

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

In the Matter of

Sky Labs, LLC
License No.: PR-000121

ENF No(s): 22-00413, 22-00415,
22-00416, 22-00418,
22-00311, 22-00448,
& 22-00489

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 Medical Marihuana 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 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 CRA’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 marihuana facility operations.

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

FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE CRA

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5. Respondent holds an active state operating license under the MMFLA to operate a medical marijuana processor facility in the state of Michigan.

6. Respondent operated at 9421 N. Dort Hwy., Mt. Morris, Michigan 48458, at all times relevant to this complaint.

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

ENF 22-00416

- a. On September 2, 2021, the CRA conducted a semi-annual inspection at Respondent's facility.
- b. The CRA observed pre-rolls without statewide monitoring system (Metr) tags affixed to the pre-rolls, bags, or storage bins. This marijuana product could not be identified on any manifest or in the statewide monitoring system as being sourced from a licensed grower.

Count I

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.210(2), which states except for a designated consumption establishment or temporary marihuana event licensed under the MRTMA, a marihuana business must not have any marihuana product without a batch number or identification tag or label pursuant to these rules. A licensee shall immediately tag, identify, or record as part of a batch in the statewide monitoring system any marihuana product as provided in these rules.

Count II

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.212(1), which states, in part, all marihuana products must be identified and tracked consistently in the statewide monitoring system under these rules.

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Count III

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.210(1), which states except for designated consumption establishments or temporary marihuana events licensed under the MRTMA, a marihuana business must not have marihuana products that are not identified and recorded in the statewide monitoring system pursuant to these rules.

Count IV

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.502(1)¹, which states all marihuana products sold or transferred between marihuana businesses must have the tracking identification numbers that are assigned by the statewide monitoring system affixed, tagged, or labeled and recorded, and any other information required by the agency, the acts, and these rules.

Count V

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.109(4), which states a processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

ENF 22-00489

- a. On November 9, 2021, Respondent had the following statewide monitoring system (Metrc) tags fail safety compliance testing for Bifenthrin, a banned chemical residue:
 - i. 1A4050100008C3D000026259
 - ii. 1A4050100008C3D000026260
- b. Bifenthrin has a half-life of two years.

¹ The Cannabis Regulatory Agency (CRA) Administrative Rules were updated and took effect on March 7, 2022. The updated rule, Mich Admin Code, R 420.502(1), is substantially similar to the prior rule.

- 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 VI

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's 22-00415 & 22-00418

- a. On January 20, 2022, as a result of an ongoing investigation regarding Respondent allegedly receiving product not associated with any manifests, the CRA made an unannounced visit to Respondent's facility.
- b. The CRA requested that Respondent provide video surveillance recordings of the area where vape cartridges were filled and packaged (all angles) from January 12, 2022 through January 19, 2022.
- c. On January 24, 2022, the CRA informed Respondent the surveillance recordings would be picked up on January 26, 2022.
- d. On January 26, 2022, the CRA picked up the surveillance recordings and observed the recordings were missing all angles as requested.
- e. After further attempts to retrieve the requested surveillance recordings on February 9, 2022 and February 10, 2022, Respondent failed to provide the requested surveillance recordings until February 14, 2022, 25 days after the surveillance recordings were initially requested.

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- f. On January 26, 2022, while conducting an onsite compliance check at Respondent's facility, the CRA observed untagged shake/trim inside a large plastic bag.
- g. On January 26, 2022, the CRA also observed untagged packages inside a yellow and black bin. Respondent admitted to the CRA that the packages were not entered into Metrc. This marijuana product could not be identified on any manifest or in the statewide monitoring system as being sourced from a licensed grower.
- h. On March 17, 2022, the CRA made another visit to Respondent's facility to investigate the product and Metrc manifests it received from a medical marijuana grower facility on January 19, 2022 and February 25, 2022.
- j. The CRA observed a trailer on the premise. The CRA observed a large volume of black and yellow bins within the trailer that had Metrc tags affixed and contained packages and marijuana product.
- k. The CRA also observed a wad of crumbled up statewide monitoring system (Metrc) tags on one of the bins.
- l. The CRA weighed some of the tagged bins associated with the January 19, 2022 and February 25, 2022 manifests, which were transferred from a medical marijuana grower facility.
- m. The total weight of the bins ending in Metrc tag #0003 was 416.64lbs (188984.73g).
- n. The total weight of the bins ending in Metrc tag #0006 was 362.25lbs (164313.84g).
- o. The trailer contained one unmarked bin that weighed 6.05lbs (2744.23g) and one unlabeled bin that weighed 35.75lbs (16215.93g).
- p. The CRA, accompanied by Respondent, observed that the manifests were inaccurate as the GWT listed on the manifests were significantly higher at 450.80lbs. (204480.00g) for each package in comparison to what the product weighed at Respondent's facility.
- q. The January 19, 2022 and February 25, 2022 Metrc manifests indicate that Respondent received marijuana flower (bud) from the medical marijuana

