

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS¹
MARIJUANA REGULATORY AGENCY**

In the Matter of

ENF No. 19-00013 (CMP No. 19-000141)

Choice Labs, LLC

License No. PR-000005

/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

On December 20, 2019, the Marijuana Regulatory Agency (MRA) issued a first superseding formal complaint against the medical marijuana processor facility license (no. PR-000005) of Choice Labs, LLC (“Respondent”) under the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, and administrative rules promulgated thereunder. The complaint alleged Respondent violated Mich Admin Code, R 333.234(5).

The executive director reviewed the stipulation contained in this document and agrees the public interest is best served by resolution of the complaint. Therefore, the executive director finds that the allegations contained in the complaint are true and that Respondent violated Mich Admin Code, R 333.234(5).

¹ Executive Reorganization Order 2019-2 created the Marijuana Regulatory Agency (MRA) as a Type I agency within the Department of Licensing and Regulatory Affairs (LARA). MCL 333.27001(1)(a), (d). The MRA exercises its statutory powers, duties, and functions independent of LARA’s direction. MCL 16.103.

Accordingly, for these violations, IT IS ORDERED:

1. Respondent must pay a fine in the amount of four thousand five hundred and 00/100 dollars (\$4,500.00). This fine shall be paid within 60 days of the effective date of this order by check or money order made payable to the State of Michigan with enforcement number "19-00013" clearly displayed on the check or money order. Respondent shall mail the fine to Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency, P.O. Box. 30205, Lansing, Michigan 48909, or Respondent may pay online through the Accela Citizen Access Portal (<https://aca3.accela.com/MIMM>).
2. If Respondent fails to timely pay the fine, Respondent's license shall be suspended until payment is received.
3. Unless otherwise specified in this order, Respondent shall direct any communications to the MRA that are required by the terms of this order to MRA-LegalHearings@michigan.gov.
4. Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.
5. If Respondent violates any term or condition set forth in this order, Respondent will be subject to fines and/or other sanctions under section 407(1) of the MMFLA, MCL 333.27407(1), and Mich Admin Code, R 333.219.

This consent order is intended to encompass and resolve the specific conduct and violations alleged in the December 20, 2019 complaint, as well as the specific conduct and violations alleged in investigation number ENF no. 20-00026 (CMP-19-000771).

This order shall be effective on the date signed by the MRA's executive director or his designee, as set forth below.

MARIJUANA REGULATORY AGENCY

Signed on:

04/13/2020

By:

Andrew Brisbo

Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
/brisboa@michigan.gov C = US O = MRA
Date: 2020.04.13 15:16:28 -04'00'

Andrew Brisbo, Executive Director
Marijuana Regulatory Agency

STIPULATION

The parties stipulate to the following:

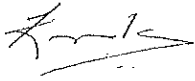
1. The facts alleged in the complaint are true and constitute a violation of the rules promulgated under the MMFLA.
2. Respondent understands and intends that by signing this stipulation, Respondent is waiving the right under the MMFLA, rules promulgated thereunder, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to require the MRA to prove the charges set forth in the complaint by presentation of evidence and legal authority and to present a defense to the charges.
3. The parties considered the following in reaching this agreement:
 - a) During an in-person compliance conference, Respondent's representatives explained that they were in frequent contact with Bureau of Fire Services (BFS) staff to discuss options for maintaining compliance as Respondent sought to convert unoccupied second-floor space to usable workspace. On December 11, 2018, Respondent obtained full fire safety approval after installing an emergency fire escape exit ladder that Respondent believed would allow for unlimited second-floor occupancy; 10 days later, however, BFS informed Respondent that second-floor occupancy was limited to 10 persons. Respondent maintains that it scheduled staff to work in multiple shifts and took other measures to stay within the occupancy limit as it continued to seek clarification from BFS.
 - b) Respondent further explained that the facility was informed during the July 1, 2019 inspection that it had 60 days—until August 30, 2019—to replace its new emergency exit ladder with a staircase in order to remove the occupancy restriction and achieve compliance. Respondent states that it continued discussing several possible solutions with BFS, was seeking quotes from steel fabricators and builders, and was taking steps toward finding an acceptable option when BFS performed a recheck and issued a “fire safety disapproval” on August 14, 2019—16 days before the compliance deadline.

