

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

3 STATE OF NEVADA, CANNABIS
4 COMPLIANCE BOARD,

Case No. 2020-27

5 Petitioner,

6 vs.

7 CANNEX NEVADA, LLC, now known
8 as LETTUCETEST, LLC,



9 Respondent.

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 Cannex Nevada, LLC, now
15 known as LettuceTest, LLC¹ ("Cannex" or "LTL" or "Respondent") has violated provisions
16 of Chapters 453A and 453D of the Nevada Revised Statutes ("NRS"), and Chapters 453A
17 and 453D of the Nevada Administrative Code ("NAC"), hereby issues its Complaint, stating
18 the CCB's charges and allegations as follows:

19 **JURISDICTION**

20 1. During all relevant times mentioned in this Complaint, Cannex (now LTL)
21 held, and currently holds, the following certificates and licenses:

22 ID	License/Certificate	Last Issued / Renewed	Address
23 L006	Medical Cannabis Testing Facility 36471481166286897722	7/1/2020	
24			
25 RL006	Adult-use Cannabis Testing Facility 34783954003475226897	7/1/2020	
26			
27			

28 ¹ On October 9, 2020, Respondent notified CCB it had changed its name from Cannex Nevada, LLC to LettuceTest, LLC.

1
2
3 2. During all relevant times mentioned in this Complaint, Cannex was, and LTL
4 is, registered as a domestic limited liability company in the State of Nevada. Ric A. Rushton
5 is listed as the managing member of LTL.

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

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

23 4. Effective July 1, 2020 and pursuant to NRS 678A.350, the CCB superseded
24 the Marijuana Enforcement Division of the Department of Taxation (the "Department") in
25 enforcing Nevada's laws and regulations for the cannabis industry.

26 5. As set forth below, the events at issue in this CCB Complaint occurred prior
27 to July 1, 2020, when Cannex was licensed pursuant to NRS Chapters 453A and 453D and
28 NAC Chapters 453A and 453D. Therefore, Cannex (now LTL) 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 and/or was discovered.

6. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director
has transmitted the details of the suspected violations of Cannex to the Attorney General

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

9 FACTUAL ALLEGATIONS

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

11 8. Beginning on December 9, 2019, the Department conducted a routine
12 inspection and investigation of Cannex (the "December 2019 investigation").

13 9. As part of the December 2019 investigation, the Department conducted site
14 visits of the Cannex facility in Las Vegas on December 9, 2019. Marijuana Inspectors
15 Kimberly Wayman ("Wayman") and Elizabeth Perez ("Perez") were present, as was
16 Marijuana Auditor Isabel Mota ("Mota"). Wayman, Perez, and Mota were the CCB agents
17 who performed the investigation.

18 10. The December 2019 investigation revealed multiple violations of NRS
19 453A/453D and NAC 453A /453D.

20 11. During the on-site visit on December 9, 2019, Wayman, Perez and Mota
21 performed a general walkthrough of Cannex, and then Wayman and Perez each
22 investigated specific laboratory sections. Mota reviewed aspects of laboratory operations,
23 including the status of agent cards, security requirements, security camera requirements,
24 and inventory control records.

25 12. Wayman requested and obtained records of microbial testing for the month of
26 November 2019. Wayman then analyzed these testing records and found a concerning
27 pattern of test results. Specifically, products which were recorded in the microbial records
28 as failing were subsequently repeated with passing results, over and over again. Of note

1 were samples from THC Nevada, LLC ("THC Nevada"), which showed a repetitive pattern
2 of failing results for very high numbers of total Coliforms/total Enterobacteriaceae followed
3 by passing results.

4 13. Wayman also reviewed microbial plating dilution worksheets for the month of
5 November 2019. These records showed that, when samples failed for microbiological
6 testing, the samples were retested (some multiple times), and a passing result was
7 reported, if later obtained. Retesting was occurring even when the first set of results were
8 within the countable range of the plating assay and should not have required further
9 dilutions. Review of Aspergillus PCR records also showed a repetitive pattern of failing
10 results followed by passing retests.

11 14. Wayman asked Scientific Director Haifei Yin ("Director Yin") about the
12 repetitive microbial retesting that Wayman observed in the data. Director Yin stated that
13 they were retesting for accuracy. Director Yin further stated that, for Aspergillus testing
14 specifically, Cannex would retest failed samples twice more and report the majority result.
15 When Wayman asked how they handled an initial microbial test with a passing result,
16 Director Yin stated Cannex would report the passing result with no further testing.
17 Director Yin likened the presence of microbial growth on cannabis to mold growth on a loaf
18 of bread, stating that a loaf of bread may have mold on only one spot, but still be safe for
19 consumption.

20 15. Wayman's discussions with lead microbiologist Yin Zhou ("Zhou") revealed
21 that Zhou had been retesting failed samples at the direction of Cannex management. Zhou
22 stated that she initially told management that she felt they should trust their validated
23 microbial methods rather than retesting those results that failed. Zhou stated that Cannex
24 management brought her to the understanding that they must balance protecting
25 consumers with protecting the business. Additionally, Zhou confirmed that the practice for
26 Aspergillus testing was to retest samples which failed for Aspergillus twice more and report
27 the majority result.

28 16. Wayman requested microbial testing data for the months of September 2019

1 and October 2019, which revealed the same retesting practices as the data from November
2 2019. Director Yin agreed to discontinue their microbial retesting practices per Wayman's
3 instructions.

