

# ADMINISTRATIVE HEARINGS DIVISION

April 21, 2022

## STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. Jamaica Joel's, Inc.  
Travis Higbee,  
Pres/Sec/Treas/Dir/Stkhldr  
dba **JAMAICA JOEL'S**  
37 W 13<sup>th</sup> Avenue, Suite 201  
Eugene, OR 97401  
(Retailer)

OAR 845-025-1160(2)- On or about August 13, 2018 and/or on or about November 4, 2019, Licensee and/or its employees, agents, or representatives failed to notify the Commission within 24 hours of the arrest for any misdemeanor or felony or an individual listed in an application or subsequently identified as an applicant, when Licensee Travis Higbee was arrested on or about August 12, 2019 for Driving Under the Influence of Intoxicants (DUII), ORS 813.010, and/or when Licensee Travis Higbee was arrested on or about November 3, 2019 for DUII, ORS 813.010, Failure to Perform the Duties of a Driver, ORS 811.700, Reckless Driving, ORS 811.140, and/or Interference with a Police Officer, Eugene Municipal Code 4.907, and Licensee and/or its employees, agents, or representatives failed to notify the Commission within 24 hours of each arrest.

(Category I)

Note: Licensee was charged with this violation by Notice dated November 17, 2021. The standard sanction for the Category I violation is license cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

**SYNOPSIS:** Licensee was arrested for several charges stemming from a DUII stop, and failed to provide notice of the arrest to the Commission within the required 24 hours.

### **TERMS OF AGREEMENT**

1. Licensee accepts responsibility for the violation as set out in the Notice. This was Licensee's first Category I violation. 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 the Category I violation is license cancellation. The Commission will reduce the sanction to a 30-day suspension or a \$7,500.00 civil penalty.
3. Licensee will either pay a \$7,500.00 civil penalty before 5:00 PM on May 16, 2022 **OR** serve a 30-day suspension beginning at 12:00 PM (noon) on May 23, 2022 and ending at 12:00 PM (noon) on June 22, 2022.

(continue **JAMAICA JOEL'S**)

4. Licensee withdraws its Request for Hearing in this matter.
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 April 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. MNG OP - 2581 Dick George Road 1, LLC  
Michael Ng, Member/Manager  
dba **MIKE'S GREEN FARM**  
(Producer)

OAR 845-025-2040(2)(c) - On or before about June 30, 2020, Licensee and/or Licensee's employees, agents, or representatives changed the location of a designated canopy area without obtaining prior written approval from the Commission when hundreds of immature marijuana plants were growing outside an approved immature canopy area.

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

OAR 845-025-1450(7) - On or about June 19, 2020 to about June 22, 2020, Licensee engaged in the privileges of the license in an area that did not have camera coverage, when Licensee and/or Licensee's employees, agents or representatives cultivated immature marijuana plants at times and in areas of the licensed premises in which the camera system was not functioning.

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

Note: Licensee was charged with these violations by Notice dated March 23, 2022. The total proposed penalty was a 24-day license suspension or a \$6,000.00 civil penalty. Licensee now wishes to enter into this settlement agreement.

**AGGRAVATION**

Staff added four days of aggravation because the violations were repeated.

**SYNOPSIS:** During an alterations inspection after an anonymous complaint, an inspector confirmed the report that there were four days of camera outages on portions of the premises. Licensee stated that some of the cameras had inadvertently been placed on a timer when the automated watering system was setup by their electrician, and that the issue had been fixed prior to the inspection. The inspector also found hundreds of immature plants growing outside the designated canopy in the area where camera coverage was lacking, but did note that it appeared that all of the plants were included in Licensee's CTS account.

**TERMS OF AGREEMENT**

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first and second 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 civil penalty of \$2,500.00. Staff added four days of aggravation because the violations were repeated. The total proposed penalty was a 24-day license suspension or a \$6,000.00 civil penalty.
3. The Commission will reduce the sanction by six days. Licensee will pay a \$4,500.00 civil penalty before 5:00 PM on May 16, 2022, **OR** serve an 18-day suspension beginning at 12:00 pm (noon) on May 23, 2022 and ending at 12:00 pm (noon) on June 10, 2022.

