engaged in the privileges of the license in an area that did not have camera coverage, when Licensee and/or its employees, agents or representatives transferred marijuana items or packaged marijuana at times and in areas of the licensed premises in which the camera system was not functioning.

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated February 22, 2022. The total proposed sanction was a 34-day license suspension or a civil penalty of \$8,500.00. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Violation Number Two and Number Three were aggravated for repeated misconduct.

(continued **IRON CROSS**)

SYNOPSIS: – While investigating an unrelated matter, an Inspector discovered that the surveillance system had not recorded any video for roughly a month, but none of the employees or licensee representatives received a notification of the outage. A review of Licensee’s CTS account showed that Licensee had engaged in license privileges during the time of the outage. Licensee had also destroyed approximately 125 marijuana plants during the outage.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee’s first, second, and third 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 these Category III violations is a 10-day license suspension or a \$2,500.00 civil penalty each. Violation Number Two and Number Three were aggravated for repeated misconduct. Staff recommended a 34-day license suspension or a civil penalty of \$8,500.00.
3. The Commission will reduce the sanction for each violation by three days.
4. Licensee will either pay a \$6,250.00 civil penalty before 5:00 PM on August 15, 2022 **OR** serve a 25-day suspension beginning at 12:00 PM (noon) on August 22, 2022 and ending at 12:00 PM (noon) on September 16, 2022.
5. Licensee withdraws its request for a hearing.
6. 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.
7. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their July 2022 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. Truehitt 2, LLC
 Truehitt Manager, LLC, Manager
 William Truehitt, Mng Member
 dba **TRUEHITT 2**
 (Producer)
- Truehitt 3, LLC
 Truehitt Manager, LLC, Manager
 William Truehitt, Mng Member
 dba **TRUEHITT 3**
 (Producer)
- Truehitt 4, LLC
 Truehitt Manager, LLC, Manager
 William Truehitt, Mng Member
 dba **TRUEHITT 4**
 (Producer)
- Truehitt 5, LLC
 Truehitt Manager, LLC, Manager
 William Truehitt, Mng Member
 dba **TRUEHITT 5**
 (Producer)
- KBTK 6, LLC
 Truehitt Manager, LLC, Manager
 William Truehitt, Mng Member
 dba **KBTK 6**
 (Producer)
- KBTK 7, LLC
 Truehitt Manager, LLC, Manager
 William Truehitt, Mng Member
 dba **KBTK 7**
 (Producer)
- KBTK 8, LLC
 Truehitt Manager, LLC, Manager
 William Truehitt, Mng Member
 dba **KBTK 8**
 (Producer)

Immediate Suspension:

ORS 475C.229(1), (2), OAR 845-025-1300(1)(a), OAR 845-025-8520(6) - On or about March 14, 2022, Licensees and/or Licensees' employees, agents, or representatives exported marijuana items from this state when Licensee William Truehitt took marijuana items, including approximately 250 pounds of marijuana flower and 6 pounds of THC wax (a marijuana item), from this state and transported and/or delivered them via vehicle to other states, including but not limited to the state of Arkansas.

(Category I)

Violations:

ORS 475C.229(1), (2), OAR 845-025-1300(1)(a), OAR 845-025-8520(6) - On or about March 14, 2022, Licensee and/or Licensee's employees, agents or representatives exported marijuana items from this state when Licensee William Truehitt took marijuana items, including approximately 250 pounds of marijuana flower and 6 pounds of THC wax (a marijuana item), from this state and transported and/or delivered them via vehicle to other states, including but not limited to the state of Arkansas.

(Category I)

OAR 845-025-1160(2)(b) - On or about October 27, 2020, November 5, 2020, On or before about March 17, 2022, Licensee failed to notify the Commission within 72 hours of the arrest for a misdemeanor or felony of an individual listed in the application for the above-referenced recreational marijuana license, or subsequently identified as an applicant, licensee or individual with a financial interest, when Licensee and/or Licensee's employees, agents or representatives failed to notify the Commission within 72 hours of the March 14, 2022 arrest of Licensee William Truehitt on charges of Possession of a Schedule VI Controlled Substance with Intent to Deliver, ARK CODE sec. 5-64-436, a class A felony.

