

STATE OF MICHIGAN
DEPARTMENT OF REGULATORY AFFAIRS¹
MARIJUANA REGULATORY AGENCY

In the Matter of

Sky Labs, LLC
ERG No.: 002142

CMP Nos.: 20-001130
20-000924, & 20-001166

License No.: PR-000121
ENF Nos.: 20-00169, 20-00176, & 21-00002

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

On March 3, 2021, the Marijuana Regulatory Agency (MRA) issued an amended formal complaint against the medical marijuana processor facility license (PR-000121) of Sky Labs, LLC (“Respondent”) under the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, and the administrative rules promulgated thereunder. The amended formal complaint alleged Respondent violated Mich Admin Code, R 420.109(4), 420.212(1), 420.206(11), 420.303(10), 420.303(11), and 420.504(1)(f)(g)(h)(i)(j) and (k).

The executive director reviewed the stipulation contained in this document and agrees the public interest is best served by resolution of the amended formal complaint. Therefore, the executive director finds that the allegations contained in the amended formal complaint are true and that Respondent violated Mich Admin Code, 420.109(4), 420.212(1), 420.206(11), 420.303(10), 420.303(11), and 420.504(1)(f)(g)(h)(i)(j) and (k).

Accordingly, for these violations, IT IS ORDERED:

1. Respondent must pay a fine in the amount of Twenty Thousand and 00/100 dollars (\$20,000.00). 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 “20-00169, 20-00176 & 21-00002” clearly displayed on the check or money order. Respondent shall mail the fine to

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.

Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency, PO BOX 30205, Lansing, Michigan 48909.

2. Any and all administrative holds placed on packages in the statewide monitoring system (METRC) as a result of the investigations listed above shall be lifted upon execution of this Order.
3. Any marijuana product intended for inhalation that was placed on administrative hold in METRC as a result of the investigations listed above that DO NOT have test results for Vitamin E Acetate entered into METRC must be tested for Vitamin E Acetate and if the product is otherwise compliant may be transferred/sold to a marijuana sales location.
4. Any marijuana product intended for inhalation that was placed on administrative hold in METRC that currently has or in the future has a failing test result for Vitamin E Acetate shall either be destroyed by Respondent or may be remediated into a different product, with Agency authorization, and subject to all required safety compliance testing per Agency guidelines.
5. If Respondent fails to timely pay the fine, Respondent's license shall be suspended until payment is received.
6. 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.
7. Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.
8. 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.
9. Upon timely payment of the fine by Respondent, the matters set forth in the amended 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: 3/11/21

By:

Andrew Brisbo

Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
brisboa@michigan.gov C = US O =
Marijuana Regulatory Agency OU =
Executive Director
Date: 2021.03.11 09:52:51 -0500

Andrew Brisbo, Executive Director
Marijuana Regulatory Agency

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STIPULATION

The parties stipulate to the following:

1. The facts alleged in the amended 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 amended 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 indicated, the METRC entry errors in ENF 20-00169 were the result of human error and has stressed to staff the need for accuracy in all entries into METRC.
 - b. Respondent indicated that it did not physically transfer the marijuana products intended for inhalation to a marijuana sales location in ENF 21-00002, and that the purpose for the transfer was not for sales but to have a location to sort through the product where more manpower and space was available.
 - c. Respondent indicated there was confusion over the Vitamin E Acetate testing results on the marijuana product for inhalation that was transferred to its facility from another licensee; those testing results were not available in METRC; and the assumption was made that because the transfer was allowed the products had passing test results.
 - d. 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.

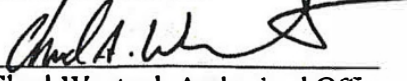
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AGREED TO BY:

Julie Kluytman Digitally signed by: Julie Kluytman
DN: CN = Julie Kluytman email =
kluytman@michigan.gov C = AD
Date: 2021.03.11 09:34:21 -05'00'

**Julie Kluytman, Director
Enforcement Division
Marijuana Regulatory Agency
Dated: _____**

AGREED TO BY:


Chad Wurtzel, Authorized Officer
On behalf of Respondent
Sky Labs, LLC
Dated: 3-10-2021


Nicholas Castro, P82858
Attorney for Respondent
Dated: 3-10-2021

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

In the Matter of

Sky Labs, LLC
ERG No.: 002142
License No.: PR-000121
ENF Nos.: 20-00169, 20-00176, & 21-00002

CMP Nos.: 20-001130
20-000924, & 20-001166

FORMAL COMPLAINT

The Marijuana Regulatory Agency (“Complainant”) files this formal complaint against Sky Labs, 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 processor in the state of Michigan.

