

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

3 STATE OF NEVADA, CANNABIS
4 COMPLIANCE BOARD,

Case No. 2020-017

5 Petitioner,

6 vs.

7 POLARIS WELLNESS CENTER, LLC,



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 POLARIS WELLNESS
15 CENTER, LLC ("Polaris" or "Respondent") has violated provisions of Chapters 453A and
16 453D of the 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. During all relevant times mentioned in this Complaint, Polaris held, and
21 currently holds, the following relevant certificates and licenses:

22 ID	License/Certificate	Last Issued /	Address
		Renewed	
24 C168	Medical Cultivation	7/1/2020	
25	57597687622179016039		
26 RC168	Adult-use Cultivation	7/1/2020	
27	52625545245998432280		

1 2. During all relevant times mentioned in this Complaint, Polaris is and was
2 registered as a domestic limited liability company in the State of Nevada. According to
3 current information from the Nevada Secretary of State, the following persons and entity
4 are the managers for Polaris: Strategic Resourcing Group, LLC, Fredrik Nielsen, Robert
5 Johnson, Peter Ishak, and James Switzer.

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

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

20 3. Any action taken by the Department of Taxation or its
21 constituent parts pursuant to chapter 453A and 453D of NRS
22 governing the licensing and regulation of marijuana
23 establishments and medical marijuana establishments before
24 July 1, 2020, remains in effect as if taken by the Cannabis
25 Compliance Board or its constituent parts on and after July 1,
26 2020.

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 Effective July 1, 2020 and pursuant to NRS 678A.350, the CCB superseded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

 5. As set forth below, the events at issue in this CCB Complaint occurred prior
to July 1, 2020, when Polaris was licensed pursuant to NRS Chapters 453A and 453D and
NAC Chapters 453A and 453D. Therefore, Polaris is subject to the jurisdiction of the CCB
and subject to discipline pursuant to NRS 678A through 678D and the relevant provisions
of NRS Chapters 453A and 453D and NAC 453A and 453D. Violations are referenced
herein to the statutes and regulations in effect at the time each said violation occurred.

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

11 FACTUAL ALLEGATIONS

12 7. CCB incorporates all prior Paragraphs as though fully set forth herein.

13 8. On January 27, 2020, pursuant to NAC 453D.292(7), Department staff
14 conducted a routine inspection/audit of the Polaris facility at [REDACTED]
15 [REDACTED] leading to an investigation for potential statutory and regulatory violations.
16 Damon Hernandez, Jeffrey Justus, Marc Chmiel and Isabel Mota were the CCB Agents
17 who performed the investigation.

18 9. During the course of the aforementioned inspection/investigation at the
19 Polaris cultivation facility, Department staff came upon a locked room, which was then
20 unlocked by Polaris staff member, Lee McCue. Mr. McCue identified the room as "Locked
21 Storage Room 1". Inside Locked Storage Room 1, Department staff found multiple bags of
22 untagged marijuana and marijuana products. This room also contained several bags and
23 plastic bins of properly tagged marijuana and marijuana products. When asked, Mr.
24 McCue was unable to explain why certain bags of marijuana and marijuana product were
25 untagged. Department staff further investigated the untagged marijuana and marijuana
26 product bags and found that some of them, but not all, had masking tape affixed to them
27 which was labeled with the strain name and weight.

28

1 10. Department staff then found another room ("Locked Storage Room 2") and
2 entered it. Inside this room Department staff found many boxes of marijuana product that
3 was untagged. Due to the large amount of untagged marijuana and marijuana product,
4 additional Department staff was called to the facility to assist with photographing and
5 weighing all the untagged marijuana and marijuana product.

6 11. Department staff then weighed and photographed the untagged marijuana
7 and marijuana product found in Locked Storage Room 1 and Locked Storage Room 2. It
8 was then all consolidated into Locked Storage Room 2, which was then sealed to quarantine
9 it.

