

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

In the Matter of

**Michigan Investments 10, Inc.
License No. PR-000165**

ENF No. 23-000785

FORMAL COMPLAINT

The Cannabis Regulatory Agency (CRA) (Complainant), by and through its attorneys, Assistant Attorneys General Sarah E. Huyser and Jeffrey W. Miller, files this formal complaint against Michigan Investments 10, Inc. (Respondent), alleging upon information and belief as follows:

1. The CRA is authorized under the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, to investigate alleged violations of the MMFLA and administrative rules promulgated thereunder, take disciplinary action to prevent such violations, and impose fines and other sanctions against applicants and licensees that violate the MMFLA or administrative rules.

FACTUAL ALLEGATIONS

2. Respondent holds an active state license under the MMFLA to operate a medical marijuana processor facility in the state of Michigan.

3. Respondent operated at 772 E. Pinconning Rd., Pinconning, MI 48650 at all times relevant to this complaint.

4. The following information is provided for background purposes:
 - a. Respondent also holds an adult-use marijuana processor license under the Michigan Regulation and Taxation of Marihuana Act (MRTMA). Both licenses operate in the same location referenced above.

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

Surveillance/Security

6. On September 6, 2023, CRA investigators conducted a no-notice inspection of Respondent's processor business.

7. During the September 6 inspection, CRA regulatory agents AD and BB met with Respondent's head of human resources, JM, and sales manager, AT, to discuss and review Respondent's video surveillance system. This discussion was in relation to an investigation conducted by CRA Scientific Intelligence Analyst EB. Intelligence Analyst EB determined that Respondent may not be recording video surveillance as required.

8. On Respondent's four large video monitors, a total of 16 individual camera feeds were observed.

9. Four of the 16 feeds had no video and displayed "NO LINK."

10. Respondent's chief compliance officer, AB, then indicated to the investigators that one camera was not attached to the feed; two cameras that were in the fresh frozen marijuana storage trailer were no longer in use; and the fourth, which was located in the room labeled C1D1, was inoperable.

11. CRA Agents AD and BB determined that several additional video cameras covering the business were visible but not recording. This included cameras in Butane Room 1, Butane Room 2, Extraction Room 3, Dry Room Entrance, Dry Room Inside Door, Warehouse Heater, Dry Room Hallway, and Camera 01_192.168.1.4.

12. Respondent did not have the required 30 days of video retention. Investigators requested to view video from August 6, 2023, which was 30 days prior to CRA's request; the requested video was not available.

13. CRA Agents AD and BB also observed that cameras in Butane Room 1, Extraction Room 3, Extraction Room 4, the Dry Room Entrance, the Dry Room Inside Door, and the Warehouse Heater were not retaining video on September 1, 2023. This was the day after Respondent stated that a security company was on the premises to repair the cameras and the video retention issues.

14. CRA Agent BB observed that a camera in the C1 D2 extraction pod had been turned toward the wall. The camera was providing a live feed but was not actually displaying the room and not recording.

15. When asked if the camera system was equipped with a failure notification system, AB indicated that he receives a notification when a camera goes out, but not when there is an interruption in recording. The security service technician who installed the system, CD, indicated that the system was equipped with an alert system to notify if any equipment is not recording or fails completely.

16. When asked to provide the video surveillance log, AB was unable to locate and provide that log.

17. Upon arriving at the business on September 6, CRA Agent JK called Respondent's general manager, AB, to announce the team's arrival for the inspection. CRA Agent JK then entered the unlocked and unattended entrance and proceeded through the foyer area to a set of unlocked double doors that led to the secure, limited access area.

18. During the inspection, the only location that required a key to enter was the trailer used for storing fresh frozen marijuana. The trailer was empty at the time of the visit. No other door in the business where marijuana was stored was locked.

COUNT 1

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.209(2), which states that a licensee shall ensure that any person at the marihuana business, except for employees of the licensee, are escorted at all times by the licensee or an employee of the licensee when in the limited access areas and restricted access areas at the marihuana business.

COUNT 2

Respondent's actions as described above demonstrate a violation of Rule 420.209(3), which relevantly states that a licensee shall securely lock the marihuana business, including interior rooms as required by the agency, windows, and points of entry and exits, with commercial-grade, nonresidential door locks or other electronic or keypad access.

COUNT 3

Respondent's actions as described above demonstrate a violation of Rule 420.209(6)(a), which relevantly states that a licensee shall ensure its video surveillance system records, at a minimum, areas including any areas where marihuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana business; limited access areas and security rooms; areas storing a surveillance system storage device with not less than one camera recording the access points to the secured surveillance recording area; the entrances and exits to the building, which must be recorded from both indoor and outdoor vantage points; any transfers between marihuana businesses; and areas where marihuana or marihuana products are destroyed.