4 17. Perez reviewed Cannex's practices for cannabinoid potency testing by high-
5 performance liquid chromatography² ("HPLC"). Director Yin told Perez that Osvaldo Ruiz
6 ("Ruiz") was the primary potency analyst. Perez's conversation with Ruiz revealed Ruiz
7 had a concerning lack of training and knowledge in HPLC. He graduated college in 2017
8 and stated he had never worked with HPLC instrumentation prior to working at Cannex.
9 He further stated that his entire HPLC training consisted only of reading the standard
10 operating procedure (SOP) for Cannex, followed by a couple of days of direct observation.
11 He stated he had never had any competency assessment (demonstration of competency, or
12 "DOC"), and did not even know what a competency assessment was.

13 18. Perez reviewed employee files and discovered an overall lack of documented
14 training amongst all laboratory analysts. There were no records of competency assessment
15 present in the files reviewed. When Perez inquired about competency assessment, Director
16 Yin stated that demonstration of competency had not been documented for any Cannex
17 analyst for any test.

18 19. Perez instructed Director Yin to pull several samples which were recently
19 finalized and retest them in duplicate for cannabinoid potency. She then observed the
20 cannabinoid potency testing as it occurred during various steps along the process. Her
21 observations revealed inadequate analyst knowledge and inadequate training.

22 20. Tetrahydrocannabinolic-acid ("THC-A"), Delta-9-tetrahydrocannabinol
23 ("Delta-9 THC"), and Delta-8-tetrahydrocannabinol ("Delta-8 THC") are cannabinoids
24 found in cannabis. Laboratories are required to report the results of each cannabinoid
25 individually, as well as for part of the equation for Total Potential THC ($0.877 \times \text{THC-A}$
26 $+ \text{Delta-9 THC} + \text{Delta-8 THC}$.) Delta-8 THC and Delta-9 THC are normally found at low
27 levels in usable marijuana, with Delta-8 THC often being undetectable. Perez observed

28 ² High-performance liquid chromatography (formerly known as high-pressure liquid chromatography) is an analytical chemistry technique used to separate, identify and quantify each component in a mixture.

1 Ruiz's process for instrument calibration and data review. Perez observed that manual
2 integration was required for the peaks of the lowest calibration standard, which signified
3 that the software was not set to automatically identify such very small peaks independently
4 of operator intervention. The analyst could not properly identify extremely small peaks
5 without deliberate review of the chromatogram baseline for each sample, as the instrument
6 would not identify such small peaks automatically. Ruiz stated to Perez that he had never
7 seen Delta-8 THC peaks in samples, but instead trusted the software to identify any Delta-
8 8 THC peaks for him. Ruiz then contradicted himself by saying that he only looked for a
9 Delta-8 THC peak when a Delta-9 THC peak was identified by the instrument. Perez asked
10 Ruiz to manually identify a Delta-8 THC and Delta-9 THC peak and observed that he was
11 unable to identify and manually integrate the peaks correctly. Perez notified Director Yin
12 that Ruiz was not marking Delta-8 THC and Delta-9 THC peaks correctly during manual
13 integration, but Director Yin responded that this did not matter.

14 21. Ruiz's Excel spreadsheet for recording cannabinoid potency results did not
15 contain a field for Delta-8 THC. He informed Perez that there was not a field because
16 Delta-8 THC is never present. It was found that Ruiz's spreadsheet was also missing a
17 field for Cannabinidol ("CBD"), which is another required cannabinoid. Analyst Kelly
18 Romolino's ("Romolino") Excel spreadsheet for cannabinoid results did not contain fields
19 for Delta-8 THC, CBD or Cannabidiolic acid ("CBD-A").

20 22. Perez observed sample homogenization, weighing and aliquoting of samples.
21 Laboratory employee Lu Ling ("Ling") was observed placing a cannabis flower sample on a
22 clear tray, and then breaking apart the cannabis by rubbing it between his gloved hands.
23 This method produced small pieces of cannabis of varying sizes rather than a properly
24 homogenized sample. An aliquot of the broken-up cannabis was weighed, and the weight
25 recorded in his notebook. The aliquot was deposited into a smaller vial for testing, and Ling
26 then used a razor blade to sweep any remaining cannabis from the glass tray back into the
27 original container. He sprayed the glass tray and razor blade with methanol and then
28 placed the razor blade onto the unclean surface of his notebook. Ling sprayed his gloves

1 with isopropyl alcohol and proceeded to the next sample without changing his gloves. When
2 Perez asked Ling if he ever changed gloves in between samples, he stated that he only
3 changed his gloves when they became "too green" from processing multiple samples in a
4 row. The foregoing observations indicate Ling undertook improper laboratory technique,
5 resulting in the potential for sample contamination and inaccurate testing results.

6 23. Ling revealed that when cannabinoid potency results were retested, the retest
7 directive often came on a post-it note. Director Yin confirmed this to be the practice. Both
8 Director Yin and Ling stated that such post-it notes were normally discarded.

9 24. Perez observed analyst Gail Wang ("Wang") as she performed the cannabinoid
10 potency extraction and dilution steps. Wang was observed using improper pipetting
11 techniques that would lead to a high probability of spurious results. Specifically, after
12 solvent was drawn into the pipette tip, multiple bubbles were observed within the solution
13 in the tip. When dispensing the solvent into the sample vial, some of it dribbled out of the
14 pipette tip and ran down the exterior of the container. Solvent was incompletely dispensed
15 from the pipette tip into the sample container, leaving a remainder behind within the tip.
16 These deficient practices would lead to a high probability of an inaccurately low amount of
17 diluent being included with the sample, and a resultant upward skewing of sample results
18 due to miscalculated concentration.