(continue **MIKE'S GREEN FARM**)

4. If a licensee's interest in the license expires or is transferred before the Commission issues a final order on these incidents, the licensee agrees to accept a Letter of Reprimand for the violations. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for any license by the licensee.
5. This agreement is conditional upon final approval of the Commission and will be reviewed by the Commissioners at their April 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.

3. Capitola Management, LLC  
Edward Grayver, Member  
dba **CAPITOLA MANAGEMENT**  
(Producer)

OAR 845-025-7540(1)(2), (4) - On or about October 16, 2019, Licensee and/or Licensee's employees, agents, or representatives intentionally failed to enter data into CTS that fully and transparently accounted for all inventory tracking activities (as that term is defined in OAR 845-025-1015(38) ), when eight untagged mature marijuana plants that were observed by OLCC Inspectors were physically tagged with UID tags but never entered into Licensee's CTS account as tracked inventory/plants.

(Category I)

OAR 845-025-8540(1)(a), (b) - On October 16, 2019, Licensee's employees, agents, or representatives intentionally made false statements or representations to the Commission in order to induce or prevent action or investigation by the Commission when Louis Collazo and Derek Williams told Inspectors J. Vargas and A. Del Pizzo that they had completed tagging all marijuana plants when in fact at least eight untagged mature marijuana plants were observed on the premises and later Collazo and Williams stated that they had ran out of UID tags after they tagged as many plants as they could and when extra plant tags were found inside the surveillance room.

(Category I)

OAR 845-025-1160(4)(a)(A)(B) - On or about April 1, 2020, Licensee and/or Licensee's employees, agents, or representatives failed to notify the Commission of a change to its corporate or ownership structure, or in who has a financial interest in the business, prior to making such a change when EEK, Inc. obtained an ownership and/or financial interest in the licensed business without prior Commission approval.

(Category I)

Note: Licensee was charged with these violations by Second Amended Notice dated March 10, 2021. Staff proposed the standard sanction of license cancellation, seizure and destruction of marijuana items, and refusal to renew the license for these violations. Licensee requested a hearing and now wishes to enter into this settlement agreement.

### **AGGRAVATION**

Staff proposed to aggravate the penalty because Violation Number Two was repeated.

(continue **CAPITOLA MANAGEMENT**)

**SYNOPSIS:** Multiple site visits uncovered widespread CTS and UID problems at the licensed premises, and further investigation showed that licensee had allowed a third party to obtain an ownership and/or financial interest in the licensed premises without notification or authorization by the Commission. Licensee has agreed to surrender the license and will sell the business to an individual or entity other than the one alleged to have obtained the unauthorized interest.

### **TERMS OF AGREEMENT**

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first through third Category I violations. 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. Commission staff proposed the standard sanction of license cancellation, seizure and destruction of marijuana items, and refusal to renew the license for these violations. Commission staff also proposed to aggravate the penalty because Violation Number Two was repeated.
3. Licensee has begun the process of selling the business. Licensee hereby surrenders its license effective on the date the transfer of ownership of the business is completed or at 12:00 PM on July 20, 2022, whichever is earlier. Licensee agrees that its license will not be renewed.
4. Licensee understands and agrees that the Commission is not representing or guaranteeing that a new owner will be licensable or will have an approved license on or before July 20, 2022. Licensee understands 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, represents, and warrants that the business will not be sold to the entity and/or individuals alleged to have obtained an unapproved financial and/or ownership interest in the licensed business, namely EEK, Inc. or any officer, director, or stockholder thereof, or any parent, subsidiary, affiliate, or successor of EEK, Inc.
6. Each licensee agrees to accept a letter of reprimand for the violations specified above. 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.
7. Licensee hereby relinquishes any and all interest in any marijuana items in its 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.
8. Licensee withdraws its request for hearing.
9. The terms of this Settlement Agreement and the Final Order entered based on this Agreement are binding on Licensee and any of its agents, employees, representatives, successors or assigns.

(continue **CAPITOLA MANAGEMENT**)

10. This agreement is conditioned upon final approval of the Commission and will be reviewed by the Commissioners at their April 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.