

# ADMINISTRATIVE HEARINGS DIVISION

September 22, 2022

## STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Pangaea Organics, LLC  
James Gernhart, Member  
Joseph Escobar, Member  
dba **PANGAEA ORGANICS**

(Processor)

OAR 845-025-1160(2)(a) - On or before May 21, 2022, Licensee failed to notify the Commission within 72 hours of the conviction for any misdemeanor or felony of an individual listed in the application for the above-referenced recreational marijuana license, or subsequently identified as an applicant or licensee, when Licensee and/or Licensee's employees, agents or representatives failed to notify the Commission within 72 hours of the May 18, 2022 conviction of Licensee Joseph Escobar for the crime of Criminal Mischief in the First Degree, ORS 164.365, a Class A Misdemeanor.

(1<sup>st</sup> Level Category II)

Note: Licensee was charged with this violation by Notice dated July 12, 2022. The total proposed sanction for this violation is a 30-day suspension. Licensee wishes to enter into this settlement agreement.

**SYNOPSIS:** – This two-member LLC has held this processor license since January 31, 2018, with only one prior VOC warning. On May 18, 2022, one of the members was convicted of misdemeanor criminal mischief based on damage they caused to a motor vehicle. They stated to Commission staff that the shock of reporting to jail for 48 hours and satisfying the other requirements of the criminal sentence led to overlooking their obligation to the OLCC, and they failed to report the conviction.

### TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category II violation within two years. Any subsequent Category II violation within the same two years will be charged at the second level. This violation 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 this violation is a 30-day suspension.
3. The Commission will reduce the sanction to a 21-day suspension, with the option to pay a civil penalty in lieu of 16 days, and the remaining five days mandatory.
4. Licensee will either pay a \$4,000.00 civil penalty before 5:00 PM on October 17, 2022, and serve a five-day license suspension beginning at 12:00 PM (noon) on October 24, 2022 and ending at 12:00 PM (noon) on October 29, 2022 **OR** serve a 21-day license suspension beginning at 12:00 PM (noon) on October 24, 2022 and ending at 12:00 PM (noon) on November 14, 2022.

(continue **PANGAEA ORGANICS**)

5. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on the charge, the licensee agrees to accept a Letter of Reprimand for the violation. 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 the licensee.
6. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their September 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. Rooted Coast Cannabis, LLC  
Dana Gehrman, Member  
dba **ROOTED COAST CANNABIS**  
2770 Woodland Dr, Ste A  
Coos Bay, OR 97420

(Retailer)

OAR 845-025-7580(1)(b), (3), (5) - On multiple dates from about June 7, 2021 to about January 10, 2022, Licensee and/or Licensee's employees, agents, or representatives failed to reconcile all marijuana item inventories and weights in the METRC Cannabis Tracking System (CTS), and failed to record each sale, delivery, or transfer of a marijuana item to a consumer as a sales transaction and record the price before tax and amount of each item sold and the date of each transaction in CTS, for each individual transaction, by 8:00 AM local time of the next business day, with respect to its daily sales, deliveries, and transfers to consumers.

(1<sup>st</sup> Level Category III)

OAR 845-025-7540(1), (2) - On or before November 17, 2021, Licensee and/or Licensee's employees, agents, or representatives failed to enter data into CTS that fully and transparently accounted for all inventory tracking activities when an audit disclosed that Licensee had 1,527 packages in its CTS inventory, but only 526 packages on the premises, many of which contained quantities of marijuana items at variance with the quantities recorded in CTS.

(1<sup>st</sup> Level Category III)

OAR 845-025-7520(1)(d) - On or before November 17, 2021, Licensee and/or Licensee's employees, agents, or representatives failed to properly assign and affix a unique identification (UID) tag to all marijuana items or receptacles containing marijuana items in a manner that establishes an accurate record from one marijuana item to another and uses a new UID tag each time a marijuana item is added to another, when 27 packages containing marijuana items that did not have a UID tag affixed were found at the premises.

(1<sup>st</sup> Level Category III)

OAR 845-025-7700(6)(c) – On or before November 17, 2021, with respect to multiple marijuana items received by manifest from other licensees, Licensee failed to document any differences between the quantities specified on the

Note: Licensee was charged with these violations by Notice dated July 12, 2022. The total proposed penalty was a 48-day license suspension or a civil penalty of \$12,000.00. Licensee wishes to enter into this settlement agreement.

**AGGRAVATION**

Staff added 8 days aggravation for repeated misconduct

(continue **ROOTED COAST CANNABIS**)

manifests and the quantities received in CTS separately and for each UID accepted, when it was found that Licensee and/or Licensee's employees, agents, or representatives failed to count or weigh the items received.

(1<sup>st</sup> Level Category III)

**SYNOPSIS:** – This premises has repeatedly failed to carefully manage its METRC Cannabis Tracking System, and therefore upon recommendation of the inspector it was deemed not eligible for a VOC ticket. The evidence supports a finding of lack of diligence rather than diversion or intentional inaccurate reporting. The proposed settlement is in accordance with OLCC standard guidelines. Licensee has taken on a new member since these violations, and that new member has been cautioned about the need to get their tracking under control.

### **TERMS OF AGREEMENT**

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first, second, third, and fourth 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 each Category III violation is a 10-day license suspension or a \$2,500.00 civil penalty. These violations were aggravated for repeated misconduct. Staff recommended adding eight days for aggravation. The total proposed penalty was a 48-day license suspension or a civil penalty of \$12,000.00.
3. The Commission will reduce the sanction by twelve days.
4. Licensee will either pay a \$9,000.00 civil penalty before 5:00 PM on October 17, 2022 **OR** serve a 36-day suspension beginning at 12:00 PM (noon) on October 24, 2022 and ending at 12:00 PM (noon) on November 29, 2022.
5. 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.
6. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their September 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.