

IN THE MATTER OF	*	BEFORE THE
TEMESCAL WELLNESS	*	MARYLAND MEDICAL
d.b.a. The Evermore Cannabis Company	*	CANNABIS COMMISSION
Respondent	*	
	*	
License No. G-17-00007	*	Case No. 21-00374
* * * * *		* * * * *

PRE-CHARGE CONSENT ORDER

Pursuant to the Natalie LaPrade Medical Cannabis Commission Act (the “Act”), codified at Md. Code Ann., Health-Gen. §§ 13-3301 - 13-3316 (2015 Repl. Vol. and 2018 Supp.), the Maryland Medical Cannabis Commission (the “Commission” or “MMCC”) issued a Letter of Noncompliance to Temescal Wellness (“Respondent”), license number **G-17-00007**, on December 16, 2021 and required that Respondent submit a Plan of Correction to the Commission within 10 days and pay a fine within 30 days. The Letter of Noncompliance also advised Respondent that failure to comply with the same would result in formal charges against Respondent’s license.

On December 21, 2021, Respondent requested a hearing in this matter. On December 27, 2021, Respondent submitted a narrative and revised Plan of Correction to the Commission along with supporting documentation.

On February 9, 2022, the parties participated in a Case Resolution Conference. Thereafter, Respondent and the Commission agreed to resolve this matter as forth herein in lieu of proceeding to formal charges and an evidentiary hearing.

The pertinent provision of the Act is as follows:

Health-Gen. § 13-3306

(e) The Commission shall establish requirements for security and the manufacturing process that a grower must meet to obtain a license under this section, including a requirement for a product-tracking system.

The pertinent provisions of the Code of Maryland Regulations (“COMAR”) are as follows:

10.62.12.02 Inventory Control System.

(A). A licensee shall enter timely and accurate data into a perpetual inventory control system that identifies and tracks the licensee’s stock of medical cannabis from the time the medical cannabis is propagated from seed or cutting to the time it is delivered to a licensed dispensary, a licensed processor, or a qualifying patient or caregiver.

10.62.12.04 Plant Tagging and Entry into Inventory Control.

A. For each plant, as soon as practical, a licensee shall:

- (1) Create a unique identifier for each plant;
- (2) Assign each plant to a batch;
- (3) Enter information regarding the plant into the inventory control system;
- (4) Create a tag with the unique identifier and batch number; and
- (5) Securely attach the tag to a plant container or plant.

FINDINGS OF FACT

The parties agree to the following:

1. At all times relevant hereto, Temescal Wellness of Maryland, LLC (d.b.a. The Evermore Cannabis Company “Evermore”) was licensed by the Commission to operate a medical cannabis grower facility in Baltimore, Maryland under license number G-17-00007.
2. Respondent was initially awarded a license on August 14, 2017.
3. On October 11, 2021, a Commission investigator conducted an unannounced inspection at Respondent’s facility.

4. As part of the inspection, the investigator completed an inventory plant count in a room designated as Vegetative Room 2. The count was conducted using the Alien RFID¹ gun Model ALR-460, serial# CW1907010248, which is able to capture the signal from all of the RFID tags in the room in order to achieve an accurate count.
5. Vegetative Room 2 contains mature plants which are approximately 3' to 4' tall.
6. COMAR and METRC requirements provide that all plants 8" or taller must have an RFID tag firmly affixed to each plant. COMAR 10.62.12.04.
7. METRC's records indicated 514 total plants had been entered by Respondent into its inventory for this room.
8. However, when the investigator used the RFID gun to capture the number of plants in Vegetative Room 2, the gun indicated 512 of the 514 plants were present.
9. During the inspection, Respondent's agents were not able to locate the two missing plants.
10. According to METRC records, the missing plant strains are Deadband and had been tagged with METRC numbers 1A40300000000CB000056601 and 1A40300000000CB000056602.
11. Each tag issued by METRC is bright yellow in color and contains a unique RFID in order to track the product from seed to sale.
12. Respondent asserts that after the inspection its staff located the two missing plants in its nearby propagation room.
13. In Vegetative Room 2, the investigator also noted that there were three untagged plants.

¹ RFID refers to radio-frequency identification which uses electromagnetic fields to automatically identify and track tags attached to plants.

14. Maintaining three mature plants without RFID tags could lead to potential public health risks due to the inability to identify the plants.
15. The investigator requested that Respondent's agents remove and isolate the untagged plants from the grow table since the plants could not be properly identified or tracked without their unique tags.
16. On October 12, 2021, the investigator directed Jared Surdin, Vice President for Operations and Compliance, to green waste all three (3) untagged plants under video and send him the video and the corresponding green waste log.
17. Mr. Surdin complied with this directive and forwarded the video showing the destruction of the three untagged plants on October 12, 2021.
18. The Commission issued a Letter of Noncompliance to Respondent on December 16, 2021, which required submission of a Commission of a Plan of Correction within 10 days and payment of a fine within 30 days.

