

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

In the Matter of

Sky Labs, LLC
AU-ER No.: 000684

CMP Nos.: 21-000632, 21-001251 & 21-000960

License No.: AU-P-000157

ENF Nos.: 21-00300, 21-00481 & 21-00497

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 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 processor establishment in the state of Michigan.

5. Respondent operated at 9421 N. Dort Hwy, Mt. Morris, Michigan 48458, 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:

7. ENF: 21-00300

a. On May 5, 2021, Respondent's four statewide monitoring system (Metrc) package tags of marijuana vape cartridge concentrates failed safety compliance testing for banned chemical residues.

b. 1A4050300014ADD000004972

Bifenazate = 31.326ppm; action limit is 0.2ppm

Etoxazole = 0.23ppm; action limit is 0.2ppm

Tebuconazole = 0.653ppm; action limit is 0.4ppm

1A4050300014ADD000004973

Bifenazate = 33.103ppm; action limit is 0.2ppm

Etoxazole = 0.26ppm; action limit is 0.2ppm

Tebuconazole = 0.665ppm; action limit is 0.4ppm

1A4050300014ADD000004974

Bifenazate = 33.279ppm; action limit is 0.2ppm

Etoxazole = 0.285ppm; action limit is 0.2ppm

Tebuconazole = 0.645ppm; action limit is 0.4ppm

Myclobutanil = 0.206ppm; action limit is 0.2ppm

1A4050300014ADD000004975

Bifenazate = 31.975ppm; action limit is 0.2ppm

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Etiozazole = 0.276ppm; action limit is 0.2ppm

Tebuconazole = 0.635ppm; action limit is 0.4ppm

- c. Respondent is in violation of Mich Admin Code, R 420.206(4), which states the agency shall publish a list of banned chemical residue active ingredients that are prohibited from use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the acts or these rules.
- d. Respondent is also in violation of Mich Admin Code, R 420.206(11), which states all non-marihuana inactive ingredients must be clearly listed on the product label. Inactive ingredients, other than botanically derived terpenes that are chemically identical to the terpenes derived from the plant Cannabis Sativa L., must be approved by the FDA for the intended use, and the concentration must be less than the maximum concentration listed in the FDA Inactive Ingredient database for the intended use.
- e. During the investigation to determine the cause of the chemical residue failures, the MRA discovered the record of formulation (ROF) used in the production of the concentrate did not include the minimum requirements.
- f. The ROF did not include the test results for the terpenes used in the concentrate. Respondent is in violation of Mich Admin Code, R 420.403(8)(c), which states a producer shall keep formulation records for all marihuana products. These records at a minimum must include the recipe, any additional processing in order to be shelf stable, and test results for any ingredients used.

8. ENF: 21-00481

- a. On September 1, 2021, the MRA conducted a semi-annual inspection at Respondent's processor establishment.
- b. The MRA observed eleven employees actively working in the production of marijuana products who were not trained on and in the possession of Serv Safe training certificates.

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- c. Respondent is in violation of Mich Admin Codes, R 420.403(8)(d) & R 420.403(8)(g), which state a producer of edible marihuana product shall comply with all the following to ensure safe preparation: (d) Provide annual employee training for all employees on safe food handling and demonstrate an employee's completion of this training by providing proof of food handler certification that includes documentation of employee food handler training, including, but not limited to, allergens and proper sanitation and safe food handling techniques. Any course taken pursuant to this rule must be conducted for not less than 2 hours and cover all of the following subjects: (i) Causes of foodborne illness, highly susceptible populations, and worker illness. (ii) Personal hygiene and food handling practices. (iii) Approved sources of food. (iv) Potentially hazardous foods and food temperatures. (v) Sanitization and chemical use. (vi) Emergency procedures, including, but not limited to, fire, flood, and sewer backup. (g) If requested as provided in this subdivision, provide to the agency documentation to verify certifications and compliance with these rules. The agency may request in writing documentation to verify certifications and compliance with these rules.
- d. Respondent is also in violation of Mich Admin Code, R 420.602(2)(d), which states a licensee shall train employees and have an employee training manual that includes, but is not limited to, employee safety procedures, employee guidelines, security protocol, and educational training, including, but not limited to, marihuana product information, dosage and purchasing limits if applicable, and educational materials. Copies of these items must be maintained and made available to the agency upon request.
- e. During the semi-annual inspection, the MRA observed Respondent producing, packaging, and storing vape cartridges in a back trailer without a working video surveillance system. Respondent was not capable of recording any activity in the vape cart trailer. Respondent could not

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provide any activity on the DVR system and did not have enough mounted cameras to provide sufficient camera coverage.

- f. Respondent is in violation of Mich Admin Codes, R 420.209(5) & R 420.209(6), which state a licensee shall have a video surveillance system that, at a minimum, consists of digital or network video recorders, cameras capable of meeting the recording requirements in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos. And a licensee shall ensure the video surveillance system does all the following: (a) Records, at a minimum, the following areas: (i) Any areas where marihuana products are weighed, packed, stored, loaded, and unloaded for transportation, prepared, or moved within the marihuana business. (ii) Limited access areas and security rooms. Transfers between rooms must be recorded. (b) Records at all times images effectively and efficiently of the area under surveillance with a minimum of 720p resolution.
- g. Respondent is also in violation of Mich Admin Codes, R 420.209(7), R 420.209(9) & R 420.209(11), which state a licensee shall install each camera so that it is permanently mounted and in a fixed location. Each camera must be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the marihuana business and allows for the clear and certain identification of any person, including facial features, and activities, including sales or transfers, in all areas required to be recorded under these rules. A licensee shall have cameras that record when motion is detected at the marihuana business and record images that clearly and accurately display the time and date. A licensee shall keep surveillance recordings for a minimum of 30 days, except in instances of investigation or inspection by the agency in which case the licensee shall retain the recordings until the time as the agency notifies the licensee that the recordings may be destroyed.

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9. ENF: 21-00497

- a. On July 13, 2021, the MRA placed statewide monitoring system (Metrc) package tag 1A4050300014ADD000009737 on administrative hold for failing safety compliance testing on a banned chemical residue, Bifenazate.
- b. Respondent is in violation of Mich Admin Code, R 420.206(4), which states the agency shall publish a list of banned chemical residue active ingredients that are prohibited from use in the cultivation and production of marihuana plants and marihuana products to be sold or transferred in accordance with the acts or these rules.

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

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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.

Dated: _____

By: _____

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

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_____ /

PROOF OF SERVICE

I hereby certify that on _____, I mailed a copy of the Formal

Complaint dated _____ in the above captioned case by certified mail

(return receipt requested) to:

Sky Labs, LLC
c/o Denise Pollicella
4312 E Grand River Ave
Howell, Michigan 48843-8582

Abby Rae Brooks
Departmental Technician
Marijuana Regulatory Agency
Department of Licensing & Regulatory
Affairs

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