

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

In the Matter of

**Exclusive Brands, LLC
License No. AU-P-000099**

ENF No.: 24-00728

FORMAL COMPLAINT

The Cannabis Regulatory Agency (CRA) by and through its attorneys, Assistant Attorneys General Audrey E. Elzerman and Erika N. Marzorati, files this formal complaint against Exclusive Brands, LLC (Respondent), alleging upon information and belief as follows:

1. The CRA is authorized under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951 *et seq.*, to investigate alleged violations of the MRTMA 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 MRTMA or administrative rules.

FACTUAL ALLEGATIONS

2. Respondent holds an active state license under the MRTMA to operate an adult-use marijuana processor business in the State of Michigan.

3. Respondent was licensed to operate at 3820 Varsity Drive, Ann Arbor, MI 48108, at all times relevant to this complaint.

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

5. On June 26, 2024, CRA staff conducted an unannounced site inspection at Respondent's business.

Noncompliant Products in Vault

6. During the June 26 inspection, a CRA regulation agent (RA) observed untagged and untracked final form marijuana products inside Respondent's vault. The products included infused pre-roll packages and infused marijuana flower awaiting testing or pending testing results. The products were stored in crates, boxes, and bins with four-digit numbers on the outside of the containers.

7. The numbers on the containers did not correspond with Metrc ID numbers.

8. Respondent's employee, V.C., stated that Respondent did not enter final form marijuana product into or assign package tags in Metrc until an entire production batch is finished, and instead listed the source flower or source distillate Metrc package tags on a production log.

9. Respondent's Metrc specialist, J.K., confirmed that the products in the vault were not entered in Metrc and stated that the majority of product in the vault was waiting to be tested or was quarantined pending testing results.

10. The CRA RA discovered package tag 1A405030000507B000209402 (-209402) stapled to a production log sheet on top of a blue crate.

11. The crate contained 10 clear bags of infused marijuana flower with a total weight of 5,124 grams.

12. Metrc showed that package tag -209402 was not yet active and thus should not have been associated with any physical product.

13. The production log associated with tag -209402 listed the source marijuana flower package tag number as “4259.”

14. Respondent’s Metrc inventory included two different packages of marijuana flower with package tag numbers ending in 4259.

15. The CRA RA determined by matching the strain name (“GMO”) on the production log with that of one of the Metrc packages that the infused marijuana was from source package tag number 1A405030000D5AE000004259 (-004259).

16. Metrc showed that package number -004259 had been combined with numerous other packages of marijuana flower to create package 1A405030000507B000344457 (-344457) on June 18, 2024.

17. According to Metrc, package number -344457 had not been used to create any new packages since its initial creation on June 18, and currently weighed 1,258,078 grams (2,773.58 pounds).

18. M.M. and J.K. admitted that the 2,773.58 pounds of marijuana product associated with package -344457 did not physically exist within the business.

19. The production log sheet associated with the infused flower product under package tag -209402 listed the source distillate package tag number as “200791.”

20. Respondent's Metrc inventory included only one package tag number ending in "200791": 1A405030000507B000200791 (-200791).

21. Metrc showed that package number -200791 was used to create six packages of edibles and did not reflect that the distillate was used for infused marijuana flower.

Noncompliant Products in Curing Room

22. The CRA RA also observed untagged marijuana-infused edibles on racks inside Respondent's curing room. J.K. admitted that Metrc tags should have been on the racks.

23. J.K. admitted that Respondent did not accurately track the infused edibles in Metrc and that the product was listed under source distillate package tag number 1A405030000507B000344458 (-44458).

24. On July 11, the CRA RA conducted a random audit on Metrc package tag number 1A405030000507B000154528 (-54528), which was on a bin containing marijuana "gummies" inside Respondent's curing room during the June 26 inspection.

25. Respondent did not enter package number -54528, which contained 2,710 eaches, into Metrc until July 9, 2024.

Untested Distillate

26. Metrc reflected that package number -44458 contained 45,324 grams of distillate and that the distillate was not tested.

27. Respondent used the untested distillate to create 99.04133 pounds of inhalable compound concentrate marijuana product.

Noncompliant “Remelt” Products

28. During the June 26 inspection, the CRA RA observed 31 zipped plastic bags containing marijuana-infused edibles in a room across from Respondent’s curing room.

29. One bag had tag number 1A405030000507B000194144 (-194144) affixed to its side. This tag number was not associated with marijuana product in Metrc.

30. The other 30 bags were labeled “Remelts” and had a combination of numbers, dates, and/or the flavor handwritten on the bag.

31. J.K. admitted the marijuana products labeled as “Remelts” were not currently tracked in Metrc and should have been destroyed.

32. On July 30, Respondent provided the CRA with Metrc ID numbers for the marijuana products labeled as “Remelts.”

33. A review of Metrc revealed that the 14 packages of marijuana products were physically onsite and untagged at Respondent’s business for at least 3 days—and as many as 364 days—from the time they were “finished” in Metrc until they were destroyed.

34. Five out of the 14 above-referenced packages were not destroyed for more than 90 days after the products were finished in Metrc.