Respondent submitted a revised Plan of Correction on December 27, 2021, which was deemed satisfactory by the Commission, but opted not to pay the fine and instead requested a hearing. Respondent's Plan of Correction asserts that after the inspection, Respondent located the plants in the Propagation Room. Although Respondent had indicated in METRC that the plants numbers 1A40300000000CB000056601 and 1A40300000000CB000056602 had been moved from the Propagation Room to the Vegetative Room 2, the plants had not been physically relocated. Respondent asserts that the plants were left in the Propagation Room because they were ultimately designated as "mother plants."
19. Respondent further asserts:

(i) that during the inspection, Respondent offered to either immediately tag or green waste the three (3) untagged plants and green wasted them as soon as instructed by the investigator; and

(ii) Evermore has a record of consistent compliance.

20. Respondent's failure to properly maintain an accurate inventory of all of its plants is a violation of COMAR 10.62.12.02
21. Respondent's failure to properly maintain RFID tags on each of its plants in inventory is a violation of COMAR 10.62.12.04.
22. Pursuant to the Commission's Guidelines for Civil Penalties, the maximum fine for *each* violation of COMAR 10.62.12.02 is \$2,000.
23. Pursuant to the Commission's Guidelines for Civil Penalties, the maximum fine for *each* violation of COMAR 10.62.12.04 is \$1,000.
24. The Commission considered Respondent's willingness to immediately green waste the untagged plants and its cooperation with the Commission in agreeing to the reduced fine set forth herein.

CONCLUSIONS OF LAW

25. Respondent violated COMAR 10.62.12.02 in at least two instances by failing to properly identify the room in which plants 1A40300000000CB000056601 and 1A40300000000CB000056602 were located.
26. Further, Respondent violated COMAR 10.62.12.04 in at least three instances by maintaining three mature plants without their unique RFID tags.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, by an affirmative vote of a quorum of the Commission, it is hereby

ORDERED that Respondent's license shall be and is hereby placed on **PROBATION** for 20 days from the date of this Consent Order; and be it further

ORDERED that Respondent shall pay a penalty in the amount of **\$4,450** directly to the Commission's Compassionate Use Fund within 10 days of the date of this Order; and be it further

ORDERED that Respondent's grow room staff provide the Commission with proof of completion of a METRC course related to RFID tagging and/or plant inventory within 20 days of the date of this Order and be it further

ORDERED that failure to comply with the terms of this Order shall constitute a violation of Health-Gen. § 13-3306(g) and shall result in a summary suspension of Respondent's license with a post-deprivation show cause hearing to be held within 10 days of the summary suspension; and be it further

ORDERED that upon Respondent's successful and timely completion of the terms set forth herein and if there are no current matters pending against Respondent's license, Respondent's Probation shall be **TERMINATED**; and be it further

ORDERED that Respondent shall be responsible for the costs associated with complying with this Order; and it is further

ORDERED that this Consent Order is a PUBLIC DOCUMENT pursuant to Md. Code Ann., Gen. Prov. §§ 4-401 et seq. (2014, 2018 Supp.).

03/14/2022

Date



Tiffany Randolph, Interim Chair


CONSENT

I, Craig Schulman, am the Chairman + CEO of Temescal Wellness, LLC, d.b.a. The Evermore Cannabis Company and have legal authority to enter into this agreement on behalf of Temescal Wellness, LLC (hereinafter "Respondent"). Respondent acknowledges that it has had the opportunity to seek advice of counsel in this matter. By this Consent, Respondent agrees and accepts to be bound by this Consent Order and its conditions and restrictions. Respondent waives any rights it may have had to contest the Findings of Fact and Conclusions of Law.

Respondent acknowledges the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which the Respondent would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its own behalf, and to all other substantive and procedural protections as provided by law. Respondent acknowledges the legal authority and the jurisdiction of the Commission to initiate these proceedings and to issue and enforce this Consent Order. Respondent also affirms that it is waiving its right to appeal any adverse ruling of the Commission that might have followed any such hearing.

I sign this Consent Order with authority on behalf of Respondent after having had the opportunity to consult counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Consent Order and understand its meaning and effect.

03/02/2022
Date



Representative for Respondent
Craig R. Schulman

NOTARY

STATE OF Maryland

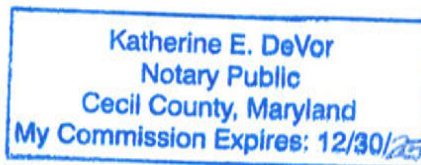
CITY/COUNTY OF: Cecil

I HEREBY CERTIFY that on this 2nd day of March, 2022, before me, a Notary Public of the State and County aforesaid, personally appeared Cecilia Schulman, on behalf of The Evermore Cannabis Company, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Katherine E. DeVor

Notary Public



My commission expires: 12/30/25