Note: The Commission issued an Order of Immediate Suspension and Notice of Opportunity for Hearing, dated June 1, 2022 (Immediate Suspension), and a Notice of Proposed License Cancellation, Seizure and Destruction of Marijuana Items, and Refusal to Renew License, dated June 8, 2022. Staff proposed license cancellation and nonrenewal, and seizure and destruction of marijuana items. Licensees requested a hearing and now wish to enter into this settlement agreement.

AGGRAVATION

Staff recommended aggravation because Violations Number One, Number Four, and Number Five were personally committed by Licensee William Truehitt, and because Violation Number One was intentional.

(continued **TRUEHITT**)

KBTK 9, LLC
Truehitt Manager, LLC, Manager
William Truehitt, Mng Member
dba **KBTK 9**
(Producer)

Truehitt Company 2, LLC
Truehitt Manager, LLC, Manager
William Truehitt, Mng Member
dba **TRUEHITT CO.**
1860 State St
Salem, OR 97301
(Retailer)

(1st Level Category III)

OAR 845-025-1160(2)(b)- On or before about February 4, 2022, Licensee failed to notify the Commission within 72 hours of the arrest for a misdemeanor or felony of an individual listed in the application for the above-referenced recreational marijuana license, or subsequently identified as an applicant, licensee or individual with a financial interest, when Licensee and/or Licensee's employees, agents or representatives failed to notify the Commission within 72 hours of the January 2022 arrest of Licensee William Truehitt on charges arising out of the use or possession of marijuana in the State of Utah.

(1st Level Category III)

OAR 845-025-8540(1)(a)(b) - On or about March 22, 2022, Licensee William Truehitt intentionally made a false statement to an OLCC regulatory specialist in order to induce or prevent action or investigation by the Commission or law enforcement when, during an interview with OLCC Inspector E. Pedraza, Truehitt falsely told Inspector Pedraza that he was arrested in Arkansas for having "a small amount" of marijuana, which he clarified to mean "a personal carry amount," when in fact he was arrested with approximately 250 pounds of marijuana flower and 6 pounds of THC wax (a marijuana item) in the vehicle.

(Category I)

OAR 845-025-8540(4)(c) - On or before April 7, 2022, Licensee William Truehitt refused to give, or failed to promptly give, a Commission regulatory specialist evidence when lawfully requested to do so, when on March 30, 2022 and March 31, 2022 OLCC Inspector E. Pedraza requested video from all cameras for 10 days prior to the date of Truehitt's arrest to be produced by April 6, 2022, but Truehitt failed to produce the requested video.

(1st Level Category II)

(continued **TRUEHITT**)

SYNOPSIS: – One of the members of the licensed entity was arrested in Arkansas when he was involved in a traffic stop and the officer allegedly discovered a significant amount of marijuana in the vehicle. Licensee failed to report the arrest to the Commission within the required timeframe. During the course of the investigation, it was also discovered that Licensee had previously been arrested in Utah for possession of marijuana and had not reported that arrest to the Commission within the required timeframe either. When an inspector asked Licensee about the arrest in Arkansas, he stated he was arrested with a “small amount” of marijuana that was roughly equivalent to the personal possession limit, but the police report alleged that it was over 250 pounds. There is an ongoing criminal proceeding against Licensee in Arkansas.

