

STATE OF MICHIGAN
DEPARTMENT OF REGULATORY AFFAIRS¹
MARIJUANA REGULATORY AGENCY

In the Matter of

BRT Capital 3, LLC
ERG No.: 000960
License No.: PC-000468
ENF No.: 20-00135

CMP No.: 20-000774

_____ / CONSENT ORDER AND STIPULATION

CONSENT ORDER

On November 18, 2020, the Marijuana Regulatory Agency (MRA) issued a formal complaint against the medical marijuana provisioning center facility license (PC-000468) of BRT Capital 3, LLC ("Respondent") under the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, and the administrative rules promulgated thereunder. The formal complaint alleged Respondent violated Mich Admin Code, R 420.207(2), (4)(a) and (6)(c).

The executive director reviewed the stipulation contained in this document and agrees the public interest is best served by resolution of the formal complaint. Therefore, the executive director finds that the allegations contained in the formal complaint are true and that Respondent violated Mich Admin Code, R 420.207(6)(c).

Accordingly, for these violations, IT IS ORDERED:

1. Respondent must pay a fine in the amount of One Thousand Five Hundred and 00/100 dollars (\$1,500.00). This fine shall be paid within 30 days of the effective date of this order by check or money order made payable to the State of Michigan with enforcement number "20-00135" clearly displayed on the check or money order. Respondent shall mail the fine to Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency, PO BOX 30205, Lansing, Michigan 48909.
2. If Respondent fails to timely pay the fine, Respondent's license shall be suspended until payment is received.

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.

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3. The alleged violations of Mich Admin Code R 420.207(2) and R 420.207(4)(a) are DISMISSED.
4. 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.
5. Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.
6. 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 420.806.
7. Upon timely payment of the fine by Respondent, the matters set forth in the formal complaint shall be deemed resolved and closed subject to this Consent Order.

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: 6/15/21

By: Andrew Brisbo
 Andrew Brisbo, Executive Director
 Marijuana Regulatory Agency

Digitally signed by: Andrew Brisbo
 DN: CN = Andrew Brisbo email =
 abrisbo@michigan.gov C = US O =
 Marijuana Regulatory Agency OU =
 Executive Director
 Date: 2021.06.15 18:12:54 -0400

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STIPULATION

The parties stipulate to the following:

1. The facts alleged in the formal complaint are true and constitute a violation of the administrative rules promulgated under the MMFLA.
2. Respondent understands and intends that by signing this stipulation, Respondent is waiving the right under the MMFLA, administrative 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 formal 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. Respondent had an approved home delivery procedure in place that was not followed in this particular instance.
 - b. Respondent alleged that this was a patient it had an ongoing relationship with, who requested delivery to her home address, and then called and requested delivery be made elsewhere, which was accommodated.
 - c. Respondent provided documentation of retraining employees on home delivery procedures and ensuring that product is only delivered to a residential address and not to any other address.
 - d. Respondent has not had any previous disciplinary action issued against it.
 - e. Respondent and the MRA engaged in negotiations of the proposed penalties listed in the Consent Order.
 - f. 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.

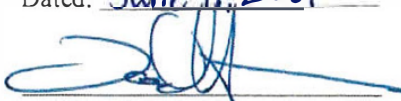
AGREED TO BY:

Julie Kluytman
Digitally signed by: Julie Kluytman
DN: CN = Julie Kluytman email =
kkluytman@michigan.gov C = AD
Date: 2021.06.14 08:30:18 -0400

Julie Kluytman, Director
Enforcement Division
Marijuana Regulatory Agency
Dated: 6/14/21

AGREED TO BY:


Brian Toma, Authorized Officer
On behalf of Respondent
BRT Capital 3, LLC
Dated: June 11, 2021


Joslin E. Monahan (P77362)
Attorney for Respondent
Dated: June 11, 2021

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DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MARIJUANA REGULATORY AGENCY

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FORMAL COMPLAINT

The Marijuana Regulatory Agency (“Complainant”) files this formal complaint against BRT Capital 3, LLC (“Respondent”) alleging upon information and belief as follows:

1. The Marijuana Regulatory Agency (MRA) is authorized under the Medical Marijuana 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 the 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.

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.

3. Section 206(c) of the MMFLA provides that the administrative rules must ensure the health, safety, and security of the public and integrity of the marijuana facility operations.

4. Respondent’s conduct as described below is a risk to public health and safety and/or the integrity of marijuana facility operations.

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FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE MRA

5. Respondent holds an active state operating license under the MMFLA to operate a medical marihuana provisioning center in the state of Michigan.

6. Respondent operated at 112 South Main Street, Reading, Michigan, 49274, at all times relevant to this complaint.

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

- a. On July 12, 2020 and July 14, 2020, Respondent delivered medical marihuana products to a patient at a public location (Bella Vista Golf Course) and not the patient's residential address in violation of Mich Admin Code R 420.207(4)(a).
- b. Because the marihuana product was delivered to a public location and not the patient's residential address, Respondent did not validate the address for delivery as being that of the registered qualifying patient, in violation of Mich Admin Code R 420.207(6)(c).
- c. Based upon the above, Respondent did not establish procedures as specified in the administrative rules for an employee to deliver marihuana products to a patient at a patient's residential address in violation of Mich Admin Code R 420.207(2).

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.

Under MCL 333.27407(4) and Mich Admin Code, R 420.704(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 420.704(1) A compliance conference is an informal meeting at which Respondent has the

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opportunity to discuss the allegations in this complaint and demonstrate compliance under the MMFLA and/or the administrative 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. The MRA reserves the right to review the formal complaint and amend it should this matter proceed to a contested case hearing.

Questions about this complaint should be directed to the Marijuana Regulatory Agency at (517) 284-8599 or MRA-LegalHearings@michigan.gov.

Dated: 11/17/20

MARIJUANA REGULATORY AGENCY

Claire
By: Patterson

Digitally signed by: Claire Patterson
DN: CN = Claire Patterson email =
PattersonC8@michigan.gov C = US
O = MRA OU = LARA
Date: 2020.11.17 07:38:07 -05'00'

Claire Patterson, Scientific and Legal Section Manager
Enforcement Division

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