10 12. In total, Department staff documented 103.6 pounds of untagged bulk, raw
11 marijuana of the following strains:

- 12 a. LW trim.
- 13 b. Lemon Walker
- 14 c. IC Tops
- 15 d. Ice Cream
- 16 e. Tru OG Boo Boo
- 17 f. Tru OG Trim
- 18 g. Tru OG
- h. BM
- i. Polaris MMJ
- j. Purple Diablo
- k. NYCD Trim

19 Additionally, there were multiple additional bags of marijuana that were not labeled with
20 any type of strain.

21 13. In total, Department Staff documented 62.76 pounds of untagged packaged
22 marijuana product of the following strains/types:

- 23 a. Head Cheese pre-roll
- 24 b. Birthday Cake pre-roll
- 25 c. NYC Diesel pre-roll
- 26 d. Purple Diablo pre-roll
- 27 e. Head Cheese Flower
- 28 f. NYC Diesel Flower
- g. Birthday Cake packages
- h. Purple Diablo packages
- i. Blue Maui packages
- j. NYC Diesel packages

1 k. Head Cheese packages

2 The foregoing were found separately, as well as in 48 boxes and two bins.

3 14. In addition to finding the foregoing untagged marijuana and marijuana
4 product, the investigation also found several maintenance and disrepair issues as follows:

- 5 a. Ventilation duct and standing fan covers were soiled throughout the facility;
- 6 b. The emergency egress double doors exhibited incomplete seals along the bottom and
7 center portions;
- 8 c. There were Numerous holes in the walls and ceiling throughout the facility;
- 9 d. The floor sink in the fertigation area within the newly completed portion of the
10 cultivation facility was soiled; and
- 11 e. A submersible pump was stored in a designated hand washing only sink.

12 **VIOLATIONS OF LAW**

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

14 16. As to certificate C168 and License RC168, Respondent Polaris violated NAC
15 453A.414(4)(a) and (d), 453D.426(5)(a) and (d), and NAC 453D.905(3)(d)(4), (5), (13), and
16 (14), by failing to meet seed to sale tracking requirements and failing to tag all plants.
17 Specifically, 103.6 pounds of untagged bulk raw marijuana of at least 11 different strains
18 were found at the Polaris facility and were therefor improperly tracked in the METRC seed
19 to sale system. These acts and omissions constitute 11 Category III violations. The first
20 Category III violation carries a fine of \$2,500. The second violation carries a \$5,000 fine or
21 a license suspension of up to 10 days. The third violation carries a \$10,000 fine or a license
22 suspension up to 20 days. The fourth violation carries a license suspension up to 30 days.
23 The fifth and subsequent violations require license and certificate revocation. In the
24 alternative, should the CCB deem these acts and omissions a single Category III violation,
25 Polaris is subject to a \$2,500 fine.

26 17. As to certificate C168 and License RC168, Respondent Polaris violated NAC
27 453A.414(4)(a) and (d), 453D.426(5)(a) and (d), and NAC 453D.905(3)(d)(4), (5), (13), and
28 (14), by failing to meet seed to sale tracking requirements and tag all plants. Specifically,

1 large numbers of untagged packaged marijuana products (62.76 pounds) of at least 11
2 different strains were found at the Polaris facility and were therefor improperly tracked in
3 the METRC seed to sale system. These acts and omissions constitute 11 additional
4 Category III violations, requiring license and certificate revocation. In the alternative,
5 should the CCB deem these acts and omissions a single Category III violation, this is the
6 second Category III violation, which carries a fine of \$5,000.

7 18. As to certificate C168 and License RC168, Polaris violated NAC
8 453A.606(2)(c)(10)(V), NAC 453D.720(2)(b), NAC 453D.734, and NAC 453D.905(3)(f)(6), by
9 allowing the facility's ventilation duct and standing fan covers to remain in a soiled
10 condition. This is a Category V violation and, as the first Category V violation, the penalty
11 is a warning.

12 19. As to certificate C168 and License RC168, Polaris violated NAC
13 453D.732(2)(d) and NAC 453D.905(3)(f)(6), by failing to fully seal the emergency egress
14 double doors, which exhibited incomplete seals along the bottom and central portions. This
15 is a second Category V violation, which carries a fine of \$750.

16 20. As to certificate C168 and License RC168, Polaris violated NAC 453D.734,
17 NAC 453D.732(e)(10),(I) and NAC 453D.905(3)(f)(6), by failing to properly maintain a
18 building used in the manufacture of cannabis. Specifically, numerous holes were observed
19 in the walls and ceilings throughout the Polaris cultivation facility. This is a third Category
20 V violations and carries a fine of \$1,250 or a license/certificate suspension of up to 3 days.