19 25. After analysis of all samples on the instruments was completed, Perez
20 compared the cannabinoid potency results of the observed preparations to those that were
21 officially reported for each sample. Perez also compared the results of the duplicate
22 preparations to each other. These comparisons showed that the initial results were higher
23 than the observed re-prepared results the majority of the time, and Perez observed poor
24 correlation between duplicate samples.

25 26. Director Yin and QA Manager Joseph Haun ("Haun") informed Perez that
26 they maintained THC potency trend logs for each client, and their practice was to manage
27 potency results to the control limits that were defined within these internal logs. Review of
28 the potency internal trend logs showed that Cannex retested samples for potency very

1 frequently and would often report the highest attainable result within their internal trend
2 limits. Sometimes they retested samples when results were within their defined limits, and
3 sometimes they reported potency results that were outside of those limits. The mean THC
4 potency increased over time for their clients, as higher and higher results were continually
5 perpetuated.

6 27. Haun and Director Yin informed Perez that it was common for Director Yin
7 to call clients with a preliminary cannabinoid potency report. Perez explained that this was
8 unacceptable as the laboratory is required to provide cannabis test results to the
9 Department at the same time they are provided to the client.

10 28. After the December 9, 2019, site visits, Wayman and Perez returned to their
11 office and notified the Department's executive staff of their immediate findings. The
12 repetitive retesting and passing of samples that failed for microbials caused concern that
13 consumer safety was at stake. The Department determined it would need to retest samples
14 in order to determine if consumer safety had been compromised. A list was compiled of
15 samples that initially failed microbial testing but were reported as passing by Cannex
16 ("potential retest list"). A representative portion of the list was divided amongst three
17 different independent testing laboratories, and the lists provided to the three independent
18 labs on December 17, 2019. The Department initiated administrative holds for all products
19 on the potential retest list on December 19, 2019. The Department instructed the
20 independent testing laboratories to collect the samples, perform all required microbial
21 testing and provide the results to the Department.

22 29. The results of the initial Department retesting demonstrated that several
23 cannabis products failed for microbiological testing which Cannex had reported as passing.
24 Next, the Department assigned three testing laboratories to retest the remainder of the
25 products on the list. The Department provided the second set of lists to the independent
26 labs on January 25, 2020.

27 30. On December 27, 2019, the Department issued Public Health and Safety
28 Advisory 2019-03 to notify dispensaries and consumers of the fact that certain cannabis

1 products Cannex had reported as passing microbial testing had, in fact, failed.

2 31. To ensure consumer and patient safety, on December 27, 2019 the
3 Department issued a Summary Suspension letter to Cannex which chronicled violations of
4 inappropriate microbial testing practices, and directed Cannex to immediately cease all
5 testing operations outside of method development³.

6 32. On December 30, 2019, the Department sent a notice of hearing regarding the
7 summary suspension, scheduling a hearing date of January 14, 2020.

8 33. On January 2, 2020, Cannex provided the Department with a response to the
9 Summary Suspension with a request for an immediate hearing, denying all allegations.

10 34. On January 3, 2020, the Department filed a Notice of Witnesses and
11 Documents.

12 35. On January 6, 2020, the Department filed its First Supplemental to Notice of
13 Witnesses and Documents.

14 36. On January 7, 2020, Cannex filed its Notice of Witnesses and Documents.

15 37. On January 8, 2020, Cannex filed its First Supplemental to Notice of
16 Witnesses and Documents.

17 38. On January 9, 2020, the Department filed an Objection to Respondent's First
18 Supplement to the Notice of Witnesses and Documents, objecting to the timeliness of
19 Cannex's filing.

20 39. On January 10, 2020, the Department emailed Cannex a Statement of
21 Deficiencies asserting thirteen additional violations, along with possible other violations.

22 40. On January 14, 2020, the Department received a written plan of correction
23 from Cannex, with intent to lift the summary suspension.

24 41. On January 16, 2020, Cannex filed a Second Supplement to Notice of
25 Witnesses and Documents.

26 42. On January 21, 2020, the Department provided Cannex with a directed plan
27 of correction. The Department further indicated it would continue its investigation, seeking

28 ³ Method development is validation. Cannex was permitted to work on their instruments and run experiments to optimize settings, etc., but was not permitted to perform actual testing during this time.

1 any and all disciplinary action available.

2 43. On January 21, 2020, Cannex filed a Notice of Hearing Representatives.

3 44. On January 21, 2020, the Department filed a Notice of Hearing
4 Representatives.

5 45. On January 23, 2020, the Department filed a Stipulation and Order
6 Regarding the Summary Suspension, lifting the suspension for all testing except microbial
7 testing. This action was publicly posted as Public Health and Safety Advisory 2020-04 on
8 January 24, 2020.

9 46. On February 7, 2020, Wayman and Perez arrived at Cannex for a scheduled
10 inspection to review the microbial practices that Cannex was supposed to update as part of
11 their January 21, 2020, plan of correction. Director Yin informed the inspectors that
12 Cannex had not yet completed the required plan of correction items, despite parties both
13 agreeing to the February 7 reinspection date beforehand. Consequently, the inspectors
14 were unable to recommend approval of their commencement of microbial testing during the
15 February 7, 2020, visit. Director Yin agreed to provide the pending plan of correction items
16 the week of February 10, 2020.

17 47. Director Yin submitted the Aspergillus revalidations on February 14, 2020,
18 and the rest of the plan of correction documents the week of February 17, 2020.

19 48. The test results for the second list of Department-ordered microbial retests
20 were provided to the Department on February 19, 2020.

21 49. On February 21, 2020, Cannex provided an emailed letter to Judge Smith⁴,
22 stating that the Department was not being timely in allowing them to resume microbial
23 testing.