COUNT 4

Respondent's actions as described above demonstrate a violation of Rule 420.209(7), which states that a licensee shall ensure that each camera is permanently mounted and in a fixed location and that each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the marijuana business and allows for the clear and certain identification of any person, including facial features, and activities, including sales or transfers, in all areas required to be recorded under the rules.

COUNT 5

Respondent's actions as described above demonstrate a violation of Rule 420.209(9), which states that a licensee shall have cameras that record when motion is detected at the marijuana business and record images that clearly and accurately display the time and date.

COUNT 6

Respondent's actions as described above demonstrate a violation of Rule 420.209(11), which states that a licensee shall keep surveillance recordings for a minimum of 30 calendar days, except in instances of investigation or inspection by the agency in which case the licensee shall retain the recordings until the time as the agency notifies the licensee that the recordings may be destroyed.

COUNT 7

Respondent's actions as described above demonstrate a violation of Rule 420.209(12), which states that surveillance recordings of the licensee are subject to inspection by the agency and must be kept in a manner that allows the agency to view and obtain copies of the recordings at the marijuana business immediately upon request, and that a licensee shall send or otherwise provide copies of the recordings to the agency upon request within the time specified by the agency.

COUNT 8

Respondent's actions as described above demonstrate a violation of Rule 420.209(13), which states that a licensee shall maintain a video surveillance system equipped with a failure notification system that provides notification to the licensee of any interruption or failure of the video surveillance system or video surveillance system storage device.

COUNT 9

Respondent's actions as described above demonstrate a violation of Rule 420.209(14), which states that a licensee shall maintain a log of the recordings, which includes all of the following:

- (a) The identity of the employee or employees responsible for monitoring the video surveillance system.
- (b) The identity of the employee who removed any recording from the video surveillance system storage device and the time and date removed.
- (c) The identity of the employee who destroyed any recording.

Waste Product

19. On September 6, 2023, untagged marijuana products were located in the room labeled C1D1. This includes in a freezer, which contained trays of kief and several sleeves of fresh frozen marijuana. Other marijuana product that was listed in the statewide monitoring system (Metrc) as having been "wasted out" or that failed testing was also present, although it should not have been at the business.

20. The marijuana destruction area located in the Gummy Packaging Room was not visible on camera due to the distance and other equipment obstructing the camera view.

21. Respondent did not have a waste standard operating procedure at the business on September 6, 2023. AB stated that Respondent had other standard operating procedures referencing marijuana disposal but acknowledged that Respondent did not have a specific standard operating procedure for waste.

COUNT 10

Respondent's actions as described above demonstrate a violation of Rule 420.206a(1), which states that a marijuana business must have up-to-date written standard operating procedures on site at all times.

COUNT 11

Respondent's actions as described above demonstrate a violation of Rule 420.206a(2), which states that standard operating procedures must be made available to the agency upon request.

COUNT 12

Respondent's actions as described above demonstrate a violation of Rule 420.206a(3), which states that standard operating procedures must detail the marijuana business operations and activities necessary for the marijuana business to comply with the acts and the rules.

Metrc

22. On September 6, 2023, the CRA conducted an onsite Metrc audit. AC, the manager of the CRA's Operations Support Section, worked with Respondent's Metrc manager, MB, to locate product.

- a. MB, with the assistance of AB, was only able to locate 11 out of 27 packages requested from Respondent's medical marijuana inventory for the audit.
- b. The 16 packages that could not be located consisted of 47,990.3 grams (105.7 pounds) of marijuana product.
- c. AB indicated he had not been able to physically locate packages of product since he was hired in February of 2023.

23. While onsite, CRA Operations Support Section Manager AC located several packages of distillate that did not have a Metrc tag on them.

24. During the September Metrc audit, several totes containing the Metrc tag 1A405010000251E000000467 (467) were located. One tote contained a

handwritten note stating, “ASK [A] BEFORE TOUCH.” A review of Metrc data showed that Metrc tag 467 had an adjusted value of -4900 grams, with a note indicating that Respondent’s inventory audit revealed that flower associated with this tag no longer exists.

- a. When asked, AB did not know what product packages were made from Metrc tag 467.
- b. Extraction logs were missing the biomass tag number.

25. More untagged product was located in an extraction room during the audit. AB indicated that the product belonged to Metrc tag 1A405030001851100006547 (6547). According to Metrc, product tag 6547 was combined with distillate in July and August of 2023. The product was labeled with internal batch number C032623.

