

Mr. Michael F. McCarthy
27329 Rest Circle
Easton, MD 21601
Grower-Agent License No. G-000008

Date: 26 July 2019

Mr. Brian Lopez, Chairman
Maryland Medical Cannabis Commission
849 International Drive, 4th Floor
Linthicum, MD 21090

Re: Surrender of grower's permit
Grower-Agent License No. G-000008
Case No. 18-00013

Dear Mr. Lopez and Commissioners:

I agree to voluntarily **SURRENDER** the Grower-Agent License, **no. G-000008**, previously issued to me by the Maryland Medical Cannabis Commission ("Commission"). I previously gave my Grower-Agent identification card to ForwardGro, LLC ("ForwardGro") in order for ForwardGro to return my identification card to the Commission. I do not currently possess any Grower-Agent identification card or renewal certificate issued by the Commission, nor do I possess any copy or duplicate of such identification card or certificate. I understand that as a result of this voluntary surrender of my Grower-Agent License I am no longer permitted to work as a grower-agent for any grower or in any medical cannabis growing facility, with or without compensation, as it is defined in the Natalie M. LaPrade Medical Cannabis Commission Act ("Act"), Md. Code Ann., Health – General Article § 13-3301 *et seq.*, and the Commission's regulations, Code Regs. Md. ("COMAR") § 10.62.01 *et seq.* In other words, as of the effective date of this Letter of Surrender, I understand that I am in the same position as a person who is not registered by the Commission as a grower-agent.

I understand that this Letter of Surrender shall become a **PUBLIC** document and shall become effective on the date of the Commission's acceptance of this Letter of Surrender as a **FINAL ORDER** by the Commission. I agree that this letter may be released or published by the Commission as a final decision and order under the Public Information Act, Md. Code Ann., Gen. Prov., §§ 4-101, *et seq.* (2014, 2018 Supp.).

My decision to surrender my Grower-Agent License has been prompted by the Commission's investigation of ForwardGro, the company where I worked as a grower-agent and Chief Executive Officer. I wish to make it clear that I have voluntarily, knowingly and freely chosen to submit this Letter of Surrender. I acknowledge that if this matter had proceeded to an administrative hearing, the Office of the Attorney General would present legally sufficient evidence to prove by a preponderance of the evidence that I violated the provisions of the Act and

corresponding regulations, based on the following facts:

On or about July 2, 2018, the Commission received a complaint alleging that ForwardGro's employer used certain unauthorized crop protection agents in its cultivation practices. The complaint included three (3) affidavits from former employees who worked in ForwardGro's cultivation facility prior to July 2018 and prompted the Commission and Maryland Department of Agriculture to inspect ForwardGro's grower facility beginning in July 2018. The Commission's investigation also included seventeen (17) witness interviews of former and current employees, managers, and owners of ForwardGro.

In its investigation, the Commission also obtained Standard Operating Procedures ("SOPs") relevant to cultivation processes and procured documents and other items related to the purchase and use of unauthorized crop protection agents. The investigation revealed that powdery mildew and unwanted insects were persistent problems at ForwardGro's facility. The investigation further revealed that ForwardGro's SOPs included an Integrated Pest Management system to deal with unwanted pests, but those SOPs did not address the use of any artificial crop protection agents.

The Maryland Department of Agriculture inspected ForwardGro's greenhouses on July 3, 2018 and July 9, 2018 and took samples of its crop to test for the presence of unauthorized crop protection agents.

In an interview with the Commission's investigators, Grower-Agent James Austin Insley stated that in concert with former Chief Executive Officer Michael McCarthy, and Grower-Agent [REDACTED], he applied unauthorized crop protection agents. McCarthy reimbursed Insley for purchasing these crop protection agents. Insley further stated that he and McCarthy applied some of these crop protection agents on several workday mornings before other grower-agents reported to work.

As of July 7, 2018, the Maryland Department of Agriculture began permitting the use of some, but not all, of the unauthorized crop protection agents used at ForwardGro's facility. Nonetheless, such unauthorized crop protection agents were prohibited under applicable statutes and regulations at the time of the Commission's investigation.