24 50. On February 21, 2020, the Department issued Public Health and Safety
25 Advisory 2020-05.

26 51. On February 24, 2020, the Department provided a letter to Judge Smith in
27 response to Cannex's February 21, 2020 letter.

28 ⁴ Administrative Law Judge Dena Smith was assigned to hear the disciplinary proceedings associated with the summary suspension.

1 52. On February 24, 2020, Cannex filed a Request for Hearing to Recall
2 Department Public Health and Safety Advisory 2020-05. Cannex alleged that the
3 Department's actions were arbitrary and capricious, with intent to disparage their business
4 in the Nevada cannabis industry.

5 53. On February 24, 2020, the Department provided Judge Smith an email in
6 response to Cannex's February 24th request for hearing.

7 54. On February 24, 2020, Judge Smith filed a letter stating that Cannex had
8 failed to establish grounds for the emergency hearing they requested on February 24. Judge
9 Smith further found their objection to the Department's timeliness to be unfounded.

10 55. On February 26, 2020, Wayman and Perez arrived for a scheduled re-
11 inspection at Cannex to examine the remaining plan of correction items. The remaining
12 items were determined to be satisfactory, aside from an update to their Aspergillus
13 validation study.

14 56. On February 27, 2020, Cannex was permitted to resume microbial testing for
15 all microbial tests except for Aspergillus, pending the additional validation work. On March
16 4, 2020, Cannex submitted the pending Aspergillus validations and was permitted to
17 resume Aspergillus testing.

18 57. On September 17, 2020, the CCB⁵ provided Cannex with a Cease and Desist
19 letter in response to the inappropriate LC/MS pesticide and mycotoxin testing observed in
20 the testing data from Cannex it had reviewed in the interim. The letter directed Cannex to
21 immediately update their quality control processes to meet CCB standards.

22 58. On September 21, 2020, Cannex provided a plan of correction in response to
23 the September 17, 2020 Cease and Desist letter.

24 59. Throughout the course of the above events, Perez and Wayman continued
25 their investigation of Cannex's testing practices and test records. Violations found during
26 the December 2019 investigation, as well as violations found during the continued review
27 of laboratory records, are now further detailed in the next paragraphs.

28

⁵ On July 1, 2020, CCB became the agency responsible for cannabis licensing and regulation.

60. First, the laboratory did not have a designated security manager or director, as required.

61. Second, the facility did not have complete camera visibility of the receiving area where cannabis homogenization and weighing activities occur. The approved camera that originally provided adequate coverage had been blocked by a refrigerator.

62. Third, METRC data showed that the laboratory failed to document the disposal of their test samples in METRC from mid-April 2018 until December 2019, violating seed-to-sale tracking requirements. Physical destruction of lab samples was occurring during this time, as evidenced by destruction logs for the years 2018 and 2019. This is a repeat violation from a December 6, 2018, routine inspection.

63. Fourth, the laboratory issued an amended report for Certificate of Analysis (“CoA”) number 1912RSR0881.7819 (METRC package 1A40403000001B5000012780) for the flower product 707 Headband without the required “AMENDED” banner or the reason for change. The CoA was issued on December 12, 2019, and then re-issued on December 16, 2019 with different terpene results.

64. Fifth, the laboratory did not include the required header banner on 9 CoA’s issued as part of Research and Development, as evidenced by the following nine CoAs:

	Date Issued	CoA #	METRC Tag #	Item
1	10/22/2019	1910RSR0745.6692	1A40403000001B5000016043	R&D - Island Sweet Skunk
2	10/22/2019	1910RSR0745.6693	1A40403000001B5000016033	R&D - King Louis
3	10/22/2019	1910RSR0745.6695	1A40403000001B5000016039	R&D - GG#4
4	10/22/2019	1910RSR0745.6696	1A40403000001B5000016036	R&D - Deadhead OG
5	10/22/2019	1910RSR0745.6694	1A40403000001B5000016034	R&D - Gelato
6	10/22/2019	1910RSR0745.6689	1A40403000001B5000016040	R&D Lemonade Dream
7	10/22/2019	1910RSR0745.6690	1A40403000001B5000016037	R&D Bio Jesus
8	10/22/2019	1910RSR0745.6691	1A40403000001B5000016042	R&D Bio Diesel
9	10/22/2019	1910RSR0745.6688	1A40403000001B5000016041	R&D Sour Diesel

1
2 65. Sixth, Haun stated to Perez that Director Yin would often provide potency
3 results to clients over the phone prior to completing all testing, thereby providing an
4 impermissible preliminary report. A laboratory is required to provide results to the
5 Department at the same time they are provided to the cultivator or producer, and there is
6 no provision for preliminary reports to the client only.

7 66. Seventh, Cannex was collecting test samples of flower that was designated as
8 “trim” by the cultivator and reporting the results as trim. This violated requirements
9 regarding product chain of custody and provided the Department with misinformation as
10 to the product type depicted on their CoA’s. This practice is evidenced by the following:

11 a. Source package 1A40403000002A5000048522:

- 12 i. METRC test sample 1A40403000002A5000047255 was collected
13 on December 18, 2019. Travel manifest #303759 specified the
14 item as “Venom OG Blend Trim”, product category Shake/ Trim.
15 ii. Certificate of Analysis (“CoA”) 1912RSR0923.8191 was issued on
16 December 23, 2019, with the product stated to be trim.
17 iii. Pictures of the laboratory sample demonstrate that the product
18 was comprised of intact female flowers (“buds”).

