

1 **BEFORE THE CANNABIS COMPLIANCE BOARD**  
2 **STATE OF NEVADA**

3 STATE OF NEVADA, CANNABIS  
4 COMPLIANCE BOARD,

Case No. 2020-15

5 Petitioner,

6 vs.

7 BRIAN NICKELOS PORRAS,

8 Respondent.  
9

10 **COMPLAINT FOR DISCIPLINARY ACTION**

11 The Cannabis Compliance Board of the State of Nevada (the "CCB"), by and through  
12 counsel, Aaron D. Ford, Attorney General of the State of Nevada, L. Kristopher Rath, Esq.,  
13 Senior Deputy Attorney General, and Ashley A. Balducci, Esq., Senior Deputy Attorney  
14 General, having a reasonable basis to believe that Respondent Brian Nickelos Porras  
15 ("Porras" or "Respondent") has violated provisions of Chapters 453A and 453D of the  
16 Nevada Revised Statutes ("NRS") and Chapters 453A and 453D of the Nevada  
17 Administrative Code ("NAC"), hereby issues its Complaint, stating the CCB's charges and  
18 allegations as follows:

19 **JURISDICTION**

20 1. Porras currently holds the following cannabis establishment agent  
21 registration card: (dispensary) 1900030179. The aforementioned cannabis establishment  
22 agent registration card in this Paragraph shall hereinafter be referred to as the "Current  
23 Agent Card." The Current Agent Card expires on April 13, 2021.

24 2. Porras previously held the following cannabis establishment agent  
25 registration cards:

26

Number	Establishment Category	Role	Application Date	Expiration Date
1800008777	Production	Employee	10/12/2018	10/11/2019

27  
28

1900010998	Dispensary	Employee	4/17/2019	4/16/2020
1900011629	Cultivation	Employee	4/29/2019	4/28/2020

The aforementioned cannabis establishment agent registration cards in this Paragraph shall hereinafter be referred to as the “Prior Agent Cards.”

3. In the application for the Prior Agent Cards, Porrás signed the “Applicant Dispense/Divert Pledge Form” and pledged “not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with provisions of Nevada Revised Statute 453A and/or NRS 453D.”

4. Laws 2019, c. 595, § 240, eff. July 1, 2020, states, in pertinent part, as follows:

1. The administrative regulations adopted by the Department of Taxation pursuant to chapters 453A and 453D of NRS governing the licensing and regulation of marijuana establishments and medical marijuana establishments remain in force and are hereby transferred to become the administrative regulations of the Cannabis Compliance Board on July 1, 2020. On and after July 1, 2020, these regulations must be interpreted in a manner so that all references to the Department of Taxation and its constituent parts are read and interpreted as being references to the Cannabis Compliance Board and its constituent parts, regardless of whether those references have been conformed pursuant to section 244 of this act at the time of interpretation...

3. Any action taken by the Department of Taxation or its constituent parts pursuant to chapter 453A and 453D of NRS governing the licensing and regulation of marijuana establishments and medical marijuana establishments before July 1, 2020, remains in effect as if taken by the Cannabis Compliance Board or its constituent parts on and after July 1, 2020.

5. Effective July 1, 2020, and pursuant to NRS 678A.350, the CCB superseded the Marijuana Enforcement Division of the Department of Taxation (the “Department”) in enforcing Nevada’s laws and regulations for the cannabis industry.

6. As set forth below, the events at issue in this Complaint occurred prior to July 1, 2020, when Porrás held the following Prior Agent Cards<sup>1</sup> pursuant to NRS Chapters 453A and 453D and NAC Chapters 453A and 453D. Therefore, Porrás is subject to the

<sup>1</sup> Prior to July 1, 2020, cannabis establishment agent registration cards were known as marijuana establishment agent registration cards.

1 jurisdiction of the CCB and subject to discipline pursuant to NRS 678A through 678D and  
2 the relevant provisions of NRS Chapters 453A and 453D and NAC 453A and 453D.  
3 Violations are referenced herein to the statutes and regulations in effect at the time each  
4 said violation occurred.

5 7. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director  
6 has transmitted the details of the suspected violations of Porrás to the Attorney General  
7 and the Attorney General has conducted an investigation of the suspected violations. The  
8 Attorney General has recommended to the Executive Director that further proceedings are  
9 warranted, as set forth in this Complaint. Pursuant to NRS 678A.510(2)(b), the CCB has  
10 authorized service of this Complaint pursuant to NRS 678A.510(1) to proceed with the  
11 appropriate disciplinary action under NRS 678A.520 through 678A.600.

#### 12 **FACTUAL ALLEGATIONS**

13 8. CCB incorporates all prior Paragraphs as though fully set forth herein.

