

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS¹
MARIJUANA REGULATORY AGENCY**

In the Matter of

**HCM Provisioning Inc.
d/b/a Elite Wellness
License No. PC-000162**

ENF No. 19-00075 (CMP No. 19-000260)

CONSENT ORDER AND STIPULATION

CONSENT ORDER

On February 21, 2020, the Marijuana Regulatory Agency (MRA) issued a formal complaint against the medical marijuana provisioning center facility license (no. PC-000162) of HCM Provisioning Inc., d/b/a Elite Wellness (“Respondent”) under the Medical Marijuana Facilities Licensing Act (MMFLA), MCL 333.27101 *et seq.*, and administrative rules promulgated thereunder. The complaint alleged Respondent violated Mich Admin Code, R 333.236(1), R 333.236(2), R 333.238(1), and R 333.274(3).

The executive director reviewed the stipulation contained in this document and agrees the public interest is best served by resolution of the complaint. Therefore, the executive director finds that the allegations contained in the complaint are true and that Respondent violated Mich Admin Code, R 333.236(1), R 333.236(2), R 333.238(1), and R 333.274(3).

¹ Executive Reorganization Order 2019-2 created the Marijuana Regulatory Agency (MRA) as a Type I agency within the Department of Licensing and Regulatory Affairs (LARA). MCL 333.27001(1)(a), (d). The MRA exercises its statutory powers, duties, and functions independent of LARA’s direction. MCL 16.103.

Accordingly, for these violations, IT IS ORDERED:

1. Respondent must pay a fine in the amount of four thousand and 00/100 dollars (\$4,000.00). This fine shall be paid within 30 days of the effective date of this order by check or money order made payable to the State of Michigan with enforcement number "19-00075" clearly displayed on the check or money order. Respondent shall mail the fine to Department of Licensing and Regulatory Affairs, Marijuana Regulatory Agency, P.O. Box. 30205, Lansing, Michigan 48909, or Respondent may pay online through the Accela Citizen Access Portal (<https://aca3.accla.com/MIMM>).
2. If Respondent fails to timely pay the fine, Respondent's license shall be suspended until payment is received.
3. Unless otherwise specified in this order, Respondent shall direct any communications to the MRA that are required by the terms of this order to MRA-LegalHearings@michigan.gov.
4. Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.
5. If Respondent violates any term or condition set forth in this order, Respondent will be subject to fines and/or other sanctions under section 407(1) of the MMFLA, MCL 333.27407(1), and Mich Admin Code, R 333.219.

This order shall be effective on the date signed by the MRA's executive director or his designee, as set forth below.

MARIJUANA REGULATORY AGENCY

Signed on: 6/8/2020

By: Andrew Brisbo
Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
brisboa@michigan.gov C = US O = MRA
Date: 2020.06.08 15:16:10 -0400'
Andrew Brisbo, Executive Director
Marijuana Regulatory Agency

STIPULATION

The parties stipulate to the following:

1. The facts alleged in the complaint are true and constitute a violation of the rules promulgated under the MMFLA.
2. Respondent understands and intends that by signing this stipulation, Respondent is waiving the right under the MMFLA, rules promulgated thereunder, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to require the MRA to prove the charges set forth in the complaint by presentation of evidence and legal authority and to present a defense to the charges.
3. The parties considered the following in reaching this agreement:
 - a) Respondent states that the violations in paragraphs 7(a) through 7(c) of the complaint occurred in September 2019, approximately one month after Respondent resumed operations after an extended shut-down. Respondent represents that it corrected the errors promptly after they were brought to its attention.
 - b) Respondent states that its third-party point-of-sale software has a drop-down menu showing other licensees that use the same software. Respondent represents that the violation in paragraph 7(d) of the complaint resulted from a clerical error in which a tag for an a different facility in Bangor, Michigan, that had shatter with the same name was mistakenly printed instead of the tag for HCM Provisioning. Respondent states that it has since trained its employees to be extra careful when printing tags and to have someone double-check the tags.
 - c) Respondent was cooperative and wishes to resolve the allegations without the need for and expense of an administrative hearing.

4. The MRA's Enforcement Division director or her designee must approve this proposed agreement before it is forwarded to the MRA's executive director or his designee for review and issuance of the above consent order. The parties reserve the right to proceed to an administrative hearing without prejudice to either party, should the MRA's Enforcement Division director, executive director, or their designees reject the proposed consent order.