19 b. Source package 1A40403000002A5000048524:

- 20 i. METRC test sample 1A40403000002A5000047250 was collected
21 on December 18, 2019. Travel manifest #303759 specified the
22 item as “Cookie Face Blend”, product category Shake/ Trim. The
23 size of the lot at the time of collection was approximately 8.29lbs.
24 ii. CoA 1912RSR0923.8186 was issued on December 23, 2019, with
25 the product stated to be trim.
26 iii. Pictures of the laboratory sample show that the product was
27 comprised of buds.
28 iv. Upon completion of testing, the cultivator created multiple

1 packages of flower from this “trim”, with a combined weight of
2 approximately 6.9lbs. They subsequently sold the flower
3 packages to several retail stores.

4 c. Source package 1A40403000002A5000048528:

- 5 i. METRC test sample 1A40403000002A5000047251 was collected
6 on December 18, 2019. Travel manifest #303759 specified the
7 item as “Desert Grown Glue Blend”, product category Shake/
8 Trim.
9 ii. CoA 1912RSR0923.8187 was issued on December 23, 2019, with
10 the product depicted to be trim.
11 iii. Pictures of the laboratory sample show that the product was
12 comprised of buds.

13 d. Source package 1A40403000002A5000047230:

- 14 i. METRC test sample 1A40403000002A5000047252 was collected
15 on December 18, 2019. Travel manifest #303759 specified the
16 item as “Sour Power BLEND”, product category Shake/ Trim.
17 The size of the lot at the time of collection was approximately
18 8lbs.
19 ii. CoA 1912RSR0923.8188 was issued on December 23, 2019, with
20 the product depicted to be trim.
21 iii. Pictures of the laboratory sample show that the product was
22 comprised of buds.
23 iv. Upon completion of testing, the cultivator created multiple
24 packages of flower with a combined weight of approximately
25 6.8lbs. They subsequently sold the flower packages to
26 dispensaries/retails stores.

27 e. Source package 1A40403000002A5000047179

- 28 i. METRC test sample 1A40403000002A5000047254 was collected

1 on December 18, 2019. Travel manifest #303759 specified the
2 item as "The Homies Choice Blend Bulk", product category
3 Shake/ Trim.

4 ii. CoA 1912RSR0923.8190 was issued on December 23, 2019, with
5 the product depicted to be trim.

6 iii. Pictures of the laboratory sample show that the product was
7 comprised of buds.

8 67. Eighth, the Scientific Director of Cannex has not ensured quality standards
9 of practice were being followed, as evidenced by systemic issues cited over multiple years
10 of inspections, several of them repeat offenses. This lengthy history includes the following
11 findings at earlier inspections:

12 a. November 6, 2017 inspection

13 i. Inadequate training for staff

14 ii. Failure to use volumetric flasks

15 iii. Procedures not matching practice

16 b. December 26, 2017 suspension

17 i. Failure to maintain a quality assurance/ quality control program

18 ii. THC potency inflation

19 c. December 6, 2018 inspection

20 i. Failure to document destruction of test samples in Metrc.

21 ii. Insufficient information documented in waste disposal logs

22 iii. Lack of corrective action response when pesticide QC exceeds
23 tolerance limits

24 iv. Lack of monitoring of QC data in a manner conducive to
25 detection of trends

26 68. Ninth, Cannex failed to provide adequate training and supervision for
27 technical staff, as evidenced by the following:

28 a. Although Ruiz graduated from college in 2017 and had never operated

1 HPLC instrumentation prior to working at Cannex, his training
2 consisted only of reading the standard operating procedure (SOP),
3 followed by direct observation for a couple of days.

- 4 b. Ruiz was unaware of the need to review the chromatograms manually
5 for an analyte that the instrument is not set up to automatically detect.
6 This is basic knowledge that should be understood by an analyst of such
7 instruments.
- 8 c. Documentation of Ruiz's training for cannabinoid potency testing did
9 not exist. Inspector review of training records revealed a systemic issue
10 with a lack of documented training amongst the laboratory analysts.
- 11 d. Ruiz was also an analyst for the Heavy Metals testing. His training
12 records indicated he had not received formal training for most of the
13 testing procedure.
- 14 e. Ruiz's training records indicated that he did not receive training on the
15 following items which are essential knowledge for State compliance,
16 proper laboratory safety, test performance and/or instrument
17 troubleshooting:
- 18 i. Laboratory safety and equipment; chemical storage
 - 19 ii. Laboratory cleaning and housekeeping
 - 20 iii. Temperature logs
 - 21 iv. Formatting and use of laboratory notebooks
 - 22 v. Confident Cannabis training
 - 23 vi. METRC training
 - 24 vii. Maintaining chain of custody and verifying samples
 - 25 viii. Inventory control and disposal logs
 - 26 ix. Familiarity with lab documents
- 27 f. The analysts prepared and analyzed several samples for cannabinoid
28 potency under direct observation of the inspector. Several recent

1 samples were chosen, and results of the initial and re-preparation
2 results were compared. Inconsistent and improper technique during
3 sample weighing, homogenizing, and preparation/extraction led to
4 potency results that could not be replicated. Specifically:

- 5 i. During the homogenization process, Ling ground a portion of the
6 flower non-uniformly by rubbing it rapidly between gloved
7 hands. The ground cannabis material that was deposited back
8 onto the tray was not homogeneous. He chose the portions to
9 weigh and used a razor blade to sweep any remaining cannabis
10 from the clipboard back into the original sample container for
11 future use.
- 12 ii. During the weighing process, Ling used a razor blade to
13 selectively obtain and weigh non-homogenous portions of the
14 ground flower to include in the analytical test portion.
- 15 iii. During the preparation and extraction process, the inspector
16 observed Wang using improper pipetting techniques. Wang was
17 observed incompletely filling the pipette tip and allowing the
18 solvent in the pipette tip to drip outside of the container rather
19 than into the sample vial.