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- grower facility. Respondent stated to the CRA that the product it received was flower (bud) but also shake/trim.
- r. The CRA observed the shake/trim and took photographs of the product.
 - s. During an April 12, 2022 onsite visit at the shipping grower facility, the grower admitted to transferring flower (bud) associated with the January 19th and February 25th manifests with the shake/trim.
 - t. Respondent admitted to the CRA that it neither verified if the January 19, 2022 and February 25, 2022 manifests were correct, nor did it weigh the packages before accepting the product.
 - u. On April 12, 2022, the CRA requested the surveillance recordings from March 19, 2022. As of the date of this formal complaint, Respondent has failed to provide those recordings.
 - v. On April 21, 2022, the CRA made another visit to Respondent's facility to discuss the product and Metrc manifests it received from the same medical marijuana grower facility on March 21, 2022 and March 29, 2022.
 - w. Respondent admitted to the CRA that it failed to weigh the product for accuracy prior to accepting the product.
 - x. The March 21, 2022 and March 29, 2022 Metrc manifests indicate that Respondent received marijuana flower (bud) from the medical marijuana grower facility. Respondent stated to the CRA that the product received was mulch. The CRA observed that the product was mulch and took photographs of the product.
 - y. When the CRA asked Respondent about its Standard Operating Procedures (SOPs), Respondent stated that it did not have an SOP for receiving product from another marijuana business.
 - z. On April 21, 2022, the CRA also asked Respondent to provide the February 25, 2022 surveillance recordings and logs of the inaccurate product and manifest arriving at the facility. Respondent stated the cameras were not

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operating that day and was unable to provide the recordings.

- aa. Additionally, on April 21, 2022, the CRA and Respondent went outside to one of Respondent's storage units/trailers that contained product it received from the abovementioned medical marijuana grower facility. The CRA observed moldy marijuana plant waste in a garbage bag that was inside of a bin located outside of the trailer.
- bb. While in the trailer, Respondent stated to the CRA that some of the flower it received contained stems, so it trimmed the flower before processing, which is a grower function. The flower was then shipped for sale and not processed into concentrate.
- cc. The CRA observed a lack of full camera coverage on the packages in the trailer where marijuana product was being stored.
- dd. The CRA also observed a bin in the trailer that had two Metrc tags affixed to it (1A40501000216630000000009 and 1A40501000216640000000011).

Count VII

Respondent's actions as described above, specifically failing to provide the video surveillance when requested, demonstrate a violation of Mich Admin Code, R 420.6(5), which states an applicant or licensee has a continuing duty to provide information requested by the agency and to cooperate in any investigation, inquiry, or hearing conducted by the agency.

Count VIII

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.109(4), which states a processor shall enter all transactions, current inventory, and other information into the statewide monitoring system as required in the MMFLA, these rules, and the marihuana tracking act.

Count IX

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Respondent's actions as described above demonstrate a violation of Mich_Admin Code, R 420.206a(1), which states a marihuana business must have up-to-date written standard operating procedures on site at all times.

Count X

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.206a(2), which states standard operating procedures must be made available to the agency upon request.

Count XI

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.209(6)(a)(i), which states 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.

Count XII

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.209(11), which states a licensee shall keep surveillance recordings for a minimum of 30 calendar days.

Count XIII

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.209(12), which states surveillance recordings of the licensee are subject to inspection by the agency and must be kept in a manner that allows the agency to view and obtain copies of the recordings at the marihuana business immediately upon request. The licensee shall also send or otherwise provide copies of the recordings to the agency upon request within the time specified by the agency.

