

ADMINISTRATIVE POLICY & PROCESS DIVISION

August 20, 2020

STIPULATED SETTLEMENT AGREEMENTS FOR MARIJUANA VIOLATION CASES

1. 1450 SE Orient, LLC
Chris Ostlund, Member
WWMP, LLC, Member
3 Kids, Inc., Member
John Widmer, Pres/Stockholder
Julie Widmer, Sec/Stockholder
Visionary Enterprises, Inc., Member
Rod Maguire, Pres/Stockholder
Melissa Maguire, Sec/Stockholder
dba **KALEAFA GRESHAM**
1450 SE Orient Drive
Gresham, OR 97080
(Retailer)

ORS 475B.610(2), OAR 845-025-7020(2)(d), OAR 845-025-7030(1)(a), and/or OAR 845-025-7170(1)(2) - On or about February 19, 2019, Licensee sold, offered for sale, and/or transferred marijuana items for ultimate sale to a consumer, patient, or designated primary caregiver, that were not labeled in accordance with OAR 845-025-7000 to OAR 845-025-7190, when Licensee and/or its employees, agents or representatives displayed and offered to sell in the consumer sales area of the premises approximately 132 units of marijuana items (vape cartridges containing cannabinoid extracts) in packages with labels that were noncompliant with OAR 845-025-7030(1)(b), (3)(c), (4), (4)(b), (4)(c), in one or more of the following particulars: (1) Lacked product ID; (2) failed to specify "extract" or "marijuana"; (3) failed to specify whether derived from marijuana or hemp; (4) failed to state net quantity in accordance with National Institute of Standards and Technology Handbook 130 (2016); and/or (5) lacked universal symbol. Each sale, transfer, or offer for sale of a marijuana item not labeled in accordance with OAR 845-025-7000 to OAR 845-025-7190

Note: Licensee was charged with these violations by Notice dated April 28, 2020. The total proposed sanction was a \$10,000.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: – This settlement is the result of an investigation by OLCC Packaging and Labeling Specialist A. Geltosky working with Public Safety staff. Geltosky found a number of improperly labeled products at the Kaleafa retail outlet in Gresham, which Inspectors traced back to Kaleafa Wholesale. The settlement amount is based on the special statutory authority of ORS 475B.655(1), implemented both by OLCC rule and policy.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These packaging and labeling violations will not be considered in future licensing actions.

(continue **KALEAFA GRESHAM**)

2. Commission staff proposed the standard sanction (capped at \$10,000.00 per day) of a civil penalty of \$10,000.00 for these violations.
3. In consideration of Licensee's acceptance of responsibility, the Commission will reduce the proposed penalty.
4. Licensee will pay a \$7,000.00 civil penalty before 5:00 PM on September 15, 2020.
5. The terms of this agreement and the Final Order entered based on this agreement are binding on each named licensee and any of their personal representatives, successors or assigns.
6. Licensee withdraws its Request for Hearing in this matter.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2020 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. WWMP, LLC
3 Kids, Inc., Member
John Widmer, Pres/Stockholder
Julie Widmer, Sec/Stockholder
Visionary Enterprises, Inc., Member
Rod Maguire, Pres/Stockholder
Melissa Maguire, Sec/Stockholder
dba **KALEAFA**
(Wholesaler)