20 69. Tenth, the laboratory failed to ensure the competency of technical staff prior
21 to performing testing independently. Although Ruiz was the primary potency analyst,
22 competency assessment for the cannabinoid potency test method did not exist. When the
23 inspector asked Ruiz if he ever performed competency testing, he did not know what
24 competency testing was. Director Yin informed the inspector that competency assessment
25 had not been documented for any analyst for any test.

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1 70. Eleventh, Cannex was analyzing samples for cannabinoid potency in a
2 manner that deviated from their written procedures and precluded accurate reporting of
3 all required cannabinoids. This is evidenced by the following:

- 4 a. Delta-8 THC is normally found at nominal levels in usable cannabis
5 when present. In the absence of automatic instrument identification,
6 the analyst cannot properly identify extremely small peaks without
7 deliberate review of the chromatogram baseline for each sample. The
8 instrument was not set up to properly identify a very small Delta-8
9 THC peak, requiring the analyst to manually review the
10 chromatograms to identify a peak when present. The inspector
11 observed that manual integration was required for peaks in the lowest
12 calibration standard, therefore the software was not set to identify
13 smaller potency peaks independently of operator intervention.
- 14 b. Ruiz stated to the inspector that he never sees Delta-8 THC peaks and
15 had trusted the software to identify them for him. He later stated that
16 he only reviewed the chromatograms for a Delta-8 THC peak if the
17 software identified the presence of a Delta-9 THC peak. Delta-9 THC is
18 also normally present at low levels in useable cannabis. In the absence
19 of automatic instrument identification, the analyst cannot properly
20 identify and quantify small peaks without deliberate review of the
21 chromatogram baseline for each sample.
- 22 c. The inspector observed Ruiz's process for reviewing a sample
23 chromatogram and noted that a Delta-9 THC peak and a Delta-8 THC
24 peak were missed by the software, and Ruiz missed them as well. When
25 Ruiz was asked to demonstrate how the peaks should be marked and
26 manually integrated, Ruiz was unable to mark them correctly. When
27 Perez informed Director Yin that Ruiz was unable to mark peaks
28 correctly during manual integration, Director Yin stated that this did

1 not matter.

- 2 d. Proper evaluation of chromatographic data must include analyst
3 verification that the chromatograms properly identify and quantify
4 analyte peaks, as the peaks may not be identified or marked properly
5 by the software. The analyst's inexperience, inadequate training, and
6 misplaced confidence in the software precluded the ability of the
7 laboratory to accurately report results of cannabinoid potency.
- 8 e. Ruiz's result spreadsheet template used for routine testing did not
9 include a field for a Delta-8 THC result. He stated that there was not a
10 field because Delta-8 THC is never present.
- 11 f. Ruiz's spreadsheet template used for routine testing did not include a
12 field for a CBD result.
- 13 g. Romolino's spreadsheet template used for routine potency testing did
14 not include a field for Delta-8 THC, CBN, CBD-A or CBD.

15 71. Twelfth, Cannex was using post-it notes to communicate retesting directives
16 to staff but was not retaining the notes in the test record as required. This is evidenced by
17 statements from Director Yin, who confirmed the laboratory's use of post-it notes to
18 communicate internal retesting directives, with subsequent disposal of the post-it notes.

19 72. Thirteenth, Cannex was preparing their chemistry aliquots of flower ("chem
20 samples") using a homogenization method that was unsanitary and conducive to cross-
21 contamination of test samples. Ling was observed breaking the flower apart by rubbing it
22 between gloved hands, and then spraying his gloves with isopropyl alcohol before
23 continuing directly to the next sample. The gloves were often still wet with isopropyl alcohol
24 when processing the next sample, and he stated to Perez that he only changed his gloves
25 when they became "too green" in color from multiple consecutive samples.

26 73. Fourteenth, Cannex failed to maintain a quality assurance and quality control
27 program. This is a repeat violation from the December 26, 2017 routine inspection:

- 28 a. The laboratory failed to ensure quality control procedures were

- 1 followed. There was a lack of documented corrective action when
2 controls exceeded tolerance limits. This is evidenced by systemic issues
3 with LC/MS pesticide and mycotoxins calibration verification ("CV")
4 controls without subsequent corrective action or further assessment.
- 5 b. The analysts were using Excel spreadsheets for the purpose of
6 reporting instrument data which were different from one another and
7 not maintained under document control.
- 8 c. Cannex's SOP "Cannabinoids Potency Testing" specifies that
9 calibration standards are to be prepared in 1ml volumetric flasks, but
10 the analysts were preparing them in instrument sample vials. Even
11 though the volumetric flasks were not being used, the analysts were
12 still documenting in the logbook that cannabinoid calibration standards
13 were being prepared in the 1 ml volumetric flasks.
- 14 d. The laboratory implemented excel trend logs that perpetuated
15 continuously higher mean potency results, rather than striving for
16 accuracy.
- 17 e. The laboratory failed to address non-conforming work with timely
18 corrective action measures that were appropriate for the magnitude of
19 the issue.
- 20 f. Required Proficiency Testing analytes Delta-8 THC and CBD-A have
21 not been completed by the laboratory.

22 74. Fifteenth, Cannex was performing pesticide and mycotoxins testing in a
23 manner that precluded accuracy and provided the potential for endangering consumers.
24 Results were routinely reported for pesticide/mycotoxin testing when quality control results
25 failed. This is a repeat violation from a December 6, 2018 routine inspection.

- 26 a. The laboratory continued to report pesticide and mycotoxins results
27 despite systemic and repeated QC failures.
- 28 b. When quality control results failed, documentation was often lacking.