I, Michael F. McCarthy, understand that based on the evidence collected, including Insley's statements, I would have faced administrative charges pursuant to the following regulations:

10.62.11.02 Standard Operating Procedures.

A licensee shall establish written standard operating procedures to promote good growing and handling practices including:

...

C. Requiring that all registered grower agents practice good hygiene and wear protective clothing as necessary to protect the product as well as themselves from exposure to potential contaminants.

10.62.34.01 Operational Failure Risking Diversion or Endangering Health.

In the event the Commission finds there is a reasonable likelihood of diversion, contamination of medical cannabis, or any risk to the health of a patient or any other individual, after written notice and a hearing in accordance with the State Government Article, §§10-201—10-226, Annotated Code of Maryland, the Commission may:

...

- C. Suspend the license, licensee, agent, employee, registration or registrant;
- or
- D. Revoke the licenses, licensee, agent, employee, registration or registrant.

I further understand that by executing this Letter of Surrender I am waiving any right to contest any charges that may have issued from the Commission's investigative findings and may have been prosecuted in a formal evidentiary hearing at which I would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf and all other substantive and procedural protections provided by law, including the right to appeal.

I understand that in response to any inquiry, the Commission will advise that I surrendered my Grower-Agent License in lieu of disciplinary action under applicable provisions of the Act and COMAR as a resolution of the matters pending against me. I also understand that, in the event that I apply for licensure in any form in any other state or jurisdiction, that this Letter of Surrender, and all underlying documents, may be released or published by the Commission to the same extent as a Final Order that would result from disciplinary action pursuant to Md. Code Ann., State Gov't § 10-611 *et seq.* (2014 Repl. Vol., 2018 Supp.). Finally, I understand that this Letter of Surrender is considered a disciplinary action by the Commission.

I acknowledge that my Grower-Agent identification card and renewal certificates, including any copies or duplicates, are property of the Commission and that I have, through ForwardGro's agents, returned them to the Commission.

In the event that I apply for reinstatement of my Grower-Agent License, I understand that the Commission is not required to grant reinstatement. Should the Commission ever grant reinstatement, it may impose any terms and conditions the Commission considers appropriate. I understand that should I apply for reinstatement, I will approach the Commission in the same posture as one whose grower agent license has been revoked. I also understand that if I apply for reinstatement, I bear the burden of demonstrating that I meet the qualifications for licensure to the satisfaction of the Commission.

I acknowledge that I may not rescind this Letter of Surrender in part or in its entirety for any reason whatsoever. Finally, I wish to make clear that I have had the opportunity to consult an attorney before signing this Letter of Surrender. I fully understand both the nature of the

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Michael F. McCarthy
Grower-Agent I.D. No. G-000008; Case No. 18-00013

Commission's actions and this Letter of Surrender. I acknowledge that I understand and comprehend the language, meaning and terms and effect of this Letter of Surrender. I make this decision knowingly and voluntarily.

Sincerely,

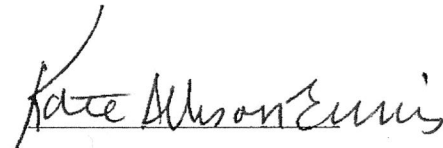
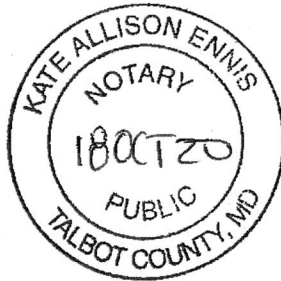


Michael F. McCarthy

NOTARY SEAL

STATE OF Maryland
CITY/COUNTY: Talbot

I HEREBY CERTIFY that on this 24 day of July, 2019, before me, a Notary Public of the State and City/County aforesaid personally appeared Michael F. McCarthy and declared and affirmed under the penalties of perjury that signing the foregoing Letter of Surrender was his voluntary act and deed.




Notary Public

Letter of Surrender
Michael F. McCarthy
Grower-Agent I.D. No. G-000008; Case No. 18-00013

ACCEPTANCE

On behalf of the Maryland Medical Cannabis Commission, on this 26 day of September, 2019, I accept Michael F. McCarthy's **PUBLIC SURRENDER** of his Grower-Agent License.


Brian Lopez, Chairman
Maryland Medical Cannabis Commission