ORS 475B.610(2), OAR 845-025-7020(2)(d), OAR 845-025-7030(1)(a), and/or OAR 845-025-7170(1)(2) - On or about September 5, 2018, September 10, 2018, January 25, 2019, and/or February 4, 2019, Licensee sold, offered for sale, and/or transferred marijuana items for ultimate sale to a consumer, patient, or designated primary caregiver, that were not labeled in accordance with OAR 845-025-7000 to OAR 845-025-7190, when Licensee and/or its employees, agents or representatives transferred to several of its retailer licensees for ultimate sale to the consumer approximately 408 units of “Sour Diesel,” “Silver Distillate – Sour Apricot,” and “Silver Distillate – Cherry” marijuana items (vape cartridges containing cannabinoid extracts) in packages with labels that were noncompliant with OAR 845-025-7030(1)(b), (3)(c), (4), (4)(b), (4)(c), in one or more of the following particulars: (1) Lacked product ID; (2) failed to specify “extract” or “marijuana”; (3) failed to specify whether derived from marijuana or hemp; (4) failed to state net quantity in accordance with National Institute of Standards and Technology Handbook 130 (2016); and/or (5) lacked universal symbol. Each sale, transfer, or offer for sale of a marijuana item not labeled in accordance with OAR 845-025-7000 to OAR 845-025-7190.

Note: Licensee was charged with these violations by Notice dated April 28, 2020. Commission staff originally proposed the standard sanction of a \$40,000.00 civil penalty. Licensee requested a hearing and now wishes to enter into this settlement agreement.

SYNOPSIS: This settlement is the result of an investigation by OLCC Packaging and Labeling Specialist A. Geltosky working with Public Safety staff. Geltosky found a number of improperly labeled products at the Kaleafa retail outlet in Gresham, which Inspectors traced back to Kaleafa Wholesale. The settlement amount is based on the special statutory authority of ORS 475B.655(1), implemented both by OLCC rule and policy.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These packaging and labeling violations will not be considered in future licensing actions.
2. Commission staff proposed the standard sanction (capped at \$10,000.00 per day) of a civil penalty of \$40,000.00 for these violations.

(continue **KALEAFA**)

3. In consideration of Licensee's acceptance of responsibility, the Commission will reduce the proposed penalty.
4. Licensee will pay a \$28,000.00 civil penalty before 5:00 PM on September 15, 2020.
5. The terms of this agreement and the Final Order entered based on this agreement are binding on each named licensee and any of their personal representatives, successors or assigns.
6. Licensee withdraws its Request for Hearing in this matter.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2020 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. CannaFlo Farms, LLC
Jeffrey Schlageter, Member
PO Box 216
Elmira, OR 97437
dba **CANNA FLO FARMS**
(Producer)

OAR 845-025-1440(2)(b) – On or about September 24, 2019, Licensee and/or its employees, agents or representatives failed to ensure that cameras were placed so that they captured clear and certain images of any individual and activity occurring in all locations within limited access on the licensed premises, when there was an area of outdoor flowering canopy that was not covered by the existing cameras.

(1st Level Category II)

OAR 845-025-2040(5) and OAR 845-025-2000(1), (4) - On or before September 24, 2019, Licensee and/or its employees, agents, or representatives, planted or located approximately 48 mature marijuana plants on the licensed premises outside the designated area for mature canopy area, and/or approximately 25 mature marijuana plants in the area designated exclusively for immature canopy, as shown on the Commission-approved site plan.

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated June 30, 2020. Staff proposed the standard sanction of a 30-day license suspension for the Category II violation, and a standard sanction of a 10-day license suspension or a \$1,650.00 civil penalty for the Category III violation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Violation Number Two was aggravated for repeated misconduct.

SYNOPSIS: This arose from a harvest inspection carried out September 24, 2019. The first issue was an area of the outdoor grow that was not covered by cameras. Licensee added some cameras to fix this issue. The second issue was planting outside of designated canopy areas, but these plants were all tagged, tracked, and none were outside the perimeter of the licensed premises.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. This was Licensee's first Category II violation, and first Category III violation. Any subsequent Category II or Category III violations 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 the Category II violation is a 30-day license suspension. The standard sanction for the Category III violation is a 10-day license suspension, or a \$1,650.00 civil penalty. Violation Number Two was aggravated for repeated misconduct.
3. The Commission will reduce the sanction for Violation Number One to a 30-day suspension or a \$4,950.00 civil penalty. The Commission will reduce the sanction for Violation Number Two to a nine-day license suspension, or a \$1,485.00 civil penalty.