21 21. As to certificate C168 and License RC168, Polaris violated NAC 453A.612(1),
22 NAC 453D.796(1), NAC 453D.734 and NAC 453D.905(3)(f)(6), because the facility's floor
23 sink in the fertigation area was soiled. This is a fourth Category V violation and carries a
24 fine of \$2,500 fine or a license/certificate suspension of up to 7 days.

25 22. As to certificate C168 and License RC168, Polaris violated NAC 453A.606(1)
26 and (2), NAC 453D.732(2)(e), and NAC 453D.905(e)(11), by failing to maintain hand-
27 washing facilities that are limited to hand washing only. Specifically, a submersible pump
28

1 was stored in a designated hand-washing only sink. This is a Category IV violation, which
2 carries a \$1,250 fine.

3 **DISCIPLINE AUTHORIZED**

4 Pursuant to the provisions of NRS 678A.600, NAC 453A.332, NAC 453D.312, NAC
5 453D.405, NAC 453D.900, and NAC 453D.905, the CCB has the discretion to impose the
6 following disciplinary actions:

- 7 1. Revoke the license and certificate of Polaris
- 8 2. Suspend license and certificate of Polaris;
- 9 3. Impose a civil penalty of not more than \$35,000 for each separate violation of
10 Chapter 453A and 453D on the license and certificate of Polaris; and
- 11 4. Take such other disciplinary action as the CCB deems appropriate.

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

13 **RELIEF REQUESTED**

14 Based on the foregoing, counsel for the CCB respectfully requests the CCB impose
15 the penalty of revocation against the certificate C168 and license RC168 of Polaris.
16 Pursuant to NAC 453D.940(8)(a) and NCCR 4.030(1)(b), counsel for the CCB respectfully
17 requests a determination from CCB that Polaris be barred from applying for reinstatement
18 of certificate C168 and license RC168 for 6 years following the imposition of revocation of
19 certificate C168 and license RC168.

20 In addition, counsel for the CCB requests the CCB impose civil penalties against
21 Polaris in the amount of \$23,250¹.

22 Counsel for the CCB further requests the amount expended for CCB's time and
23 effort, pursuant to NAC 453A.352(4) and 453D.200(3), in an amount to be determined in
24 costs to date.

25 In addition, counsel for the CCB requests the CCB issue an order for the destruction
26 of all untagged and unlabeled cannabis and cannabis products outside the seed to sale

27 ¹ \$13,250, in the alternative, should the CCB find that the violations set forth in
28 Paragraphs 16 constitute a single Category III violation and the violations set forth in
Paragraph 17 constitute a single Category III violation.

1 tracking system described and detailed in Paragraphs 12, 13, 16, and 17, above. The CCB
2 cannot determine the origin of untagged and unlabeled cannabis or whether the
3 untagged/unlabeled product has been tested. Only properly tagged and labeled cannabis
4 products can be transported by a cannabis distributor. NAC 453D.870(2)(d). Cannabis and
5 cannabis products outside the State approved Seed to Sale Tracking System are subject to
6 easy diversion for illegal sale and are in violation of 453D.905(3)(d)(4), (5), (13), (14), and
7 (19), NAC 453D.430 and NAC 453D.426(6)(a), as well as NCCR 4.050(1)(a)(3), (4), (12), and
8 (13). Counsel for the CCB respectfully requests that said order of destruction require
9 Polaris to provide CCB with a plan for destruction of the subject untagged/unlabeled
10 cannabis and cannabis products outside the seed to sale tracking system within 30 days of
11 the order, which plan must include procedures for the proper destruction of the
12 untagged/unlabeled cannabis, including the date of the destruction, the videotaping of the
13 destruction, the witnessing by CCB staff of the destruction, and complete documentation
14 of the destruction.

15 In sum, counsel for the CCB respectfully requests the CCB order revocation of
16 Polaris's certificate and license and order fines, penalties and costs in the total amount of
17 \$23,250 plus time and effort costs to be determined. CCB reserves its rights to seek
18 additional costs incurred as this matter proceeds through hearing and rehearing, if
19 applicable. Counsel for CCB also requests the CCB issue an order of destruction, as set
20 forth above.