- a. Respondent’s internal batch records showed that the product was extracted in March of 2023, not in July and August.
- b. AB then stated that the product came from a different source tag: 1A405030001851000058063 (58063). However, package 58063 is a combined package containing several packages of fresh frozen marijuana that Respondent received on July 25, 2023—months after the product under Metrc tag 6547 was extracted.
- c. The source of the product under Metrc tag 6547 is unknown and could not be determined.

26. Ten boxes of untagged MuhaMeds gummies were located in the storage room that did not have Metrc Tags. Respondent’s employees indicated that the product should have been destroyed because it was made with too much citric acid.

27. On April 25, 2023, the CRA conducted a Metrc review of package adjustments on inventory at Respondent’s business from January 1, 2023, through

April 25, 2023. The review indicated that Respondent had conducted 1,265 package adjustments in Metrc. Of those adjustments, 1,142 were to “Entry Error.”

COUNT 13

Respondent’s actions as described above demonstrate a violation of MCL 333.27502(5)(c) which states that a processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the act and rules.

COUNT 14

Respondent’s actions as described above demonstrate a violation of Rule 420.109(4), which states that a processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required by the MMFLA, the rules, and the marihuana tracking act.

COUNT 15

Respondent’s actions as described above demonstrate a violation of Rule 420.210(1), which states that except for designated consumption establishments or temporary marihuana events licensed under the MRTMA, a marihuana business must not have marihuana products that are not identified and recorded in the statewide monitoring system.

COUNT 16

Respondent’s actions as described above demonstrate a violation of Rule 420.210(2), which states that except for a designated consumption establishment or temporary marihuana event licensed under the MRTMA, a marihuana business must not have any marihuana product without a batch number or identification tag or label pursuant to the rules, and that a licensee shall immediately tag, identify, or record as part of a batch in the statewide monitoring system any marihuana product as provided in the rules.

COUNT 17

Respondent’s actions as described above demonstrate a violation of Rule 420.212(1), which states that all marihuana products must be stored at a marihuana business in a secured limited access area or restricted access area and must be identified and tracked consistently in the statewide monitoring system under the rules.

COUNT 18

Respondent's actions as described above demonstrate a violation of Rule 420.212(2), which states that all containers used to store marijuana products for transfer or sale between marijuana businesses must be clearly marked, labeled, or tagged, if applicable, and enclosed on all sides in secured containers; that secured containers must be latched or locked in a manner to keep all contents secured within; and that each secured container must be identified and tracked in accordance with the acts and the rules.

COUNT 19

Respondent's actions as described above demonstrate a violation of Rule 420.502(1), which states that each marijuana product sold or transferred must be clearly labeled with the tracking identification numbers assigned by the statewide monitoring system affixed, tagged, or labeled and recorded.

Safety Compliance Testing

28. On March 1, 2023, Respondent's co-located adult-use processor created package 1A4050300018511000036617 (36617) in Metrc. That package underwent full compliance testing by Therapeutic Health Choice the next day, on March 2.

29. On March 2, Respondent's co-located adult-use processor created package in 1A4050300018511000036619 (36619) in Metrc. Package 36619 was sampled for full compliance testing on March 3, 2023.

30. According to the results entered in Metrc, both packages failed testing due to the presence of residue from the banned chemical, bifenazate.

31. Packages 36617 and 36619 were both created from buds transferred from Pink Dragon, LLC to Respondent. The packages were not tested prior to being transferred from Pink Dragon, LLC to Respondent. Respondent then transferred the untested products to its co-located adult-use processor business, where they were tested and failed.

32. Respondent combined various other packages with the Pink Dragon, LLC packages to create one package of biomass under Metrc tag 1A4050100016318000011650 (11650). Respondent then separated and distributed package 11650 to various other licensed businesses. Several of the products thereafter failed testing for chemical residue; however, the failures were not for the same chemical residues.

33. Respondent transferred additional Pink Dragon product to its co-located adult-use processor license under Metrc tag 1A4050100016318000011960 (11960). Product from package 11960 was used to create packages 36617 and 36619.

34. Package 11960 was sampled for full compliance testing by Therapeutic Health Choice, LLC. Package 11960 passed testing with no trace of bifenazate, but it had acceptable levels of chemicals bifenthrin and trifloxystrobin.

35. Package 1A4050100016318000011797 (11797) was also created from the same package that package 11960 was created from according to Metrc. Package 11797 was used to create distillate in package 1A4050100016318000011798 (11798).