(continue **CANNA FLO FARMS**)

4. Licensee will pay a \$6,435.00 civil penalty before 5:00 PM on September 15, 2020 **or** serve a 39-day suspension beginning at 12:00 PM (noon) on September 22, 2020 and ending at 12:00 PM (noon) on October 31, 2020.
5. Licensee withdraws its Request for Hearing in this matter.
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 for these violations. 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 Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2020 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.

4. Attikus Enterprises, Inc.
Matthew Schwimmer, Pres/Stockholder
David Schwimmer, VP/Sec/Stkhldr
dba **IVY CANNABIS**
(Wholesaler)

OAR 845-025-1230(9)(a) – From about February 7, 2019 to August 20, 2019, Licensee and/or its employees, agents, or representatives failed to accurately record the name and permit number of every current employee and license representative in the METRC Cannabis Tracking System (CTS), when it listed “Elizabeth Trevett” as an employee when in fact she was an employee or representative of The Canna Company.

(1st Level Category III)

OAR 845-025-7520(1)(d) - On or before March 14, 2019, Licensee and/or its employees, agents or representatives failed to tag marijuana items held at the premises with a unique identification (UID) tag, when an inspection found two bags of cannabis flower totaling approximately 2.2 pounds that did not have UID tags affixed.

(1st Level Category III)

OAR 845-025-7540(1), (2) - On or before March 14, 2019, Licensee and/or its employees, agents or representatives failed to enter data into CTS that fully and transparently accounted for all inventory tracking activities with respect to approximately 15 transfers of marijuana items accepted from The Canna Company that were not accurately tracked in CTS.

(1st Level Category III)

Note: Licensee was charged with these violations by Notice dated July 7, 2020. The total proposed sanction was a 34-day license suspension or a civil penalty of \$5,610.00. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Violations Number Two and Number Three were aggravated because they were repeated.

SYNOPSIS: – This wholesaler agreed to wholesale marijuana items for an “old friend” who OLCC discovered to be the cancelled permittee (Matt Gompers) of a cancelled wholesaler (The Canna Company). An employee of The Canna Company gained access to Licensee’s CTS account and transferred marijuana items that were not properly tracked in CTS. Licensee surrendered those items to Commission staff for destruction, and has taken steps to clean up its CTS account and ensure access to the account is better controlled.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee’s first through third Category III violations. Because they were discovered at the same time, they were charged at the first level. Any subsequent Category III violation within the same two years will be charged at the second level.

(continue **IVY CANNABIS**)

2. Violations Number Two and Number Three were aggravated because they were repeated.
3. 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.
4. Commission staff originally proposed the standard sanction of a 34-day license suspension of a civil penalty of \$5,610.00. The Commission will reduce the sanction for Violation Number One to a \$1,155.00 civil penalty or a seven-day suspension. The Commission will reduce the sanction for Violations Number Two and Number Three to a \$1,485.00 civil penalty or a nine-day suspension each.
5. Under the terms of this agreement, Licensee will pay a \$4,125.00 civil penalty before 5:00 PM on September 15, 2020 **OR** serve a 25-day suspension beginning at 12:00 PM (noon) on September 22, 2020 and ending at 12:00 PM (noon) on October 17, 2020.
6. If a licensee's interest in the license expires or is transferred before the Commission issues a final order, that licensee agrees to accept a Letter of Reprimand for these 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 or permit by the licensee.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2020 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.

5. Modern Forest, LLC
Charles Troxell, Member
Laura Troxell, Member
Sven Roberts, Member
Amber Roberts, Member
dba **MODERN FOREST**
634 S Main Street
Lebanon, OR 97355
(Retailer)

OAR 845-025-1450(2)(d) (2019) – On or about June 17, 2019, Licensee or Licensee’s employees, agents, or representatives failed to keep surveillance recordings for a minimum of 90 calendar days, when only 13 days were available.