21 NOTICE TO RESPONDENT

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

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1 **PLEASE TAKE NOTICE**, you, as the respondent, **must answer this Complaint**
2 **within 20 days after service of this Complaint**, unless granted an extension. Pursuant
3 to NRS 678A.520(2), in the answer Respondent:

4 (a) Must state in short and plain terms the defenses to each claim asserted.

5 (b) Must admit or deny the facts alleged in the complaint.

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

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

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

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

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

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

26 Tyler Klimas, Executive Director
27 Cannabis Compliance Board
28 555 E. Washington Avenue, Suite 4100
 Las Vegas, Nevada 89101
 tklimas@ccb.nv.gov

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

3 As the respondent, you are specifically informed that you have the right to appear
4 and be heard in your defense, either personally or through your counsel of choice at your
5 own expense. At the hearing, the CCB has the burden of proving the allegations in the
6 Complaint. The CCB will call witnesses and present evidence against you. You have the
7 right to respond and to present relevant evidence and argument on all issues involved. You
8 have the right to call and examine witnesses, introduce exhibits, and cross-examine
9 opposing witnesses on any matter relevant to the issues involved.

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

13 If the respondent does not wish to dispute the charges and allegations set forth
14 herein, within 30 days of the service of this Complaint, Respondent may pay the civil
15 penalties and costs set forth above in the total amount of \$23,250.00 plus time and effort
16 costs, and surrender certificate C168 and license RC168 to:

17 Tyler Klimas, Executive Director
18 Cannabis Compliance Board
19 555 E. Washington Avenue, Suite 4100
Las Vegas, Nevada 89101

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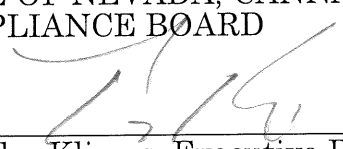
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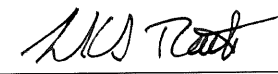
1 YOU ARE HEREBY ORDERED to immediately cease the activity described above
2 which is a violation of Nevada law.

3 DATED: September 22, 2020.

4 STATE OF NEVADA, CANNABIS
5 COMPLIANCE BOARD

6 By: 
7 Tyler Klimas, Executive Director
8 555 E. Washington Avenue, Suite 4100
9 Las Vegas, Nevada 89101
10 (702) 486-2300

11 AARON D. FORD
12 Attorney General

13 By: 
14 L. Kristopher Rath (Bar No. 5749)
15 Senior Deputy Attorney General
16 Ashley A. Balducci (Bar No. 12687)
17 Senior Deputy Attorney General
18 555 E. Washington Ave, Suite 3900
19 Las Vegas, Nevada 89101
20 (702) 486-9287
21 Attorneys for the Cannabis Compliance Board
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1 **BEFORE THE CANNABIS COMPLIANCE BOARD**
2 **STATE OF NEVADA**

3 STATE OF NEVADA, CANNABIS
4 COMPLIANCE BOARD,

Case No. 2020-017

5 Petitioner,

6 vs.

7 POLARIS WELLNESS CENTER, LLC,

8 Respondent.

9 **DECLARATION AND CERTIFICATE OF SERVICE OF**
10 **COMPLAINT FOR DISCIPLINARY ACTION**
11 **(Service via Mail)**

12 I, Amber Virkler, hereby certify and affirm that:

- 13 1. I am over the age of 18 years old.
- 14 2. I am a Board Agent of the Cannabis Compliance Board ("CCB"), as defined in NCR
15 1.068.
- 16 3. Pursuant to NRS 678A.520 and NCCR 4.075, I have served the Respondent herein with
17 the Complaint for Disciplinary Action ("Complaint") in the above captioned matter as
18 follows:

19 By placing a true and correct copy of the Complaint to be deposited for mailing in
20 the United States Mail in a sealed envelope via registered or certified mail, prepaid
21 in Las Vegas, Nevada, to Respondent's point of contact with the CCB under NCCR
22 2.050 at Respondent's address on file with the Board as follow:

23 Name of point of contact served: Lee McCue

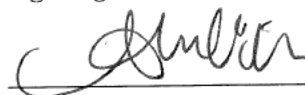
24 Address on file with CCB: [REDACTED]

25 Date of Service: 9/22/2020

26 I declare under penalty of perjury that the foregoing is true and correct.

27 Executed on 9/22/2020

(date)



(signature)

28