TERMS OF AGREEMENT

1. Licensees do not contest the charges as alleged in the Immediate Suspension, or in Violations Number One or Number Four of the Notice, but specifically deny liability for these administrative violations outside the scope of this administrative matter. Licensees otherwise accept responsibility for the violations as set out in the Notice. Violations Number One and Number Four in the Notice were Licensees’ first and second Category I violations. Violations Number Two and Number Three in the Notice were Licensees’ first and second Category III violations within two years. Violation Number Five was Licensees’ first Category II violation within two years.
2. Commission staff recommended aggravation because Violations Number One, Number Four, and Number Five were personally committed by Licensee William Truehitt, and because Violation Number One was intentional.
3. Commission staff proposed license cancellation and nonrenewal, and seizure and destruction of marijuana items, for the violations in the Notice. Licensees have begun the process of selling the businesses. Licensees will surrender their licenses on the date the transfers of ownership of the businesses are completed or at 12:00 PM (noon) on October 19, 2022, whichever is earlier. If one or more of Licensees’ licenses expires on or before October 19, 2022 and Licensees choose to keep that license from expiring, 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, and Licensees agree that after the final surrender date there will be no renewal of any of these licenses and no right to a hearing on nonrenewal of these licenses.
4. Licensees understand and agree that the Commission is not representing or guaranteeing that a new owner will have an approved license on or before October 19, 2022. 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.
5. Licensees agree that the Immediate Suspension shall continue in force for the above-referenced licenses until the licenses are surrendered, with the following limited exception. The Commission will withdraw the Immediate Suspension effective either October 12, 2022, or, if the Commission approves the change of ownership for a license prior to October 12, 2022, on the date that approval is final, for the sole purpose of allowing Licensees to update their METRC Cannabis Tracking System accounts and to transfer out any marijuana items remaining in their inventory. This limited exception does not allow for any consumer transactions or deliveries, or for the exercise of any license privileges other than as stated in this paragraph.

(continued **TRUEHITT**)

6. Licensees relinquish any and all interest in any marijuana items in their inventory that have not been properly transferred before the effective date of license surrender, and agree that the Commission may seize and destroy any such marijuana items.
7. Each licensee agrees to accept a letter of reprimand for the violations charged in the Notice. 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.
8. Licensees withdraw their Request for Hearing in these matters.
9. In consideration of the forbearance stated herein, Licensees hereby release and waive any and all claims of any kind, known or unknown, past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or agents arising out of the matters set forth in the Immediate Suspension, the Notice, or this Settlement Agreement and the final order based hereon, including but not limited to any claim under federal or state law for damages, declaratory or equitable relief, under 42 USC §1983 *et. seq.*, and for attorneys fees or costs.
10. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their July Commission Meeting. If the agreement is not accepted and approved in its entirety by the Commission it is deemed null and void and Licensees' hearing rights, if any, will be restored. If the agreement is accepted and approved in its entirety by the Commission, Licensees waive 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. Herbal Evolution, LLC
Donald Stalik, Member
Maria Stalik, Member
dba **HERBAL EVOLUTION**
(Producer) and (Processor)

Immediate Suspension:

ORS 475C.229(1), (2), OAR 845-025-1300(1)(a), OAR 845-025-8520(6) - On or about March 14, 2022, Licensee and/or Licensee's employees, agents or representatives exported marijuana items from this state when Licensee Donald Stalik took marijuana items, including approximately 250 pounds of marijuana flower and 6 pounds of THC wax (a marijuana item), from this state and transported and/or delivered them via vehicle to other states, including but not limited to the state of Arkansas.

(Category I)

Violations:

ORS 475C.229(1), (2), OAR 845-025-1300(1)(a), OAR 845-025-8520(6) - On or about March 14, 2022, Licensee and/or Licensee's employees, agents or representatives exported marijuana items from this state when Licensee Donald Stalik took marijuana items, including approximately 250 pounds of marijuana flower and 6 pounds of THC wax (a marijuana item), from this state and transported and/or delivered them via vehicle to other states, including but not limited to the state of Arkansas.

(Category I)

OAR 845-025-1160(2)(b) - On or before about March 17, 2022, Licensee failed to notify the Commission within 72 hours of the arrest for a misdemeanor or felony of an individual listed in the application for the above-referenced recreational marijuana license, or subsequently identified as an applicant, licensee or individual with a financial interest, when Licensee and/or Licensee's employees, agents or representatives failed to notify the Commission within 72 hours of the March 14, 2022 arrest of Licensee Donald Stalik on charges of Possession of a Schedule VI Controlled Substance with Intent to Deliver, ARK CODE sec. 5-64-436, a class A

Note: The Commission issued an Order of Immediate Suspension and Notice of Opportunity for Hearing, dated June 1, 2022 (Immediate Suspension), and a Notice of Proposed License Cancellation, Seizure and Destruction of Marijuana Items, and Refusal to Renew License, dated June 8, 2022. Staff proposed license cancellation and nonrenewal, and seizure and destruction of marijuana items Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Staff recommended aggravation because Violations Number One and Number Three were personally committed by Licensee Donald Stalik, and because Violation Number One was intentional.