(Category I)

OAR 845-025-1450(2)(j) (2019) - On or about June 17, 2019, Licensee or Licensee’s employees, agents, or representatives failed to make video surveillance records and recordings available immediately upon request to the Commission in a format specified by the Commission for the purpose of ensuring compliance with ORS Chapter 475B and Commission rules, when Insp. Rowley requested to see Licensee’s off-site backup recordings described in OAR 845-025-1450(2)(l) (2019) and no one was able to immediately access those recordings.

(1st Level Category II)

OAR 845-025-7540(1)(2) (2019) - On or before June 20, 2019, Licensee or Licensee’s employees, agents, or representatives failed to enter data into the METRC Cannabis Tracking System (CTS) that fully and transparently accounted for all inventory tracking activities when hundreds of marijuana items were identified as having negative quantities.

(1st Level Category III)

OAR 845-025-1450(2)(e) (2019) - On or about June 20, 2019, Licensee or Licensee’s employees, agents, or representatives failed to keep off-site backup recordings described in OAR 845-025-1450(2)(l)(2019) for a minimum of 30 days, when only eight days were available.

(1st Level Category II)

Note: Licensee was charged with these violations by Amended Notice dated June 2, 2020. The proposed sanction was license cancellation, and refusal to renew license. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Violation Number Two is aggravated for involvement of more than one employee, and personal involvement of Licensee Laura Troxell. Violation Number Three is aggravated because it was repeated.

(continue **MODERN FOREST**)

SYNOPSIS: An inspection revealed that the premises only had 13 of the 90 required days of onsite surveillance backup video, and that the individual Licensees and their on-premises employee and off-site consultants could not figure out how to demonstrate compliance with the 30-day offsite video storage requirement when requested to do so. The surveillance storage systems have since been changed out to correct these deficiencies. There were also hundreds of marijuana packages in CTS that were negative in weight or quantity, which is a clear indicator of failure to accurately track in METRC CTS. Licensee attributes this to a communication error between Licensee's point of sale system (POS) and CTS that would fail to switch to another package once a package had been fully sold. Licensee first contacted METRC long prior to the inspection by OLCC in an effort to resolve this issue. After the inspection, Licensee devoted a full-time manager to correcting this problem.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first Category I violation, first and second Category II violations, and first Category III violation. Because the Category II violations were discovered at the same time, they are charged at the first level. Any subsequent Category II or Category III violation within the same two years will be charged at the second level.
2. Violation Number Two is aggravated for involvement of more than one employee, and personal involvement of Licensee Laura Troxell. Violation Number Three is aggravated because it was repeated.
3. 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.
4. Commission staff originally proposed the standard sanction of license cancellation, refusal to renew, and seizure and destruction of marijuana items. The Commission will reduce the sanction for Violation Number One to a \$4,950.00 civil penalty or a 30-day suspension. The Commission will reduce the sanction for Violation Number Two to a \$4,125.00 civil penalty or a 25-day suspension. The Commission will reduce the sanction for Violation Number Three to a \$1,485.00 civil penalty or a nine-day suspension. The Commission will reduce the sanction for Violation Number Four to a \$3,465.00 civil penalty or a 21-day suspension.
5. Under the terms of this agreement, Licensee will pay a \$14,025.00 civil penalty before 5:00 PM on September 15, 2020 **OR** serve an 85-day suspension beginning at 12:00 PM (noon) on September 22, 2020 and ending at 12:00 PM (noon) on December 16, 2020.
6. Licensee withdraws its Request for Hearing in this matter.
7. If a licensee's interest in the license expires or is transferred before the Commission issues a final order, that licensee agrees to accept a Letter of Reprimand for these 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 or permit by the licensee.
8. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2020 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.

