

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

In the Matter of

BRT CAPITAL 3, LLC
dba Joyology of Quincy
License No.: AU-R-000433

ENF No.: 21-00447

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

On October 20, 2021, the Cannabis Regulatory Agency (CRA) issued a formal complaint against the adult-use marijuana retail establishment license (AU-R-000433) of BRT Capital 3, LLC dba Joyology of Quincy (“Respondent”) under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951 *et seq.*, and the administrative rules promulgated thereunder. The formal complaint alleged Respondent violated Mich Admin Code, R 420.505(1), R 420.502(3), and R 420.502(4).

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 420.505(1), R 420.502(3), and R 420.502(4).

Accordingly, for these violations, IT IS ORDERED:

1. Respondent must pay a fine in the amount of five thousand and 00/100 dollars (\$5,000). This fine shall be paid within 30 days of the effective date of this order by check, money order, or online through Accela Citizen Access (ACA). Instructions on how to make online payments can be found under the Tips for Licensees bulletin section at www.michigan.gov/cra. Check or money orders shall be made payable to the State of Michigan with enforcement number “21-00447” and license number “AU-R-000433” clearly displayed on

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the check or money order. Respondent shall mail the fine to Department of Licensing and Regulatory Affairs, Cannabis Regulatory Agency, PO BOX 30205, Lansing, Michigan 48909.

2. Within 60 days of the effective date on this order, Respondent must provide a standard operating procedure (SOP) requiring regular testing of their point-of-sale system to ensure it is syncing with the statewide monitoring system (Metrc) in real time and alerting for products on administrative hold, and/or requiring employees to manually check Metrc for administrative holds before every sale.
3. If Respondent fails to timely comply with the terms of this order, Respondent's license shall be suspended until compliance is demonstrated.
4. Unless otherwise specified in this order, Respondent shall direct any communications to the CRA that are required by the terms of this order to CRA-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 7(1)(c) of the MRTMA, MCL 333.27957, and Mich Admin Code, R 420.808.
7. Upon timely compliance of the terms of this order by Respondent, the matters set forth in the formal complaint shall be deemed resolved and closed subject to this consent order.

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This order shall be effective 30 days after the date signed by the CRA's executive director or his designee, as set forth below.

CANNABIS REGULATORY AGENCY

Signed on: 05/30/2023

By: Brian Hanna
Digitally signed by: Brian Hanna
DN: CN = Brian Hanna email =
hannab@michigan.gov C = US O =
CRA OU = CRA
Date: 2023.05.30 11:35:59 -04'00'

Brian Hanna, Executive Director
and/or his designee
Cannabis Regulatory Agency

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 MRTMA.
2. Respondent understands and intends that by signing this stipulation, Respondent is waiving the right under the MRTMA, administrative rules promulgated thereunder, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to require the CRA 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. The products that were sold while on administrative hold were not a part of a recall.
 - b. Respondent stated it has since implemented a new centralized point of sale system and activated a feature that prevents sales of products on administrative hold from being completed.
 - c. Respondent was cooperative and wishes to resolve the allegations without the need for and expense of an administrative hearing.

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- The CRA’s enforcement division director or her designee must approve this proposed agreement before it is forwarded to the CRA’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 CRA’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:

Desmond
Mitchell

Digitally signed by
Desmond Mitchell
Date: 2023.05.25
07:37:27 -04'00'

Desmond Mitchell, Operations Director
and/or his designee
Cannabis Regulatory Agency

Dated: 05/25/2023

AGREED TO BY:

DocuSigned by:

Nidhal Zeer

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Nidhal Zeer, Managing Member
on behalf of Respondent
BRT Capital 3, LLC

Dated: 5/24/2023

DocuSigned by:

Seth Tompkins

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Seth Tompkins (P63249)
Attorney for Respondent

Dated: 5/24/2023

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

In the Matter of

BRT Capital 3, LLC
AU-ER No.: 000448
License No.: AU-R-000433
ENF No.: 21-00447

CMP No.: 21-001040

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 Michigan Regulation and Taxation of Marihuana Act (MRTMA), 2018 IL1, *et seq.*, and Executive Reorganization Order No.2019-2, MCL 333.27001, to investigate alleged violations of the MRTMA and the Administrative Rule promulgated thereunder, take disciplinary action to prevent such violations, and impose fines and other sanctions against applicants and licensees that violate the MRTMA or Administrative Rules.

2. Section 8(1)(d) of the MRTMA provides that the Administrative Rules must ensure the health, safety, and security of the public and integrity of the marihuana establishment operations.

3. Respondent’s conduct as described below is a risk to public health and safety and/or the integrity of marihuana establishment operations.

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FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE MRA

4. Respondent holds an active state license under the MRTMA to operate an adult use retail establishment in the state of Michigan.

5. Respondent operated at 104 W Chicago St., Quincy, Michigan 49082, at all times relevant to this complaint.

6. Following an investigation, the MRA determined that Respondent violated the MRTMA and/or Administrative Rules promulgated thereunder as set forth below:

- a. On July 22, 2021, the MRA placed statewide monitoring system (Metrc) tag 1A4050300006EF6000012415 on administrative hold, pending an investigation.
- b. On July 23, 2021, Respondent made three sales from statewide monitoring system (Metrc) tag 1A4050300006EF6000012415, while on administrative hold.
- c. Respondent violated Mich Admin Code, R 420.502(3), which states a marihuana business shall not sell or transfer marihuana product that has been placed on administrative hold, recalled, or ordered to be destroyed.
- d. Respondent sold marijuana product to a customer after the package was placed on administrative hold, which is also a violation of Mich Admin Code, R 420.505(1), which states a marihuana sales location may sell or transfer marihuana or a marihuana product to a marihuana customer if all of the following are met: (a) The marihuana product has not been placed on administrative hold, recalled, or ordered to be destroyed.
- e. Respondent also violated Mich Admin Code, R 420.502(4), which states a marihuana business must verify in the statewide monitoring system, prior to any sale or transfer, that the marihuana product has not been placed on an administrative hold, recalled, or ordered to be destroyed.

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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 333.27957 (1)(c) 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 opportunity to discuss the allegations in this complaint and demonstrate compliance under the MRTMA and/or the Emergency 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

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

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Dated: October 20, 2021

By: **Claire
Patterson** Digitally signed by Claire
Patterson
Date: 2021.10.20 07:26:57
-04'00'

Claire Patterson, Manager
Scientific and Legal Section Manager
Enforcement Division
Marijuana Regulatory Agency

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