



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

September 16, 2016

ERG No.: 000039
License No.: PR 000005
ENF No.: 19 - 00015

Compliance Action – Citation

Choice Labs, LLC:

On or about September 4, 2019, the Marijuana Regulatory Agency (MRA) completed an investigation and determined that your marijuana facility is in violation of the following provisions of the Medical Marijuana Facilities Licensing Act (MMFLA), 281 P.A. 2016, and Administrative Rules R 333.201, et seq.:

- Rule 46(3)(b), resulting in a fine of \$5000.00, pursuant to R 333.219. On May 28, 2019, during the investigation, it was determined that the Licensee requested retesting of marijuana product that previously failed full compliance testing for chemical residue.

If you agree to resolve this citation as set forth in the citation agreement below, you must return the signed agreement and pay the fine of \$5000.00 within 30 days of the date of service of this citation. You may enclose a one-page explanation regarding the violations, which will be placed in the MRA's file. Return the signed agreement and submit payment by:

Mailing to:

Department of Licensing & Regulatory Affairs
Marijuana Regulatory Agency
P.O. Box. 30205
Lansing, Michigan 48909

Appearing in Person:

Department of Licensing & Regulatory Affairs
Marijuana Regulatory Agency
2407 North Grand River
Lansing, Michigan 48906

Online:

You may use the online Accela Citizen Access Portal (<https://aca3.accela.com/MIMM>) to upload the signed citation agreement and remit payment.

MARIJUANA REGULATORY AGENCY
2407 NORTH GRAND RIVER • P.O. BOX 30205 • LANSING, MICHIGAN 48909

www.michigan.gov/MRA
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Checks must be payable to the State of Michigan and include the above enforcement number (ENF #) on the memorandum line.

You have the right to request a compliance conference. This conference is an informal meeting conducted by an MRA representative at which you have the opportunity to discuss the above-referenced violation and proposed fine and to demonstrate compliance (e.g., by providing evidence that the violation(s) did not exist as alleged in the citation). If you wish to request a compliance conference, you must do so by emailing MRA-LegalHearings@michigan.gov within 10 business days of service of this citation. Include the above enforcement number (ENF #) in the subject line of your email.

Pursuant to MCL 333.27407 and Rule 94, a Licensee may also request a contested case hearing through the Michigan Office of Administrative Hearings and Rules. A Licensee has 21 days from the date of service of this citation to notify the MRA in writing of their decision.

A fully executed citation may be disclosed to the public (pursuant to the Freedom of Information Act, MCL 15.231 et. seq.). You may submit a one-page explanation that will be placed in the file and the explanation will be disclosed each time the issuance of the citation is disclosed to the public. ***If no further disciplinary actions are imposed on your license within 5 calendar years after the citation is issued, the Agency will remove this citation from this license record.***

If you fail to pay the fine or fail to request a compliance conference, the citation will serve as a formal complaint and will result in the commencement of further disciplinary administrative proceedings (contested case hearing) and may result in the imposition of a higher total penalty than listed in the citation.

Any questions about this citation should be directed to the Marijuana Regulatory Agency's legal section at (517) 284-8592 or MRA-LegalHearings@michigan.gov.

Dated: 16 Sep 2019

MARIJUANA REGULATORY AGENCY

By: 
Kavita Kale, Enforcement Division Director

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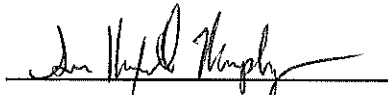
CITATION AGREEMENT ("Agreement")


By signing below, the Licensee and the MRA agree that:

1. This Agreement is not valid or enforceable until executed by both the Enforcement Director and the Licensee.
2. MRA's investigation is complete and this Agreement constitutes a full and final resolution of this Citation. However, this Agreement does not preclude the MRA from opening a separate investigation if later it determines or learns of relevant information that was knowingly or unknowingly withheld by the Licensee or otherwise not discovered during the initial investigation.
3. The Licensee and the MRA agree that each has the authority to settle the Citation in accordance with the terms of this Agreement.
4. The interests of the public, the MRA, and the Licensee are best served by entering into this Agreement without further proceedings.
5. The Licensee admits to the violations and agrees to payment of the fine(s) set forth above solely to resolve this Citation.
6. The MRA reserves the right to consider this Agreement in the context of subsequent disciplinary proceedings and licensing or license renewal decisions.
7. The Licensee must pay the fine(s) to the State of Michigan within 30 days after receipt of signed Agreement. If paying by check, the enforcement number must be on the face of the check.
8. Upon receipt of this Citation Agreement signed by the Enforcement Division Director this matter will be closed.

Choice Labs, LLC
License No. PR 000005

Marijuana Regulatory Agency


By: Maxwell Murphy
Its: Compliance Officer
Date: 10/16/19


By: Kavita Kale
Its: Enforcement Division Director
Date: 10/17/19

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Statement from Choice Labs, LLC:

Thank you for the opportunity to share our perspective on this topic.

We do not dispute the facts presented in the citation:

- A Choice Labs employee did request a licensed lab sample the item.
- The item requested to be sampled had previously failed testing for chemical residue.

Please note:

- Our employee created the sample package in METRC properly.
- Our employee submitted the sample package for testing through METRC properly.
- The licensed lab sampled the item at our facility.
- The item was not on administrative hold when it was sampled (although METRC could use a script to automatically place items that fail for chemical residue on administrative hold).
- METRC did not in any way prevent us from sampling the item (although METRC could have been programmed to make this mistake impossible).
- Our employee was aware the original sample had failed for chemical residue.
- Our employee was familiar with Rule 46, but he did not interpret the rule the same way MRA is interpreting the rule.
- Our employee requested to have the item re-tested only to gather additional data and understand whether or not we should request MRA investigate the veracity of the previous result.
- We understood that only an MRA investigation would have the power to overturn a chemical residue fail.

How we interpreted the rule:

1. We understood Rule 46 to mean that a series of re-tests could never overturn a failed test for chemical residue.
2. We interpreted the word "prohibited" in Rule 46 to be a statement in the strongest terms that regardless of the result, it would be impossible for any subsequent re-test(s) to overturn a failed test for chemical residue.
3. We did not interpret Rule 46 to mean that requesting additional testing would be considered a violation of Rule 46.

We do not agree with MRA that it was necessary to fine us for requesting this test. We believe this is a heavy-handed response from MRA. Since this was the first time this happened, we feel a warning would have been appropriate. Our company had no financial gain from the action. Patient safety was not compromised in any way.

We have suffered large financial losses due to inaccurate test results from licensed labs. In light of the clear and significant problems MRA is currently having with its safety compliance facility program, it seems reasonable that MRA would find room in the rules for growers and processors to gather additional data in the event of a fail.

Moving forward, it would be extremely helpful if MRA would publish a list of potential violations and their fine amount. Having a list of violations would help licensees educate employees. At present, it's not easy to predict what MRA will consider a violation by reading the rules. We did not predict this action would be a violation. If we could have given our employees a list of violations to avoid, we would have avoided this violation.