6. Butte Creek Ranch Farm 1100, LLC
Thor Thompson, Member
Deborah Gadberry, Member
Tyler Lennick, Member
dba **BUTTE CREEK FARMS**
(Producer)

OAR 845-025-1450(2)(d)(A) (2017) – On or about July 20, 2018, Licensee, whose license was issued or renewed after August 31, 2016, and/or its employees, agents or representatives, failed to keep surveillance recordings, except for back-up off-site recordings of the surveillance area, for a minimum of 90 days, when it had 26 days of back-up recordings back to June 24, 2018.

(Category I)

OAR 845-025-1450(2)(k) - On or about August 17, 2019 and/or September 3, 2019, Licensee failed to immediately notify the Commission of any equipment failure or system outage lasting 30 minutes or more, when Camera #2 failed at approximately 1:20pm on August 17, 2019 for longer than 30 minutes, and Licensee and/or its employees, agents or representatives did not notify the Commission of this failure until September 3, 2019; and/or when Camera #2 failed again at approximately 5:54pm on September 3, 2019 for longer than 30 minutes, and Licensee and/or its employees, agents or representatives did not notify the Commission of this failure until September 10, 2019.

(1st Level Category II)

OAR 845-025-1450(2)(d) - On or about September 11, 2019, Licensee and/or its employees, agents or representatives, failed to keep surveillance recordings, except for back-up off-site recordings of the surveillance area, for a minimum of 90 days, when it had 34 days of back-up recordings back to August 8, 2019. This is Licensee's second violation of this type within two years. The first was July 20, 2018 and/or September 6, 2018, as charged in Violation Number One above.

(Category I)

OAR 845-025-1430(2)(d) - On or about November 10, 2019, Licensee and/or its employees, agents or representatives, failed to have video surveillance equipment with sufficient battery backup to support a

Note: Licensee was charged with these violations by Second Amended Notice dated July 21, 2020. The total proposed sanction was license cancellation. Licensee requested a hearing and now wishes to enter into this settlement agreement.

AGGRAVATION

Violation Number Two was aggravated for repeated misconduct.

(continue **BUTTE CREEK FARMS**)

minimum of one hour of recording time in the event of a power outage, when thieves cut the power to all of the cameras, and the battery backup failed to provide power to keep the cameras functioning.

(1st Level Category III)

SYNOPSIS: Inspection revealed repeated difficulties in 2018 and 2019 with compliance with 90-day surveillance storage requirement. However, the same licensee has a neighboring marijuana farm that was able to get into compliance with the same requirement in 2019, after failing in 2018. Licensee again had some less serious technical problems with the camera system in November 2019, but was able to demonstrate that the issues have been fixed.

TERMS OF AGREEMENT

1. Licensee accepts responsibility for the violations as set out in the Notice. These were Licensee's first and second Category I violations, first Category II violation, and first Category III violation. Any subsequent Category II or Category III violations 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 I violation is license cancellation. The standard sanction for the Category II violation is a 30-day license suspension. Violation Number Two was aggravated for repeated misconduct. The standard sanction for the Category III violation is a 10-day license suspension, or a \$1,650.00 civil penalty.
3. The Commission will reduce the sanction on Violations Number One and Number Three to a 30-day suspension or \$4,950.00 civil penalty each. The Commission will reduce the sanction on Violation Number Two to a 23-day suspension or a \$3,795.00 civil penalty. The Commission will reduce the sanction on Violation Number Four to a seven-day license suspension, or a \$1,155.00 civil penalty.
4. Licensee will pay a \$14,850.00 civil penalty before 5:00 PM on September 15, 2020 **or** serve a 90-day suspension beginning at 12:00 PM (noon) on September 22, 2020 and ending at 12:00 PM (noon) on December 21, 2020.
5. Licensee withdraws the request for 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 for these violations. This reprimand will become a permanent part of the licensee's Commission file and may be considered in any future application for a license by that licensee.
7. This agreement is conditioned upon final approval of the Oregon Liquor Control Commission and will be reviewed by the Commissioners at their August 2020 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.