



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

CANNABIS REGULATORY AGENCY

In the Matter of

Emerald Bay Provisionary, LLC
dba Diamond Cannabis Company
License No: AU-R-000532
ENF No.: 22-00724

Docket No.: 24-014373

FINAL ORDER

The Cannabis Regulatory Agency (CRA), by its authorized representative, Executive Director Brian Hanna, issues this final order in the above-referenced matter finding that:

1. On March 24, 2023, the CRA issued a formal complaint against the retailer establishment license (no. AU-R-000532) of Emerald Bay Provisionary, LLC dba Diamond Cannabis Company (Respondent) under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951 *et seq.*, and administrative rules promulgated thereunder.
2. The complaint alleged Respondent violated Mich Admin Codes, R 420.104(3)(a), R 420.104(3)(b), R 420.504(1)(f) and R 420.507(2).
3. A contested case hearing was held on July 10, 2024 before an administrative law judge (ALJ) within the Michigan Office of Administrative Hearings and Rules (MOAHR).
4. On August 21, 2024, the ALJ issued a proposal for decision recommending that the Executive Director of the CRA issue a final order finding that

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Respondent violated Mich Admin Codes, R 420.104(3)(a), R 420.104(3)(b), R 420.504(1)(f) and R 420.507(2).

5. A copy of the ALJ's proposal for decision is attached and is incorporated consistent with the findings and conclusions of this order.

6. Having reviewed the whole record before it, the CRA makes the following findings of fact and conclusions of law:

a. Findings of Fact:

1. The CRA accepts the ALJ's findings of fact as set forth in the proposal for decision.

b. Conclusions of Law:

1. The CRA accepts the ALJ's conclusions of law as set forth in the proposal for decision.

7. Based on the above, the CRA finds that Respondent violated Mich Admin Codes, R 420.104(3)(a), R 420.104(3)(b), R 420.504(1)(f) and R 420.507(2).

8. Pursuant to MCL 333.27957, Executive Reorganization Order No. 2019-2, MCL 333.27001, and Mich Admin Code, R 420.806, the Executive Director has the authority to impose sanctions.

9. THEREFORE, IT IS ORDERED THAT:

a. Respondent's license, AU-R-000532, is currently closed. As a result, the formal complaint for ENF-22-00724 is dismissed. If any of Respondent's supplemental applicants apply for future licensing for a marijuana facility and/or establishment, this alleged non-compliance will be reviewed and taken into consideration with making the license determination.

This final order is a public record that will be published on the CRA's website and is subject to disclosure under the Freedom of Information Act, MCL 15.231 *et seq.*

This order shall be effective on the date signed by the CRA's Executive Director or his designee, as set forth below.

Dated: 10/24/24

Brian Hanna

Brian Hanna, Executive Director
Or his designee
Cannabis Regulatory Agency

Digitally signed by: Brian Hanna
DN: CN = Brian Hanna email =
hannab@michigan.gov C = US O = CRA OU = CRA
Date: 2024.10.24 08:49:51 -04'00'

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CANNABIS REGULATORY AGENCY

In the Matter of

Emerald Bay Provisionary, LLC
dba Diamond Cannabis Company
License No.: AU-R-000532

ENF No: 22-00724

FORMAL COMPLAINT

The Cannabis Regulatory Agency (“Complainant”) files this formal complaint against Emerald Bay Provisionary, LLC dba Diamond Cannabis Company (“Respondent”) alleging upon information and belief as follows:

1. The Cannabis Regulatory Agency (CRA) is authorized under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951, *et seq.*, and Executive Reorganization Order No.2019-2, MCL 333.27001, to investigate alleged violations of the MRTMA and the administrative rule promulgated thereunder, take disciplinary action to prevent such violations, and impose fines and other sanctions against applicants and licensees that violate the MRTMA or administrative rules.

2. Section 8(1)(d) of the MRTMA provides that the administrative rules must ensure the health, safety, and security of the public and integrity of the marijuana establishment operations.

FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE CRA

3. Respondent holds an active state license under the MRTMA to operate an adult use retailer establishment in the state of Michigan.