14 9. On March 8, 2019, the Department's Inspectors Kimberly Wayman  
15 ("Inspector Wayman") and Elizabeth Perez ("Inspector Perez") conducted an inspection at  
16 a cannabis establishment located at 1324 South 3rd Street, North Las Vegas, Nevada  
17 89104 ("dispensary") after the Department received an anonymous complaint alleging the  
18 unauthorized breakdown of cannabis flower in an employee breakroom at a dispensary.<sup>2</sup>

19 10. During this inspection, Wayman and Perez reviewed and obtained sign-in  
20 sheets for visitors. According to the visitor sign-in sheets, from 4:55 p.m. to 6:00 p.m., on  
21 February 21, 2019, Porrás visited the dispensary for "inventory." The visitor sign-in sheets  
22 showed that Porrás returned on February 22, 2019, from 5:55 p.m. to 6:20 p.m. for  
23 "inventory." Inspectors Wayman and Perez requested video surveillance of the dispensary's  
24 employee breakroom for February 21, 2019 and February 22, 2019.

25 11. On February 21, 2019 and February 22, 2019, Porrás' Prior Agent Cards only  
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27 <sup>2</sup> NAC 453D.446(1)(d) provides that "[i]f preparation or packaging of concentrated  
28 marijuana and marijuana products is done in the building, a designated area for the  
preparation or packaging that: (1) Includes work space that can be sanitized; and (2) Is only  
used for the preparation or packaging of concentrated marijuana or marijuana products."

1 authorized him to work or volunteer in a production facility and not a dispensary. The  
2 Department did not approve Porrás's application for a marijuana establishment agent card  
3 to work or volunteer in a dispensary until after April 17, 2019.

4 12. The Department's Compliance Audit Investigator II Shandon Snow  
5 ("Investigator Snow") reviewed the video surveillance and observed Porrás along with Alex  
6 Rodríguez, William Giron, and Alicia Castile separate cannabis flower in an employee  
7 break room at the dispensary on February 21, 2019. The video surveillance also showed  
8 Porrás put a bag of the cannabis flower in his pocket.

### 9 **VIOLATIONS OF LAW**

10 13. CCB incorporates all prior Paragraphs as though fully set forth herein.

11 14. As to the Prior Agent Cards and Current Agent Card, Respondent violated  
12 NAC 453D.348(2) and NAC 453D.905(3)(e)(1) for failing to have in the immediate  
13 possession a marijuana establishment agent registration card or proof of temporary  
14 registration to work or volunteer in a dispensary on February 21, 2019. Because Porrás  
15 only had marijuana establishment registration card to work or volunteer at a production  
16 facility, this is a Category IV violation under NAC 453D.905(3)(e)(1). The first Category IV  
17 violation carries a fine of not more than \$1,250.

18 15. As to the Prior Agent Cards and Current Agent Card, Respondent knowingly  
19 violated NAC 453D.365(3)(a) by diverting marijuana product when video surveillance  
20 showed Porrás put a bag of the cannabis flower he separated in his pocket on February 21,  
21 2019. The Department may revoke a marijuana establishment agent card pursuant to NAC  
22 453D.365(3)(a) and NAC 453D.354(4). Alternatively, should the CCB find that Respondent  
23 unknowingly diverted marijuana product, then Respondent violated NAC  
24 453D.905(3)(d)(19). This is a Category III violation. The first Category III violation carries  
25 a fine of not more than \$2,500.

### 26 **DISCIPLINE AUTHORIZED**

27 16. Pursuant to the provisions of NRS 678A.600, NRS 678D.450, NRS 453D.228,  
28 NAC 453A.348, NAC453A.350, NAC 453D.365, NAC 453D.900, and NAC 453D.905, the

1 CCB has the discretion to impose the following disciplinary actions:

- 2 1. Revoke the Prior Agent Cards and Current Agent Card;
- 3 2. Suspend the Current Agent Card;
- 4 3. Impose a civil penalty of not more than \$35,000 for each separate violation of
- 5 Chapter 453D on the Prior Agent Cards and Current Agent Card; and
- 6 4. Take such other disciplinary action as the CCB deems appropriate.

7 The CCB may order one or any combination of the discipline described above.

### 8 **RELIEF REQUESTED**

9 Based on the foregoing, counsel for the CCB respectfully requests the CCB impose  
10 civil penalties against Porrás in the amount of \$1,250 for violating NAC 453D.348(2) and  
11 NAC 453D.905(3)(e)(1) on February 21, 2019. Pursuant to NAC 453D.940(8)(a) and NCCR  
12 4.030(1)(b), counsel for the CCB respectfully requests a determination from CCB that  
13 Porrás be barred from applying for any cannabis establishment agent registration cards for  
14 9 years and 11 months following the imposition of revocation of his Prior Agent Cards. The  
15 CCB further reserves its rights to seek additional costs incurred as this matter proceeds  
16 through hearing and rehearing, if applicable.