- a. Package 11798 failed compliance testing due to the presence of unacceptable levels of myclobutanil and bifenazate.
- b. Packages 11797 and 11798 would also be expected to have similar testing results as packages 36617 and 36619 if in fact they were produced from the same originating product.

36. In response to inquiries from the CRA about the discrepant testing results of products created by the same originating product, Respondent through AB provided Therapeutic Health Choice certificates of analysis (COA) for packages 1A4050100016318000011799 (11799) and 1A4050100016318000011919 (11919).

- a. The COAs for packages 11799 and 11919 identify “Michigan Investments 10, Inc, 772 E Pinconning Rd, Pinconning, MI 48650, Lic. #PR-00165” in the “Client Info” section.
- b. The COA for Pink Dragon showed passing results, with no banned chemical residues detected.
- c. The COA for package 11799 for a “House Distillate” showed trace amounts of bifenthrin and myclobutanil. Package 11919, also named “House Distillate,” showed trace amounts of bifenthrin and bifenthrin.
- d. AB also provided a COA for a product named “Pink Dragon” with a photo on the document of a marijuana bud. This COA did not list a package number and listed “Alfonso, 10 Mile Rd, MI 48091” in the “Client Info” section.

37. In his initial response, AB also indicated that R&D testing had been completed on the packages on March 9 and did not receive failing results. On March 28, 2023, AB was asked to provide COAs from the R&D testing to the CRA. He did so on April 5, 2023.

- a. The COAs were for packages labelled “Alfonso – FFE,” “Alfonso – Crude Oil,” “Alfonso – 671 Distillate,” and “Alfonso – Perma Cup.” All four COAs also list the client as “Alfonso, 10 Mile Rd, Warren, MI 48091.”
- b. None of the COAs list the source package tag. All of the COAs indicate passing results. Notably, the COAs show the safety compliance facility received the product for testing on March 31, 2023—after the CRA’s March 28 request and after the March 9 date by which AB indicated the testing had been completed.

38. On April 26, 2023, CRA Intelligence Analyst EB requested information about why the test results contained in the COAs received from AB were not previously entered into Metrc and why the Metrc information was not included in the COA. AB indicated that the Metrc data was missing because “we went with an expedited process of dropping off the samples directly to get results back sooner.” He also indicated this was outside of Respondent’s normal practices and that they “typically” follow the testing requirements.

39. Packages 1A4050300018511000041739 (41739) and 1A4050300018511000043269 (43269) were both created by Respondent, transferred to Respondent’s co-located adult-use license (no. AU-P-000171), transferred to Distro 10 (license no. AU-P-000319), and then transferred to RWB Michigan (AU-P-000240). Both products previously passed compliance testing while at Respondent’s business, but failed subsequent testing requested by RWB Michigan.

- a. Respondent’s medical and adult-use marijuana processor licenses and Distro 10 shared common ownership.
- b. Packages derived from 43269 failed compliance testing due to the presence of the banned chemical residue fludioxonil.
- c. Packages derived from package 41739 failed compliance testing due to the presence of the banned chemical residue permethrins.

40. Packages 41739 and 43269 were created inside Respondent’s C1D2 extraction pod, which had cameras that were improperly turned to the wall and not recording.

41. Thus, Respondent was unable to provide surveillance video of the creation of packages 41739 and 43269 upon request.

42. AB indicated that the lack of video appeared to be a result of a camera system malfunction.

43. AB later explained that recordings from the cameras in the extraction pod may not be available because the cameras are motion activated and there may not have been anyone in the booths during the relevant time periods. However, other video during that time frame shows individuals going into and out of the extraction booths.

COUNT 20

Respondent's actions as described above demonstrate a violation of Rule 420.206(4), which states that the agency shall publish a list of banned chemical residue active ingredients that are prohibited from use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the acts or the rules.

COUNT 21

Respondent's actions as described above demonstrate a violation of Rule 420.303(6), which states that after a producer has processed the material from a cultivator, the producer shall have the sample tested for all required safety tests.

COUNT 22

Respondent's actions as described above demonstrate a violation of Rule 420.303a(2), which states that a producer of a marihuana product in its final form shall have the sample tested, shall quarantine products from all other products when the product has test results pending, and shall not transfer or sell a marihuana product to a marihuana sales location until after test results entered into the statewide monitoring system indicate a passed result for all required safety tests.

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.

Under MCL 333.27303(1)(1) and Rule 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 Rule 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 MMFLA and/or the administrative rules.

Hearing and compliance conference requests must be submitted in writing by one of the following methods, with a copy provided to the assistant attorneys general named below:

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 undersigned assistant attorneys general.

Respectfully submitted,

/s/

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Dated: