

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

In the Matter of

Candid Labs, LLC dba Layercake Farms 2, LLC
License No.: AU-P-000258

ENF No: 22-00685

Order of Summary Suspension

On February 3, 2023, the Cannabis Regulatory Agency (CRA) issued a formal complaint against the above-referenced licensee ("Respondent") under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951, *et seq.*, and administrative rules promulgated thereunder.

Based on its investigation of the conduct alleged in the formal complaint, the CRA determined that the safety or health of patrons or employees is jeopardized by Respondent's continued operation and that the public health, safety, or welfare requires emergency action, as authorized under section 92(2) of the Administrative Procedures Act, MCL 24.292(2).

THEREFORE, IT IS ORDERED that Respondent's license to operate the above-referenced marijuana establishment shall be summarily suspended, effective immediately upon service of this order.

Under Mich Admin Code, R 420.705, a prompt post-suspension hearing must be held to determine whether this suspension should remain in effect. Notice of the hearing, date, and time will be forthcoming.

Date: 2/3/2023

Brian Hanna

Digitally signed by: Brian Hanna
DN: CN = Brian Hanna email =
hannab@michigan.gov C = US O =
CRA OU = CRA
Date: 2023.02.03 08:53:34 -0500'

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

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FORMAL COMPLAINT

The Cannabis Regulatory Agency (“Complainant”) files this formal complaint against Candid Labs, LLC dba Layercake Farms 2, 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), MCL 333.27951, *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.

FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE CRA

3. Respondent holds an active state license under the MRTMA to operate an adult use marijuana processor establishment in the state of Michigan.
4. Respondent operated at 1850 Parmenter Rd., Corunna, Michigan 48817 at all times relevant to this complaint.
5. Following an investigation, the CRA determined that Respondent violated the

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MRTMA and/or Administrative Rules promulgated thereunder as set forth below:

- a. On October 1, 2022, medical grower licensee Candid Labs, LLC reported to the CRA that its video surveillance system was malfunctioning during its harvest period.
- b. On October 6, 2022, CRA staff visited Candid Labs' medical grower facility to discuss the surveillance issues. While on the premises, staff observed Respondent's adult-use processor establishment, which is co-located at the same address.
- c. During the October 6 visit, CRA staff, accompanied by Respondent's manager, DeAngelo Williams, observed 36 mason jars each containing what appeared to be a small amount of marijuana distillate without statewide monitoring system (Metrc) tags located in two cardboard boxes in an unlocked yellow storage trailer on the establishment grounds. Williams indicated to staff that the yellow storage trailer belonged to Respondent. The mason jars found within the yellow storage trailer were marked with various dates and weights in grams. Williams was unable to provide Metrc information, manifests, or any other information to identify any of the contents within the jars. On October 10, 2022, Respondent averred that the mason jars contained leftover marijuana distillate produced in April 2022 that had not yet been destroyed.
- d. CRA staff also observed 5 tall, cylindrical glass jars with green lids each labeled with "Labyrinth Xtracts Ultra Fine Distillate Oil" and a "Hempire State Growers Hudson Valley New York" sticker inside the yellow storage trailer. CRA staff observed that the tall cylindrical jars were filled to the top with what appeared to be marijuana distillate and were without Metrc tags. On October 10, 2022, Respondent averred that the tall, cylindrical jars contained CBD distillate used for cleaning and calibrating its extraction equipment. Respondent further explained that the distillate in the tall cylindrical jars was brought to Respondent's establishment on or about

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June 23, 2022 and should have been destroyed prior to coming to the establishment.

- e. CRA staff observed no video surveillance coverage inside the yellow storage trailer where the marijuana distillate was being stored, nor surveillance coverage to clearly record activity occurring within 20 feet of the point of entry and exit of the yellow storage trailer. CRA staff also reviewed Respondent's submitted floor plan for licensure and discovered that the yellow storage trailer was an addition to Respondent's adult-use marijuana processor establishment, and that Respondent failed to have the yellow storage trailer inspected by the CRA or receive CRA approval prior to bringing it onto the establishment grounds.
- f. During the October 6 visit, CRA staff also observed a large white storage trailer labeled "Freezer #2, Adult Use Only." The white storage trailer contained multiple stacked cardboard boxes full of bagged fresh-frozen product. While some boxes had Metrc tags affixed that matched Respondent's inventory listed in Metrc, some boxes did not have Metrc tags affixed to either the boxes or the fresh-frozen product inside the boxes. CRA staff were unable to verify whether the untagged fresh-frozen product matched Respondent's inventory in Metrc.
- g. During the October 6 visit, CRA staff also observed multiple large white bags filled to the top with what appeared to be biomass located between 2 greenhouses on the establishment grounds. Although some of the white bags had Metrc tags affixed with Metrc tag number 1A4050300029F19000000971 (tag number 0971), the remaining bags did not have Metrc tags. Williams subsequently explained that all of the white bags contained biomass associated with tag number 0971.
- h. During the October 6 visit, CRA staff also observed 2 large white bins with what appeared to be biomass near the white bags. No Metrc information was located on the white bins.

- i. During the October 6 visit, CRA staff also observed 5 barrels containing what appeared to be biomass outside a black and green trailer. No Metrc information was located on any of the 5 barrels.
- j. During the October 6 visit, CRA staff, accompanied by Williams, inspected Respondent's processing trailer. While inside the processing trailer, CRA staff observed 4 pots covered in plastic wrap containing what appeared to be marijuana crude and observed 9 tall cylindrical jars of what appeared to be marijuana distillate without Metrc tags in cabinets next to the pots. After questioning, Williams stated that the marijuana crude and distillate was produced on October 4, 2022 using biomass with Metrc tag number 0971. Williams also stated that the conversion from biomass to crude and then from crude to distillate was not recorded immediately in Metrc, as he only updated Metrc at the end of each week.
- k. On October 7, 2022, a CRA investigator requested that Respondent retain and provide the last 30 days of its video surveillance recordings. Respondent was unable to provide the last 30 days of video recordings, as requested, and only provided a few days of surveillance recordings.¹
- l. During a follow-up visit to Respondent's establishment on October 10, 2022, CRA staff inquired about the untagged marijuana distillate and crude located in Respondent's processing trailer.
- m. Williams reiterated that the distillate and crude were produced on October 4, 2022; however, surveillance recordings from inside Respondent's processing trailer showed that the distillate and crude were in the processing trailer on September 29, 2022.

¹ Respondent's Compliance Manager emailed the CRA stating that its video surveillance system resets on the 10th of every month, so anything not downloaded prior to October 10, 2022 was not retained.

- n. During the October 10, 2022 visit, CRA staff inquired about the biomass with Metrc tag number 0971 allegedly used to create the untagged marijuana distillate and crude in the processing trailer. CRA staff observed in Metrc that tag number 0971 was associated with 10,336 lbs. of bud, strain named crazy glue, and that the product was located in dry storage. However, Respondent failed to update Metrc to reflect that the untagged distillate and crude allegedly produced from biomass with tag number 0971 was physically located in the processing trailer. Additionally, CRA staff observed in Metrc that biomass associated with tag number 0971 was grown by adult use grower licensee Sugar Leaf Properties I, LLC and transported to Respondent's adult use processor license on June 3, 2022.
- o. During the October 10 follow-up visit, CRA staff asked to see the large white bags of biomass between the 2 greenhouses that were also associated with Metrc tag number 0971. CRA staff, accompanied by Williams, observed approximately 37 large, white, open bags filled with wet biomass outside between the 2 greenhouses.
- p. During the October 10 follow-up visit, Williams explained that biomass from Metrc tag number 0971 was carried via extraction sock from the white bags into the processing trailer to produce the untagged distillate and crude; however, Respondent was unable to provide surveillance recordings to show that biomass was ever brought into the processing trailer.
- q. On October 12, 2022, a sampling event was conducted while CRA staff were onsite to determine whether Respondent had untagged marijuana product located at the licensed establishment. A total of 10 samples were collected for testing. The samples included the alleged CBD distillate and marijuana distillate found in the yellow storage trailer.
- r. The following table shows that 10 of the 10 samples tested on October 12 were confirmed to be marijuana, with a total THC concentration greater than 0.3%:

Table 1. Layer Cake Sampling Event Summary. This table provides a summary all untagged products which were tested from Layer Cake. All samples tested were identified as marijuana.

| Sample Name | Package Test Tag (Last 5 digits) | Delta-9THC Percentage | CBD Percentage | Marijuana y/n >0.3% d9THC? |
|---------------------------------|----------------------------------|-----------------------|----------------|----------------------------|
| untagged distillate 10112020 | [-00635] | 1.90% | 85.10% | Yes |
| untagged distillate 11182020 | [-00636] | 2.50% | 88.40% | Yes |
| untagged distillate 10022020 | [-00637] | 1.60% | 89.27% | Yes |
| untagged distillate b-bg 2 | [-00638] | 86.80% | 2.05% | Yes |
| untagged distillate gold lid | [-00639] | 73.30% | 5.56% | Yes |
| untagged distillate white lid 1 | [-00640] | 78.90% | 0.26% | Yes |
| untagged distillate 4232022 | [-00641] | 73.80% | 4.85% | Yes |
| untagged distillate 4272022 | [-00642] | 76.60% | 2.65% | Yes |
| untagged distillate 2282022 | [-00643] | 81.50% | 2.82% | Yes |
| untagged distillate 4282022 | [-00644] | 79.10% | 2.87% | Yes |

- s. On November 8, 2022, CRA staff conducted a second sampling event, which included samples of biomass associated with tag number 0971, the crude, and the distillate found in the processing trailer. The results of the second sampling event revealed the following chemical profiles of the biomass, crude, and distillate:

Table 1. Potency Results for Audited Product

| Package Tag | Sample Tag | Total THC % | Total CBD % | CBN % | CBG % |
|---------------------------------------|--------------------------|-------------|-------------|--------|-------|
| 1A4050300029F19000000646 (distillate) | 1A4050300029F19000000630 | 87.372 | 0.362 | 7.729 | 0.422 |
| 1A4050300029F19000000647 (crude) | 1A4050300029F19000000629 | 76.657 | 4.032 | 14.436 | 1.703 |
| 1A4050300029F19000000971 (biomass) | 1A4050300029F19000000628 | 1.081 | ND | 0.161 | ND |

ND= Not detected

Based on these results, the CRA determined that the distillate and crude were not produced from biomass associated with Metrc tag number 0971. The CRA further determined that the distillate was not produced from the crude.