4. Respondent operated at 816 Washington Ave. Suite 303, Bay City, Michigan 48708, at all times relevant to this complaint.

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5. Following an investigation, the CRA determined that Respondent violated the MRTMA and/or administrative rules promulgated thereunder as set forth below:

- a. On December 5, 2022, a CRA Regulation Agent went to Respondent's facility to follow-up on a complaint. While conducting an investigation, the agent observed two marijuana flower displays that were advertising a higher THC percentage than recorded in the Metrc test results. These percentages were also higher than the allowable variance of 10%. This was confirmed by printing/photographing the required exit label for each package and checking the numbers against the Metrc record.
- b. Death Star exit packaging label tag number ending -0470 showed a THC % of 28. Sunpaya exit packaging label tag number ending -0471 showed a THC % of 27. The certificate of analysis for Death Star tag number ending -047) (source tag number ending -0408) had a total THC 17.5%. The certificate of analysis for Sunpaya tag number ending -0471 (source tag number ending -0346) had a total THC of 18%.

Count I

Respondent's actions as described above in paragraphs a and b demonstrate a violation of Mich Admin Code R, 420.104(3)(a), which states a marijuana retailer shall comply with all of the following: (a) Sell or transfer marijuana to an individual 21 years of age or older only after it has been tested in accordance with these rules and bears the label required for retail sale.

Count II

Respondent's actions as described above in paragraphs a and b demonstrate a violation of Mich Admin Code R, 420.104(3)(a), which states a marijuana retailer shall comply with all of the following: (b) Accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

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Count III

Respondent's actions as described above in paragraphs a and b demonstrate a violation of Mich Admin Code R, 420.504(1)(f), which states before a marijuana product is sold or transferred to or by a marijuana sales location, the container, bag, or product holding the marijuana product must be sealed and labeled with all of the following information: (f) Concentration of Tetrahydrocannabinol (THC) and cannabidiol (CBD) as reported by the laboratory after potency testing along with a statement that the actual value may vary from the reported value by 10%.

Count IV

Respondent's actions as described above in paragraphs a and b demonstrate a violation of Mich Admin Code, R 420.507(2), which states a licensee may not advertise a marijuana product in a way that is deceptive, false, or misleading, or make any deceptive, false, or misleading assertions or statements on any marijuana product, sign, or document provided.

THEREFORE, based on the above, the CRA gives notice of its intent to impose fines and/or other sanctions against Respondent's license, which may include the suspension, revocation, restriction, and/or refusal to renew Respondent's license.

Pursuant to Mich Admin Code, R 420.704(2), any party aggrieved by an action of the CRA suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing upon request. A request for a hearing must be submitted to the CRA in writing within 21 days after service of this complaint. Notice served by certified mail is considered complete on the business day following the date of the mailing.

Respondent also has the right to request a compliance conference under Mich Admin Code, R 420.704(1). A compliance conference is an informal meeting at which Respondent has the opportunity to discuss the allegations in this complaint and demonstrate compliance under the MRTMA and/or the administrative rules. A

compliance conference request must be submitted to the CRA in writing.

Hearing and compliance conference requests must be submitted in writing by one of the following methods:

By Mail: Department of Licensing & Regulatory Affairs
Cannabis Regulatory Agency
P.O. Box 30205
Lansing, Michigan 48909

In Person: Department of Licensing & Regulatory Affairs
Cannabis Regulatory Agency
2407 North Grand River
Lansing, Michigan 48906

By Email: CRA-LegalHearings@michigan.gov

If Respondent fails to timely respond to this formal complaint, a contested case hearing will be scheduled to resolve this matter.

Questions about this complaint should be directed to the Cannabis Regulatory Agency's legal section at (517) 284-8599 or CRA-LegalHearings@michigan.gov.

Dated: 3/24/23

By: Alyssa A. Grissom
Digitally signed by Alyssa A. Grissom
Date: 2023.03.24 10:40:03 -04'00'

Alyssa A. Grissom
Legal Section Manager
Cannabis Regulatory Agency