- c) Respondent avers that it continued diligently working toward a resolution, although the design, custom fabrication, and installation of its external emergency exit staircase admittedly was not complete by the initial August 30, 2019 deadline. Respondent completed installation of its new secondary exit approximately one month later and regained full fire safety approval on October 4, 2019.
- d) Respondent explained that the deficiencies involving blocked pathways and flammable liquid storage that were identified in both July and August 2019 were not long-term or ongoing violations, but rather were similar, temporary issues that were corrected on the spot on both occasions. Respondent states that it has taken steps to avoid future recurrences.
- e) Respondent was cooperative and wishes to resolve the allegations without the need for and expense of an administrative hearing.

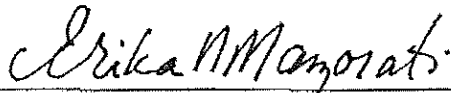
4. The MRA's enforcement division director or her designee must approve this proposed agreement before it is forwarded to the MRA's executive director or his designee for review and issuance of the above consent order. The parties reserve the right to proceed to an administrative hearing without prejudice to either party, should the MRA's enforcement division director, executive director, or their designees reject the proposed consent order.

By signing this stipulation, the parties confirm that they have read, understand, and agree with the terms of the consent order.

AGREED TO BY:

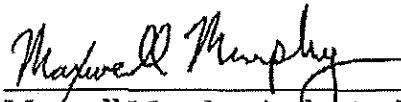


Kavita Kale
Enforcement Division Director
Marijuana Regulatory Agency
Dated: April 13, 2020



Erika N. Marzorati (P78100)
Risa Hunt-Scully (P58239)
Assistant Attorneys General
Attorneys for Complainant
Dated: 4/10/2020

AGREED TO BY:



Maxwell Murphy, Authorized Officer
On behalf of Respondent
Choice Labs, LLC
Dated: 04/10/2020

John A.
Janiszewski

Digitally signed by: John A. Janiszewski
DN: CN = John A. Janiszewski email =
JJJaniszewski@dykema.com C = US O =
Dykema Gossett, PLLC
Date: 2020.04.10 14:12:06 -04'00'

John Janiszewski (P74400)
Attorney for Respondent

Dated: _____

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

In the Matter of

Choice Labs, LLC
License No. PR - 000005

ENF No. 19-00013
CMP No. 19-000141

FIRST SUPERSEDING FORMAL COMPLAINT

The Marijuana Regulatory Agency (Complainant) files this first superseding formal complaint against Choice Labs, LLC (Respondent) alleging upon information and belief as follows:

1. The Marijuana Regulatory Agency (MRA) is authorized under the Medical Marihuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, and Executive Reorganization Order No.2019-2, MCL 333.27001, to investigate alleged violations of the MMFLA and 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 rules.

2. Section 402(12) of the MMFLA provides that the expiration of a license does not terminate the MRA's authority to impose sanctions on the license.

FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE MRA

3. Respondent holds a state operating license under the MMFLA to operate a medical marijuana processor facility in the state of Michigan.

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4. Respondent operated a processor facility at 4499 Phelps Drive in Jackson, Michigan ("the facility"), at all times relevant to this complaint.

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

- a. On July 1, 2019, the Bureau of Fire Services (BFS) completed a fire safety inspection at the facility.
- b. The BFS inspection report cited the following National Fire Prevention Act (NFPA) deficiencies, which Respondent was required to correct within 60 days:
 - i. The total capacity of the means of egress for any story, balcony, tier, or other occupied space shall be sufficient for the occupant load thereof unless one of the following conditions exists: (1) The authority having jurisdiction shall be permitted to establish the occupant load as the number of persons for which existing means of egress is adequate, provided that measures are established to prevent occupancy by a greater number of persons. (2) The egress capacity shall have been previously approved as being adequate. NFPA 1, 14.8.1.1.1.
 - A. The facility's second floor was approved for a maximum of 10 occupants.
 - B. The BFS inspector counted 16 occupants on the second floor during the inspection, exceeding the established and posted occupancy.
 - ii. Relocatable power taps shall be listed to UL 1363, Standard for Relocatable Power Taps, or UL 1363A, Outline of Investigation for Special Purpose Relocatable Power Tabs, where applicable. NFPA 1, 11.1.4.1.