By signing this stipulation, the parties confirm that they have read, understand, and agree with the terms of the consent order.


AGREED TO BY:

Kavita Kale
Digitally signed by: Kavita Kale
DN: CN = Kavita Kale email = kalek@michigan.gov
C= US
Date: 2020.06.08 14:58:42 -04'00'

Kavita Kale
Enforcement Division Director
Marijuana Regulatory Agency
Dated: 06/08/2020

/s/ Erika N. Marzorati
Erika N. Marzorati (P78100)
Assistant Attorney General
Attorney for Complainant
Dated: 6/8/2020

AGREED TO BY:


Chad Wurtzel, Authorized Officer
On behalf of Respondent
HCM Provisioning Inc.,
d/b/a Elite Wellness
Dated: 6/8/2020

Jacqueline Langwith
Jacqueline Langwith (P79600)
Attorney for Respondent
Dated: 06-08-2020

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

In the Matter of

HCM Provisioning Inc. d/b/a Elite Wellness
ERG No. 000245
License No. PC-000162
ENF No. 19-00075

CMP No. 19-000260

FORMAL COMPLAINT

The Marijuana Regulatory Agency (“Complainant”) files this formal complaint against HCM Provisioning Inc. d/b/a Elite Wellness (“Respondent”) alleging upon information and belief as follows:

1. The Marijuana Regulatory Agency (MRA) is authorized under the Medical Marijuana 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 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 MMFLA or rules.

2. Section 402(12) of the MMFLA provides that the expiration of a license does not terminate the MRA’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 marijuana facility operations.

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

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FACTUAL ALLEGATIONS AND INTENDED ACTION OF THE MRA

5. Respondent holds a valid state operating license under the MMFLA to operate a medical marijuana provisioning center in the state of Michigan.

6. Respondent operated a medical marijuana provisioning center at 9424 North Dort Highway, Mt. Morris, Michigan, at all times relevant to this complaint.

7. Following an investigation on September 18, 2019, the MRA determined that Respondent violated the MMFLA and/or the administrative rules promulgated thereunder as set forth below:

- a. The MRA observed marijuana product on the premises (packaged cannisters of “caviar pre-rolls utilizing shake”) that was not entered into the statewide monitoring system (METRC). Respondent’s employee admitted to MRA that this product had been sold. Thus, Respondent possessed and sold marijuana products not identified or recorded in METRC in violation of Mich Admin Code R 333.236 (1).
- b. The MRA observed marijuana product (a cannister labeled as “Elite Cannon-Elite Wellness (Mt. Morris)”) without a METRC tag affixed to it. Respondent failed to immediately tag, identify, or record as part of a batch in the statewide monitoring system as provided in the administrative rules in violation of Mich Admin Code R 333.236 (2).
- c. The MRA observed marijuana product (a cannister labelled as “Premium Cavi Stick 1g- Elite Wellness (Mt. Morris) - PC-000162 tag ending in 095”). However, in METRC the product was identified as “tag 1A405010000177100000095 FIRE SHAKE 175.” Respondent had marijuana product at its facility that was improperly identified and not tracked consistently under the act or the administrative rules in violation of Mich Admin Code R 333.238 (1).
- d. The MRA observed a case filled with shatter that contained at least one product with METRC tag# 1A4050100000643000000813. According to METRC, that product was supposed to be at Respondent’s Bangor, MI location and not its Mt. Morris location. Respondent failed to enter all current inventory into METRC in violation of Mich Admin Code R 333.274 (3).

THEREFORE, based on the above, the MRA gives notice of its intent to impose fines and/or other

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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 333.29494(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 333.294(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 the administrative 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
Lansing, Michigan 48909

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

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: 02/21/2020

MARIJUANA REGULATORY AGENCY

By: 
Kavita Kale, Enforcement Division Director

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In the Matter of

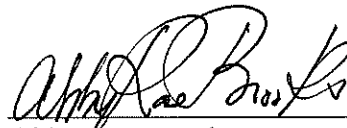
HCM Provisioning Inc. d/b/a Elite Wellness
ERG No. 000245
ENF No. 19-00075
License No. PC-000162

CMP No. 19-000260

PROOF OF SERVICE

I hereby certify that on the date below, I mailed a copy of the Formal Complaint dated February 21, 2020, the above captioned case by certified mail (return receipt requested) to:

HCM Provisioning, Inc.
c/o Pollicella & Associates, PLLC, Resident Agent
4312 East Grand River Avenue
Howell, MI 48843



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