6. Respondent operated at 9421 North Dort Highway, Mount Morris, Michigan, 48458, 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:

8. ENF 20-00169

- a. On October 29, 2020, Respondent reported to the MRA that it had created two packages in the statewide monitoring system (METRC) with incorrect weights. These packages were METRC tag numbers 1A4050100008C3D000007109 and 1A4050100008C3D000007110 (package tags #7109 and 7110).
- b. Instead of 10,010 items each, package tags #7109 and 7110 only reflected 1,010 items each.
- c. Package tags #7109 and 7110 were created on October 19, 2020 in METRC.
- d. Respondent failed to enter all current inventory into METRC in violation of Mich Admin Code, R 420.109(4).
- e. Respondent failed to identify and track their marihuana products consistently in METRC in violation of Mich Admin Code, R 420.212(1).

9. ENF 20-00176

- a. On August 26, 2020, Respondent had marihuana product intended for inhalation that contained Vitamin E Acetate. The products were:
 - i. PATRIOT- BLUE ZKITTLES 1G CART Concentrate (Each) METRC Tag - 1A4050100008C3D000003747 / Source Tag - A4050100008C3D000003810
 - ii. PATRIOT- EKTO KOOLER 1G CART Concentrate (Each) METRC Tag - 1A4050100008C3D000003746 / Source Tag - 1A4050100008C3D000003811

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iii. PATRIOT- SATIVA BLEND 1G CART Concentrate (Each) METRC Tag
- 1A4050100008C3D000003745 / Source Tag - A4050100008C3D000003809
iv. PATRIOT- INDICA BLEND 1G CART Concentrate (Each) METRC Tag
- 1A4050100008C3D000003744 / Source Tag - A4050100008C3D000003808
v. PATRIOT- FORBIDDEN FRUIT 1G CART Concentrate (Each) METRC
Tag - 1A4050100008C3D000003743 / Source Tag
A4050100008C3D000003823

- b. The above products contained Vitamin E Acetate which is a non-marihuana inactive ingredient not approved by the FDA for the intended use and not listed on the product label in violation of Mich Admin Code, R 420.206(11).
- c. On August 14, 2020, Respondent made 5 negative adjustments to METRC package tag 1A4050100002649000000702 (package tag # 0702) with corresponding positive adjustments to 5 other METRC packages in Respondent's inventory in the amount of 192 grams.
- d. The adjustments of 192 grams were then subsequently adjusted again as Respondent reported that the actual amounts used were between 306 grams and 469 grams not 192 grams.
- e. Respondent failed to identify and track its marihuana products consistently in METRC in violation of Mich Admin Code, R 420.212(1).

10. ENF 21-00002

- a. On November 2, 2020, Respondent transferred marihuana product intended for inhalation to a provisioning center via manifest # 356237.
- b. Six of the packages on that manifest had not been tested for Vitamin E Acetate as required under Mich Admin Code R 420.303(11) prior to the product being transfer to a provisioning center/marihuana sales location.
- c. Respondent transferred the marihuana product in violation of Mich Admin Code, R 420.303(10) which requires marihuana product at a producer to have been tested and have passing test results entered into METRC prior to transfer to a sales location.

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- d. The product was transferred to a sales location without required items on the label in violation of Mich Admin Code, 420.504(1)(f)(g)(h)(i)(j) and (k), which requires the following items on the label:
- I. The net weight in United States customary and metric units,
 - II. The 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%,
 - III. The activation time expressed in words or through a pictogram,
 - IV. The name of the laboratory that performed any test, and any test analysis date,
 - V. The universal symbol for marihuana product published on the agency's website, and
 - VI. The following warnings:
 - A. it is illegal to drive a motor vehicle while under the influence of marihuana,
 - B. National Poison Control Center 1-800-222-1222,
 - C. For products being sold by a licensee under the medical marihuana facilities licensing act that exceed the maximum THC levels allowed for product sold under MRTMA, "For use by registered qualifying patients only. Keep out of reach of children."

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

By Email: MRA-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 Marijuana Regulatory Agency at (517) 284-8599 or MRA-LegalHearings@michigan.gov.

Dated: 2/25/21

MARIJUANA REGULATORY AGENCY

By: **Claire
Patterson**

Digitally signed by Claire
Patterson
Date: 2021.02.25
15:00:58 -05'00'

**Claire Patterson, Scientific and Legal Section Manager
Enforcement Division**

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In the Matter of

Sky Labs, LLC
ERG No.: 002142
License No.: PR-00121
ENF No.: 20-00169, 20-00176 & 21-00002

CMP No.: 20-001130
20-000924 & 20-001166

PROOF OF SERVICE

I hereby certify that on 3/3/21, I mailed a copy of the Formal Complaint dated 2/25/21 in the above captioned case by certified mail (return receipt requested) to:

Sky Labs, LLC
C/O Pollicella & Associates
4312 East Grand River Avenue
Howell, Michigan 48843

Jessica S.
Fox

Digitally signed by Jessica
S. Fox
Date: 2021.03.03
09:38:48 -05'00'

Jessica S. Fox
Departmental Analyst
Marijuana Regulatory Agency
Department of Licensing & Regulatory
Affairs