Count XIV

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Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.210(1), which states except for designated consumption establishments or temporary marihuana events licensed under the MRTMA, a marihuana business must not have marihuana products that are not identified and recorded in the statewide monitoring system pursuant to these rules.

Count XV

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.210(2), which states except for a designated consumption establishment or temporary marihuana event licensed under the MRTMA, a marihuana business must not have any marihuana product without a batch number or identification tag or label pursuant to these rules. A licensee shall immediately tag, identify, or record as part of a batch in the statewide monitoring system any marihuana product as provided in these rules.

Count XVI

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.211(2), which states marihuana plant waste, including roots, stalks, leaves, and stems that have not been processed with a solvent must be rendered into an unusable and unrecognizable form through grinding or another method as determined by the agency that incorporates the marihuana plant waste with 1 or more of the following types of compostable waste so that the resulting mixture is not less than 50% non-marihuana plant waste: (a) food waste. (b) yard waste. (c) vegetable-based grease or oils. (d) other compostable wastes approved by the agency.

Count XVII

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.211(6), which states a licensee shall dispose of marihuana product waste and marihuana plant waste in a secured waste receptacle using 1 or more of

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the following methods that complies with applicable state and local laws and regulations: (a) a licensed municipal solid waste landfill. (b) a registered composting facility that has specific approval under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11554, to accept the material. (c) an anaerobic digester that has specific approval under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11554, to accept the material. (d) an in-state municipal solid waste or hazardous waste incinerator that has been permitted under part 55 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5501 to 324.5542.

Count XVIII

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.212(1), which states all marihuana products must be stored at a marihuana business in a secured limited access area or restricted access area and must be identified and tracked consistently in the statewide monitoring system under these rules.

Count XIX

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.303(6), which states a cultivator may transfer or sell marihuana to a producer without first being tested by a laboratory if the marihuana product will be processed. After the producer has processed the material, the producer shall have the sample tested for all required safety test pursuant to R 420.304 and R 420.305. A producer that received a package under this rule that has not been processed may transfer that package to another producer without having the package first tested by a laboratory for extraction.

ENF 22-00413

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- 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 operations effective immediately.
- b. On March 16, 2022, Respondent notified the CRA that its video surveillance system was repaired and now functioning as of 2 pm on March 16th.
- 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 XX

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 XXI

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 XXII

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 22-00448

- a. On May 16, 2022, the CRA conducted compliance checks and discovered Respondent producing edible marijuana products that were not compliant with the administrative rules.
- b. Respondent produced Motor City Cannabites: THC Fruity Crispy, THC Strawberry Crispy, Cocoa Crispy, THC Snickerdoodle Cookie, THC Cherry Brownie, and THC Walnut Brownie.
- c. All the above-mentioned edible marijuana products were in shapes and in packaging appealing to minors and were not approved by the CRA.

Count XXIII

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.403(9)(a), which states a producer of edible marijuana product may not: (a) produce an edible marijuana product in a shape or with a label that would appeal to minors aged 17 years and younger.

Count XXIV

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.403(9)(b), which states a producer of edible marijuana product may not: (b) Produce an edible marijuana product that is associated with or has cartoons, caricatures, toys, designs, shapes, labels, or packaging that would appeal to minors.

Count XXV

Respondent's actions as described above demonstrate a violation of Mich Admin Code, R 420.403(9)(c), which states a producer of edible marijuana product may not: (c) Package edible marijuana products in a package that can easily be

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confused with a commercially available food product. The use of the word candy or candies on the packaging or labeling is prohibited.

ENF 22-00311

- 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. The CRA conducted a follow up site visit at Respondent's medical marijuana processor facility and confirmed melatonin was no longer being used as an ingredient at the facility. No melatonin was observed, and "melatonin" was removed from all packaging.

Count XXVI

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.

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 333.27407(4) 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

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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, 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 MMFLA and/or 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
Lansing, Michigan 48909

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

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

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

Dated: _____

By: _____
Alyssa A. Grissom
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 Denise Pollicella
4312 E. Grand River Ave.
Howell, Michigan 48843

Departmental Technician
Cannabis Regulatory Agency
Department of Licensing & Regulatory
Affairs

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