35. The CRA RA also observed employees removing edible marijuana products from molds in a kitchen room.

36. Respondent's kitchen room contained additional buckets of untagged marijuana-infused edibles.

37. Respondent's total inventory of the untagged marijuana-infused edibles found in the kitchen room included 11 bags of red edibles, 11 bags of green edibles, 1 bag of kiwi breeze edibles, 2 bags of lemonade edibles, 5 bags of pineapple edibles, 4 bags of purple edibles, 2 bags of blueberry edibles, and 3 magic berry edibles.

Untracked Distillate

38. During the June 26 inspection, CRA staff selected 25 packages of distillate in Respondent's Metrc inventory for a package audit.

39. Of the 25 packages selected for the audit, 7 packages totaling 37,986.17 grams (83.744 pounds) of marijuana product could not be located in Respondent's physical inventory.

40. Of the seven packages that could not be located, Respondent stated that the package under tag number 1A405030000507B000017894 was destroyed. However, Respondent could not provide evidence of the destruction.

41. CRA staff also chose five packages at random from Respondent's safe and compared the physical quantity to Respondent's Metrc inventory.

42. The five packages had a combined weight of 8,239.09 grams physically present. However, all five packages were identified as "finished" in Metrc, with a quantity of zero.

43. According to Metrc, product from the five above-referenced packages had been combined with several other packages and distributed to processors and retailers, with 963,185 units sold totaling \$349,209.18.

44. When asked to explain how the physical product was present if it was used to make several products, Respondent's representative stated that they "had no idea."

45. Respondent could not provide the Metrc package tag number the physical material came from, nor any evidence that the physical material came from the regulated market.

Surveillance System Issues

46. During the June 26 inspection, CRA staff requested access to Respondent's surveillance system to confirm the system was compliant.

47. Respondent's director of operations, M.M., was unable to provide access to the surveillance system.

48. The following day, a CRA regulation officer (RO) completed a virtual re-inspection of Respondent's surveillance system.

49. Respondent could not provide 30 days of recordings to the RO.

50. CRA staff requested surveillance system recordings from a sampling event that occurred in Respondent's vault room from 9:30 a.m. to 11:30 a.m. on June 19, 2024.

51. Respondent provided recordings in response to the request on July 14, 2024.

52. Two camera angles from the footage showed the area where the sampling occurred.

53. Angle 1 showed employee T.T. beginning to collect samples at 10:35:23 a.m. from the boxes on the back wall of the aisleway. However, numerous blue crates in the middle storage racks of the vault room blocked the view of the majority of the sampling event.

54. Angle 2 only covers 7 minutes and 29 seconds, from 10:09:51 to 10:17:34 a.m., ending prior to the sampling event. Respondent could not produce any other footage of the sampling event from Angle 2.

COUNT 1

Respondent's actions as described above demonstrate a violation of Rule 420.103(3), which states that a marijuana processor must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the rules.

COUNT 2

Respondent's actions as described above demonstrate a violation of Rule 420.206(14), which states that when combining marijuana and marijuana product into another marijuana product, each form of marijuana and marijuana product being combined must have passing safety compliance test results in the statewide monitoring system prior to the creation of the new combined product.

COUNT 3

Respondent's actions as described above demonstrate a violation of Rule 420.209(7), which relevantly states that a licensee shall ensure each camera allows for the clear and certain identification of any person and activities in all areas required to be recorded.

COUNT 4

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

COUNT 5

Respondent's actions as described above demonstrate a violation of Rule 420.209(12), which relevantly states that surveillance recordings are subject to CRA inspection and must be kept in a manner that allows the agency to view and obtain copies immediately upon request.

COUNT 6

Respondent's actions as described above demonstrate a violation of Rule 420.210(1), which relevantly states that a marijuana business must not have marijuana products that are not identified and recorded in the statewide monitoring system.

COUNT 7

Respondent's actions as described above demonstrate a violation of Rule 420.212(1), which relevantly states that all marijuana products 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.

COUNT 8

Respondent's actions as described above demonstrate a violation of Rule 420.502(6), which states that a marijuana business shall destroy all product required to be destroyed for any reason within 90 calendar days of when the marijuana business became aware of the fact that the product must be destroyed.

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 Rule 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 Rule 420.704(1) and Rule 420.808(4). 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.

Hearing and compliance conference requests must be submitted in writing by one of the following methods, with a copy provided to the assistant attorneys general named below:

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 undersigned
assistant attorneys general.

Respectfully submitted,

/s/ Audrey E. Elzerman

Audrey E. Elzerman (P82596)
Erika N. Marzorati (P78100)
Assistant Attorneys General
Attorneys for Cannabis Regulatory
Agency
Licensing and Regulation Division
525 West Ottawa Street
P.O. Box 30758
Lansing, Michigan 48909
Telephone: (517) 335-7569
Fax: (517) 241-1997

Dated: September 4, 2024

LF: 2024-0409429-A/Exclusive Brands, LLC, ENF 24-00728/Formal Complaint 2024-09-04



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

In the Matter of

Exclusive Brands, LLC
License No(s): AU-P-000099

ENF No(s): 24-00728

_____ /

PROOF OF SERVICE

I hereby certify that on _____, I provided a copy of the
Formal Complaint dated _____ in the above captioned case
by personal service to:

Cannabis Regulatory Agency
Department of Licensing & Regulatory
Affairs

CANNABIS REGULATORY AGENCY
2407 NORTH GRAND RIVER • P.O. BOX 30205 • LANSING, MICHIGAN 48909
www.michigan.gov/cra

LARA is an equal opportunity employer/program.