- t. On January 19, 2023, following CRA inquiry, Respondent could not provide a credible explanation for this discrepancy.

Count I

Respondent's actions as described in paragraph s demonstrate a violation of MCL 333.27961(f), which states no marihuana establishment may sell or otherwise

transfer marihuana that was not produced, distributed, and taxed in compliance with this act.

Count II

Respondent's actions as described in paragraph e demonstrate a violation of Mich Admin Code, R 420.18(1), which states any material change or modification to the marihuana business must be approved by the agency before the change or modification is made.

Count III

Respondent's actions as described in paragraph s demonstrate a violation of Mich Admin Code, R 420.103(1), which states a marihuana processor license authorizes the marihuana processor to purchase or transfer marihuana or marihuana-infused products from only a licensed marihuana establishment and sell or transfer marihuana-infused products or marihuana to only a licensed marihuana establishment.

Count IV

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

Count V

Respondent's actions as described in paragraph c demonstrate a violation of Mich Admin Code, R 420.209(3), which states a licensee shall securely lock the marihuana business, including interior rooms as required by the agency, windows, and points of entry and exits, with commercial-grade, nonresidential door locks or other electronic or keypad access. Locks on doors that are required for egress must meet the requirements of NFPA 1, local fire codes, and the Michigan building code, R 408.30401 to R 408.30499.

Count VI

Respondent's actions as described in paragraph e demonstrate a violation of Mich Admin Code, R 420.209(6)(a)(i), and (ii), 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. (ii) limited access areas and security rooms.

Count VII

Respondent's actions as described in paragraph e demonstrate a violation of Mich Admin Code, R 420.209(7), which states 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.

Count VIII

Respondent's actions as described in paragraph k 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 IX

Respondent's actions as described in paragraph k 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 X

Respondent's actions as described in paragraphs c, d, f, and j 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 XI

Respondent's actions as described in paragraphs c, d, f, and j 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 XII

Respondent's actions as described in paragraphs c and d demonstrate a violation of Mich Admin Code, R 420.211(1), which states a marihuana product that is to be destroyed or is considered waste must be rendered into an unusable and unrecognizable form through grinding or another method as determined by the agency that incorporates the marihuana product waste with 1 or more of the following types of non-consumable solid waste so that the resulting mixture is not less than 50% non-marihuana product waste: (a) paper waste. (b) plastic waste. (c) cardboard waste. (d) food waste. (e) grease or other compostable oil waste. (f) fermented organic matter or other compost activators. (g) soil. (h) other waste approved in writing by the agency.

Count XIII

Respondent's actions as described in paragraphs c, d, f, j, and n demonstrate a violation of Mich Admin Code, R 420.212(1), which states all marihuana products

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must be stored at a marijuana 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 XIV

Respondent's actions as described in paragraph j demonstrates a violation of Mich Admin Code, R 420.303a(1), which states that a producer shall give a marijuana product a new package tag anytime the marijuana product changes form or is incorporated into a different product.

Count XV

Respondent's actions as described in paragraph e demonstrate a violation of Mich Admin Code, R 420.802(3)(f), which states licensees shall report to the agency any proposed material changes to the marijuana business before making a material change. A proposed material change is any action that would result in alterations or changes being made to the marijuana business to effectuate the desired outcome of a material change. Material changes, include, but are not limited to, the following: (f) any change or modification to the marijuana business before or after licensure that was not preinspected, inspected, or part of the marijuana business location plan or final inspection.

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

Dated: 2/3/23

By: Alyssa A. Grissom
Digitally signed by Alyssa A. Grissom
Date: 2023.02.03 08:30:15 -05'00'

Alyssa A. Grissom
Legal Section Manager
Cannabis Regulatory Agency

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Candid Labs, LLC dba Layercake Farms 2, LLC
License No.: AU-P-000258

ENF No: 22-00685

_____ /

PROOF OF SERVICE

I hereby certify that on February 3, 2023, I personally served a copy of the Order of Summary Suspension and Formal Complaint dated February 3, 2023 in the above captioned case to:

Candid Labs, LLC dba Layercake Farms 2, LLC
1850 Parmenter Road
Corunna, MI 48817

Regulation Agent
Cannabis Regulatory Agency
Department of Licensing & Regulatory
Affairs

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