1 Although CV failures for multiple pesticide analytes were observed
2 throughout the month of December 2019, the only documented CV
3 failure that month was a failure for fludioxonil.

4 c. Corrective action responses to QC failures were grossly inadequate. The
5 laboratory's only corrective action response to the fludioxonil failure
6 was to "continue to monitor." QC for fludioxonil continued to fail
7 throughout the entire month of December 2019 without further
8 corrective action or maintenance.

9 d. The root cause for the fludioxonil failure was indicated to be "random
10 insufficient ionization", with "continue to monitor" being the only
11 corrective action. Ionization is the method of conclusively identifying
12 the analyte, and if it is randomly malfunctioning, there is no confidence
13 in the data produced by the instrument.

14 e. The laboratory failed to document sample evaluation in response to QC
15 failures.

16 75. Sixteenth, Cannex was performing unauthorized retesting for their clients,
17 with intent to pass products that should have failed microbial testing. Cannex's microbial
18 retesting practices resulted in the release of multiple cannabis products for sale to the
19 public when they should have in fact failed testing.

20 a. Department-ordered retesting was performed on a list of samples
21 originally determined by Cannex to be failing but reported as passing
22 after internal retesting by Cannex. The Department retesting results
23 showed that approximately 1/3 of products tested produced failing
24 results with other laboratories.

25 b. Director Yin stated to inspectors that when microbial testing failed,
26 their practice was to retest the product internally because they may
27 have just found a contaminated spot on the product. She likened the
28 situation to a loaf of bread that may have mold only on one area.

- c. Zhou stated to inspectors that, at first, she was uncomfortable with the retesting. She stated she told management that they should trust their validated test method. She further stated that she was eventually brought to understand that they must balance protecting consumers with protecting the business.
- d. Microbial records revealed an email from Director Yin dated September 25, 2019, instructing Zhou to retest all failed samples for an order from Integral Associates (Essence) because only 2 of the 13 samples passed microbial testing. This is despite the fact that the samples failed for yeast and mold.
- e. Microbial records revealed an email from Haun dated September 13, 2019, instructing Zhou to retest failed samples from Nevada Group Wellness (Prime Cannabis) using the "chem sample" per the client's request. This is despite the fact that the samples failed for Total Coliforms and/or Total Enterobacteriaceae.
- f. Test records show that unapproved microbial retesting was performed on the following 232 samples, all of which were tested once initially and failed microbiological testing:

	Internal Lab ID	CoA Number	Product Name	# Retests
1	THC 090319-02	1909RSR0600.5400	Primus	1
2	THC 090319-06	1909RSR0600.5404	King Banner	1
3	THC 090319-08	1909RSR0600.5406	Blueberry Limeade	1
4	THC 090319-11	1909RSR0600.5409	13 Gorillas	1
5	THC 090319-13	1909RSR0600.5411	13 Gorillas	1
6	THC 090319-15	1909RSR0600.5413	Desert Snow	1
7	THC 090319-19	1909RSR0600.5417	Kush Master	1
8	THC 090319-21	1909RSR0600.5419	Kush Master	1
9	THC 090319-26	1909RSR0600.5424	Kush Master	1
10	THC 090319-27	1909RSR0600.5425	Desert Snow	1
11	THC 090319-28	1909RSR0600.5426	13 Gorillas	1
12	THC 091019-01	1909RSR0629.5694	Kush Master	1
13	THC 091019-03	1909RSR0629.5696	Kush Master	1
14	THC 091019-07	1909RSR0629.5700	Lavender Jones	1
15	THC 091019-08	1909RSR0629.5701	Lavender Jones	1
16	THC 091019-16	1909RSR0629.5709	Ultimate Indica	1
17	THC 091719-02	1909RSR0648.5848	Pineapple Express	1
18	THC 091719-03	1909RSR0648.5849	Pineapple Express	1
19	THC 091719-04	1909RSR0648.5850	Kush Master	1
20	THC 091719-07	1909RSR0648.5853	13 Gorillas	1
21	THC 091719-08	1909RSR0648.5854	13 Gorillas	2
22	THC 091719-09	1909RSR0648.5855	13 Gorillas	1
23	THC 091719-13	1909RSR0648.5859	White Tie	1
24	THC 091719-14	1909RSR0648.5860	Chernobyl	1