### 17 **NOTICE TO RESPONDENT**

18 **PLEASE TAKE NOTICE**, that Respondent has a right to request a hearing on the  
19 charges set forth herein, pursuant to NRS 678A.510 through 678A.590. **Failure to**  
20 **demand a hearing constitutes a waiver of the right to a hearing and to judicial**  
21 **review of any decision or order of the Board, but the Board may order a hearing**  
22 **even if the respondent so waives his or her right.** NRS 678A.520(2)(e).

23 **PLEASE TAKE NOTICE**, that Respondent must answer this Complaint  
24 **within 20 days after service of this Complaint**, unless granted an extension. Pursuant  
25 to NRS 678A.520(2), in the answer Respondent:

- 26 (a) Must state in short and plain terms the defenses to each claim asserted.
- 27 (b) Must admit or deny the facts alleged in the complaint.

1 (c) Must state which allegations the respondent is without knowledge or information  
2 form a belief as to their truth. Such allegations shall be deemed denied.

3 (d) Must affirmatively set forth any matter which constitutes an avoidance or  
4 affirmative defense.

5 (e) May demand a hearing. **Failure to demand a hearing constitutes a waiver**  
6 **of the right to a hearing and to judicial review of any decision or order of**  
7 **the Board**, but the Board may order a hearing even if the respondent so waives his  
8 or her right.

9 **Failure to answer or to appear at the hearing constitutes an admission by**  
10 **the respondent of all facts alleged in the Complaint. The Board may take action**  
11 **based on such an admission and on other evidence without further notice to the**  
12 **respondent. NRS 678A.520(3).**

13 The Board shall determine the time and place of the hearing as soon as is reasonably  
14 practical after receiving the respondent's answer. The Board shall deliver or send by  
15 registered or certified mail a notice of hearing to all parties at least 10 days before the  
16 hearing. The hearing must be held within 45 days after receiving the respondent's answer  
17 unless an expedited hearing is determined to be appropriate by the Board, in which event  
18 the hearing must be held as soon as practicable. NRS 678A.520(4).

19 Respondent's Answer and Request for Hearing must be either: mailed via registered  
20 mail, return receipt; or delivered in person; or emailed to:

21 Tyler Klimas, Executive Director  
22 Cannabis Compliance Board  
23 555 E. Washington Avenue, Suite 4100  
24 Las Vegas, Nevada 89101  
25 [tklimas@ccb.nv.gov](mailto:tklimas@ccb.nv.gov)

26 If served by email, Respondent must ensure that it receives an acknowledgement of receipt  
27 email from CCB as proof of service.

28 As RESPONDENT, you are specifically informed that you have the right to appear  
and be heard in your defense, either personally or through your counsel of choice at your  
own expense. At the hearing, the CCB has the burden of proving the allegations in the

1 Complaint, although any failure on your part to maintain any documents, records,  
2 surveillance video, and/or any other items required pursuant to the relevant statutes and  
3 regulations shall create a rebuttal presumption that such items would be harmful to your  
4 case. The CCB will call witnesses and present evidence against you. You have the right to  
5 respond and to present relevant evidence and argument on all issues involved. You have  
6 the right to call and examine witnesses, introduce exhibits, and cross-examine opposing  
7 witnesses on any matter relevant to the issues involved.

8 You have the right to request that the CCB issue subpoenas to compel witnesses to  
9 testify and/or evidence to be offered on your behalf. In making this request, you may be  
10 required to demonstrate the relevance of the witness's testimony and/or evidence.

11 If Respondent does not wish to dispute the charges and allegations set forth herein,  
12 within 30 days of the service of this Complaint, Respondent may pay the civil penalties set  
13 forth above in the total amount of \$1,250 and surrender the Prior Agent Cards and Current  
14 Agent Card to:

15 Tyler Klimas, Executive Director  
16 Cannabis Compliance Board  
17 555 E. Washington Avenue, Suite 4100  
18 Las Vegas, Nevada 89101

19 YOU ARE HEREBY ORDERED to immediately cease the activity described above  
20 which is a violation of Nevada law.

21 DATED: August 25, 2020.

22 STATE OF NEVADA,

23 By: 

24 Tyler Klimas, Executive Director  
25 555 E. Washington Avenue, Suite 4100  
26 Las Vegas, Nevada 89101  
27 (702) 486-2300

28 AARON D. FORD  
Attorney General

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