(continued **HERBAL EVOLUTION**)

felony; and Possession of Firearms by Certain Persons (Felon in Possession), ARK CODE sec. 5-73-103, a class D felony.

(1st Level Category III)

OAR 845-025-8540(4)(a) - On or about April 4, 2022, Licensee Donald Stalik intentionally destroyed, damaged, altered, removed, or concealed potential evidence when, a few days after OLCC Inspector E. Pedraza requested video from his licensed premises related to potential exporting of marijuana from the state, Stalik destroyed, damaged, altered, removed, or concealed the video surveillance equipment at the premises.

(Category I)

SYNOPSIS: One of the members of the licensed entity was arrested in Arkansas when he was involved in a traffic stop and the officer allegedly discovered a significant amount of marijuana in the vehicle. Licensee failed to report the arrest to the Commission within the required timeframe. When an Inspector spoke to the Licensee about the arrest in Arkansas, the Inspector requested video surveillance footage from the licensed premises for a time period before the arrest. Licensee subsequently claimed that he was robbed and that his surveillance equipment was stolen, but surveillance footage that was stored off-site showed that Licensee himself removed the equipment. There is an ongoing criminal proceeding against Licensee in Arkansas.

TERMS OF AGREEMENT

1. Licensee does not contest the charges as alleged in the Immediate Suspension or in Violation Number One of the Notice, but specifically denies liability for these administrative violations outside the scope of this administrative matter. Licensee otherwise accepts responsibility for the violations as set out in the Notice. Violations Number One and Number Three in the Notice were Licensee's first and second Category I violations. Violation Number Two in the Notice was Licensee's first Category III violation within two years.
2. Commission staff recommended aggravation because Violations Number One and Number Three were personally committed by Licensee Donald Stalik, and because Violation Number One was intentional.
3. Commission staff proposed license cancellation and nonrenewal, and seizure and destruction of marijuana items, for the violations in the Notice. Licensees have begun the process of selling the businesses. Licensees will surrender their licenses on the date the transfers of ownership of the businesses are completed or at 12:00 PM (noon) on October 19, 2022, whichever is earlier. If one or more of Licensees' licenses expires on or before October 19, 2022 and Licensees choose to keep that license from expiring, 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, and Licensees agree that after the final surrender date there will be no renewal of any of these licenses and no right to a hearing on nonrenewal of these licenses.

(continued **HERBAL EVOLUTION**)

4. Licensee understands and agrees that the Commission is not representing or guaranteeing that a new owner will have an approved license on or before October 19, 2022. Licensee understand and agrees 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.
5. Licensee agrees that the Immediate Suspension shall continue in force for the above-referenced licenses until the licenses are surrendered, with the following limited exception. The Commission will withdraw the Immediate Suspension effective either October 12, 2022, or, if the Commission approves the change of ownership for a license prior to October 12, 2022, on the date that approval is final, for the sole purpose of allowing Licensee to update its METRC Cannabis Tracking System accounts and to transfer out any marijuana items remaining in its inventory. This limited exception does not allow for any consumer transactions or deliveries, or for the exercise of any license privileges other than as stated in this paragraph.
6. Licensee relinquishes any and all interest in any marijuana items in Licensee's inventory that have not been properly transferred before the effective date of license surrender, and agrees that the Commission may seize and destroy any such marijuana items.
7. Each licensee agrees to accept a letter of reprimand for the violations charged in the Notice. 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.
8. In consideration of the forbearance stated herein, Licensee hereby releases and waives any and all claims of any kind, known or unknown, past or future, against the State of Oregon or its agencies, instrumentalities, employees, officers, or agents arising out of the matters set forth in the Immediate Suspension, the Notice, or this Settlement Agreement and the final order based hereon, including but not limited to any claim under federal or state law for damages, declaratory or equitable relief, under 42 USC §1983 *et. seq.*, and for attorneys fees or costs.
9. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their July 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.