

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS¹
CANNABIS REGULATORY AGENCY

In the Matter of

Sky Labs, LLC
License No.: AU-P-000157

ENF No(s): 22-00308, 22-00414,
22-00476 & 22-00556

SECOND SUPERSEDING FORMAL COMPLAINT

The Cannabis Regulatory Agency (“Complainant”) files this Second Superseding Formal Complaint against Sky Labs, LLC (“Respondent”) alleging upon information and belief as follows:

1. The Cannabis Regulatory Agency (CRA) 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 rules 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 marijuana establishment operations.

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

FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE CRA

4. Respondent holds an active state license under the MRMTA 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 investigations, the CRA determined that Respondent violated the MRTMA and/or Administrative Rules promulgated thereunder as set forth below:

ENF 22-00476

- a. On November 18, 2021, Respondent had the following statewide monitoring system (Metrc) tags fail safety compliance testing for Bifenthrin, a banned chemical residue:
 - a. 1A4050300014ADD000015911
 - b. 1A4050300014ADD000015913
 - c. 1A4050300014ADD000017664
 - d. 1A4050300014ADD000017665
 - e. 1A4050300014ADD000017680
- b. Bifenthrin has a half-life of two years.
- c. On March 7, 2022, the Michigan Department of Agriculture and Rural Development (MDARD) conducted an inspection at the marijuana grower of the abovementioned products and did not detect any indication of the banned chemical residues.

Count I

Respondent's actions as described above demonstrate a 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.

ENF 22-00414

- a. On March 15, 2022, Respondent notified the CRA that its video surveillance system experienced a system failure and as a result, it was shutting down

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operations effective immediately.

- b. On March 16, 2022, Respondent notified the CRA that its video surveillance system was repaired and functioning as of 2 pm on March 16, 2022.
- c. On April 21, 2022, the CRA visited Respondent's facility. Respondent stated it would provide the CRA an invoice for the camera repair and the video surveillance recording log.
- d. Later that day, Respondent provided the invoice for the camera repair and the recording log.
- e. The CRA observed the recording log did not contain the information required by administrative rule.

Count II

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.209(14)(a), which states that a licensee shall maintain a log of the recordings, which includes all of the following: (a) The identity of the employee or employees responsible for monitoring the video surveillance system.

Count III

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.209(14)(b), which states that a licensee shall maintain a log of the recordings, which includes all of the following: (b) The identity of the employee who removed any recording from the video surveillance system storage device and the time and date removed.

Count IV

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.209(14)(c), which states that a licensee shall maintain a log of the recordings, which includes all of the following: (c) The identity of the employee who destroyed any recording.

ENF 22-00308

- a. On March 24, 2022, the CRA conducted a compliance check and discovered Respondent producing marijuana edibles with melatonin as an ingredient.
- b. Per the U.S. Food and Drug Administration (FDA) Inactive Ingredient database, Generally Recognized As Safe (GRAS), melatonin is not listed as an approved ingredient.
- c. On September 8, 2022, the CRA conducted a site visit at Respondent's adult use processor establishment and confirmed melatonin was no longer being used as an ingredient at the establishment. No melatonin was observed, and it was removed from all packaging.

Count V

Respondent's actions as described above demonstrate a 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.

ENF 22-00556

- a. On June 23, 2022, Respondent distributed Chewii Sour Cherry Edibles to employees of the adult use processor establishment. Ten employees each received one package containing 20 pieces each.
- b. Respondent admitted the packages of Chewii Sour Cherry Edibles were mislabeled and as a result, were distributed to employees as trade samples.
- c. The labels on the Chewii Sour Cherry Edibles displayed a large sticker showing "200 MG CBD." Respondent did not place a THC amount or

modifier anywhere on the packages. Respondent also failed to include the date the marihuana product was produced on the package labels.

- d. On July 2, 2022, an employee provided the Chewii Sour Cherry Edibles to her 4-year-old child. The child consumed two Chewii Sour Cherry Edible which contained 20 mgs of marijuana. The child became seriously ill.
- e. The child was hospitalized due to adverse reactions to the marijuana edibles. A police report was filed with the Davison City Police Department and an investigation was opened with Child Protective Services.
- f. On July 4, 2022, Respondent entered the transfer of the trade samples into the statewide monitoring system (Metrc), ten days after the physical inventory was removed from the adult use processor establishment.
- g. Adjustments made by Respondent in Metrc stated "Gummies packaged in wrong bags. Gave them as samples to employees with the knowledge that the gummies were packaged wrong, and they are THC." The Certificate of Analysis (COA) for the marijuana product demonstrated the presence of THC in the Chewii Sour Cherry Edibles.
- h. On July 5, 2022, the adverse reaction was reported to the CRA via electronic mail.

Count VI

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.103(3), which states a marihuana processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in these rules.

Count VII

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.214b(1), which states a licensee shall notify the agency within 1 business day of becoming aware or within 1 business day of when the licensee should have been aware of any adverse reactions to a marihuana product sold or

transferred by any licensee.

Count VIII

Respondent's actions as described above demonstrate a violation Mich Admin Code, R 420.214b(2), which states a licensee shall enter into the statewide monitoring system within 1 business day of becoming aware of or within 1 business day of when the licensee should have been aware of any adverse reactions to a marihuana product sold or transferred by any licensee.

Count IX

Respondent's actions as described above demonstrate a violation Mich Admin Code, R 420.403(1), which states a producer shall package and properly label marihuana-infused products before sale or transfer.

Count X

Respondent's actions as described above demonstrate a violation Mich Admin Code, R 420.403(3), which states a producer of marihuana-infused products shall list and record the THC concentration and CBD concentration of marihuana-infused products, as provided in R 420.305 and R 420.404, in the statewide monitoring system and indicate the THC concentration and CBD concentration on the label along with the tag identification as required under these rules.

Count XI

Respondent's actions as described above demonstrate a violation Mich Admin Code, R 420.403(7)(a), which states a producer shall label all marihuana-infused products with all of the following: (a) The name of the marihuana-infused product that includes a product modifier such as "marijuana product", "THC product" or "cannabis product" using the same or larger font than the product name.

Count XII

Respondent's actions as described above demonstrate a violation Mich Admin

Code, R 420.403(7)(e), which states a producer shall label all marihuana-infused products with all of the following: (e) The date the marihuana product was produced.

Count XIII

Respondent's actions as described above demonstrate a violation Mich Admin Code, R 420.509(3), which states a licensee shall record the transfer of an internal product sample in the statewide monitoring system.

THEREFORE, based on the above, the CRA 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 CRA 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 CRA 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 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 Administrative Rules. A compliance conference request must be submitted to the CRA 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
 Cannabis Regulatory Agency
 P.O. Box 30205

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

By Email: CRA-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 Cannabis Regulatory Agency's legal section at (517) 284-8599 or CRA-LegalHearings@michigan.gov.

The formal complaint filed against the Respondent on August 17, 2022, is hereby WITHDRAWN and replaced in full by this superseding complaint.

Dated: _____

By: _____
Alyssa A. Grissom, Manager
Legal Section Manager
Cannabis Regulatory Agency

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_____ /

PROOF OF SERVICE

I hereby certify that on _____, I mailed a copy of the First
Superseding Formal Complaint dated _____ in the above captioned
case by certified mail (return receipt requested) to:

Sky Labs, LLC
c/o Pollicella & Associates, PLLC
4312 E. Grand River Ave.
Howell, Michigan 48843

Departmental Technician
Cannabis Regulatory Agency
Department of Licensing & Regulatory
Affairs

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