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- A. Non-compliant power taps were being used in the processor ground floor Platinum Vape area.
 - B. Non-compliant power taps were being used in the second floor old Matrix Room.
 - C. Non-compliant power taps were being used in the second floor new Matrix Room.
- iii. The quantity of hazardous materials in an individual control area shall not exceed the maximum allowable quantity (MAQ) for the applicable occupancy set forth in 60.4.2.1.2 through 60.4.2.1.13, except as modified by Table 60.4.2.1.1.3. NFPA 1, 60.4.2.1.1.2.
- A. The BFS inspector observed greater than 25 gallons of flammable liquids in the second floor West Kitchen area.
 - B. Respondent's staff informed the BFS inspector that 1 to 2 gallons were used daily.
 - C. All containers not used for daily use were not stored in flammable liquid storage.
- iv. Means of egress shall be continuously maintained free of all obstructions or impediments to full instant use in the case of fire or other emergency. NFPA 1, 14.4.1.
- A. For the second time, BFS observed the secondary means of egress from the second floor was blocked.
 - B. Additional exit access pathways were blocked by equipment, storage, and materials and were ordered corrected on the spot.
- c. On August 14, 2019, BFS completed a recheck inspection at the facility.
- d. The following, three issues from the July 1, 2019, fire safety inspection report were not corrected at the time of the August inspection; thus, BFS issued a fire safety disapproval based on Respondent's continuing non-compliance.

- i. NFPA 1, 14.8.1.1.1
 - A. The facility's second floor was approved for a maximum of 10 occupants.
 - B. The BFS inspector counted 17 occupants on the second Floor during the inspection, exceeding the established and posted occupancy.
- ii. NFPA 1, 60.4.2.1.1.2
 - A. The BFS inspector observed greater than 25 gallons of flammable liquids in the second floor West Kitchen area.
 - B. Respondent's staff informed the BFS inspector that 1 to 2 gallons were used daily.
 - C. All containers not used for daily use were not stored in flammable liquid storage.
- iii. NFPA 1, 14.4.1
 - A. For the third time, BFS observed the secondary means of egress from the second floor was blocked.
 - B. Additional exit access pathways were blocked by equipment, storage, and materials and were ordered corrected on the spot.
- e. On October 4, 2019, BFS completed a recheck inspection at the facility. BFS determined the deficiencies noted in the previous inspection were satisfactorily corrected and granted full fire safety approval.
- f. Based on the above, Respondent failed to comply with NFPA 1 of 2018 from July 1, 2019, through August 14, 2019, in violation of Mich Admin Code, R 333.234(5).

THEREFORE, based on the above, the MRA 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.

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Under MCL 333.27407(4) and Mich Admin Code, R 333.29494(2), any party aggrieved by an action of the MRA 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 MRA 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 333.294(1). A compliance conference is an informal meeting at which Respondent has the opportunity to discuss the allegations in this complaint and demonstrate compliance with all the MMFLA and/or rules. A compliance conference request must be submitted to the MRA 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
Marijuana Regulatory Agency
P.O. Box 30205
Lansing, Michigan 48909

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

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 Marijuana Regulatory Agency's legal section at (517) 284-8599 or MRA-LegalHearings@michigan.gov.

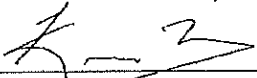
The formal complaint filed against Respondent on October 4, 2019, is hereby

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WITHDRAWN and replaced in full by this superseding complaint.

Dated: 12 / 20 / 19

By: 
Kavita Kale, Enforcement Division Director

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