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	Internal Lab ID	CoA Number	Product Name	# Retests
25	THC 091719-15	1909RSR0648.5861	Chernobyl	1
26	THC 091719-18	1909RSR0648.5864	Blueberry Limeade	1
27	THC 091719-19	1909RSR0648.5865	Blueberry Limeade	1
28	THC 091719-21	1909RSR0648.5867	Chernobyl	1
29	THC 091719-23	1909RSR0648.5869	Pineapple Express	1
30	THC 091719-24	1909RSR0648.5870	Kush Master	2
31	THC 092419-04	1909RSR0669.6061	Blueberry Limeade	1
32	THC 092419-07	1909RSR0669.6064	White Tie	1
33	THC 100819-07	1910RSR0713.6464	Desert Snow	1
34	THC 100819-08	1910RSR0713.6465	Desert Snow	1
35	THC 100819-10	1910RSR0713.6467	Blueberry Limeade	1
36	THC 102219-03	1910RSR0759.6804	Primus	1
37	THC 102219-06	1910RSR0759.6807	Desert Snow	1
38	THC 102219-07	1910RSR0759.6808	Desert Snow	1
39	THC 102219-08	1910RSR0759.6809	Pineapple Express	1
40	THC 102219-09	1910RSR0759.6810	Pineapple Express	1
41	THC 102219-10	1910RSR0759.6811	Pineapple Express	1
42	THC 102219-14	1910RSR0759.6815	Kong	1
43	THC 102219-17	1910RSR0759.6818	Blueberry Limeade	1
44	THC 102219-20	1910RSR0759.6821	Lavender Jones	1
45	THC 102219-21	1910RSR0759.6822	Desert Snow	1
46	THC 102919-02	1910RSR0781.6966	Desert Snow	1
47	THC 102919-04	1910RSR0781.6968	Desert Snow	1
48	THC 102919-10	1910RSR0781.6974	OG Skunk	1
49	THC 102919-11	1910RSR0781.6975	OG Skunk	1
50	THC 102919-12	1910RSR0781.6976	OG Skunk	1
51	THC 102919-25	1910RSR0781.6989	Ultimate Indica	1
52	THC 102919-26	1910RSR0781.6990	Blueberry Limeade	1
53	THC 110519-08	1911RSR0801.7175	Double Tap	1
54	THC 110519-13	1911RSR0801.7180	Lavender Jones	1
55	THC 110519-20	1911RSR0801.7187	White Tie	1
56	THC 110519-27	1911RSR0801.7194	Double Tap	1
57	THC 111219-09	1911RSR0827.7344	Double Tap	1
58	THC 111219-11	1911RSR0827.7346	Kush Master	1
59	THC 111219-13	1911RSR0827.7348	OG Skunk	1
60	THC 111219-16	1911RSR0827.7351	Chernobyl	1
61	THC 111219-25	1911RSR0827.7360	Pineapple Express	1
62	THC 111219-26	1911RSR0827.7361	OG Skunk	1
63	THC 111919-02	1911RSR0844.7467	White Tie	2
64	THC 111919-04	1911RSR0844.7469	Kush Master	2
65	THC 111919-10	1911RSR0844.7475	Primus	1
66	THC 111919-13	1911RSR0844.7478	Mai Tai	1
67	THC 111919-14	1911RSR0844.7479	Double Tap	1
68	THC 112619-01	1911RSR0863.7617	Bruce Banner	1
69	THC 112619-05	1911RSR0863.7621	Lavender Jones	1
70	THC 112619-21	1911RSR0863.7637	13 Gorillas	1
71	DGF 090419-01	1909RSR0608.5452	Critical Cheese	1
72	DGF 090419-10	1909RSR0608.5461	Fruitcake	1
73	DGF 090419-16	1909RSR0608.5467	Bruce Banner 2.0 #3	1
74	DGF 090419-17	1909RSR0608.5468	S.C. x Slimer	1
75	DGF 090419-18	1909RSR0608.5469	Sour Banana Sherbet	1
76	DGF 090419-19	1909RSR0608.5470	Lemon Meringue	1
77	DGF 090419-20	1909RSR0608.5471	Jack Herer	1
78	DGF 090419-24	1909RSR0608.5475	Endless Summer #11	1
79	DGF 090419-37	1909RSR0608.5488	Lemon Meringue	1
80	DGF 091019-04	1909RSR0627.5661	Fruitcake	1
81	DGF 091019-06	1909RSR0627.5663	White OG	1
82	DGF 091019-16	1909RSR0627.5673	Venom OG	1
83	DGF 091019-24	1909RSR0627.5681	Afternoon Delight #7	1
84	DGF 091219-01	1909RSR0635.5770	Bruce Banner 2.0 #1	1
85	DGF 091219-02	1909RSR0635.5771	Bruce Banner 2.0 #1	1
86	DGF 091219-03	1909RSR0635.5772	Bruce Banner 2.0 #1	1
87	DGF 091219-04	1909RSR0635.5773	Bruce Banner 2.0 #1	1
88	DGF 091219-06	1909RSR0635.5775	Cactus OG	1
89	DGF 091219-07	1909RSR0635.5776	Cactus OG	1
90	DGF 091219-08	1909RSR0635.5777	Lemon Meringue	2
91	DGF 091219-09	1909RSR0635.5778	Lemon Meringue	1

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	Internal Lab ID	CoA Number	Product Name	# Retests
92	DGF 091219-10	1909RSR0635.5779	Lemon Meringue	1
93	DGF 091219-11	1909RSR0635.5780	Lemon Meringue	1
94	DGF 091219-12	1909RSR0635.5781	Tahoe Alien	2
95	DGF 091619-06	1909RSR0642.5806	The Homies Choice	1
96	DGF 091619-07	1909RSR0642.5807	The Homies Choice	1
97	DGF 091619-09	1909RSR0642.5809	Banana Cookies	1
98	DGF 091619-10	1909RSR0642.5810	Blue Frost	1
99	DGF 091619-12	1909RSR0642.5812	Ice Cream Dream #1	1
100	DGF 091619-18	1909RSR0642.5818	Cookie Face	1
101	DGF 091819-03	1909RSR0650.5881	Bruce Banner 2.0 #1	1
102	DGF 091819-04	1909RSR0650.5882	Bruce Banner 2.0 #3	1
103	DGF 091819-06	1909RSR0650.5884	Grape Stomper OG	1
104	DGF 091819-31	1909RSR0650.5909	Desert Sunset #3	1
105	DGF 092019-09	1909RSR0662.5993	Endless Summer #11	1
106	DGF 092319-08	1909RSR0665.6043	Sour Banana Sherbet	1
107	DGF 092319-09	1909RSR0665.6044	Bruce Banner 2.0 #3	1
108	DGF 092519-10	1909RSR0674.6109	Tha Melon #2	1
109	DGF 092619-12	1909RSR0680.6140	Island OG #3	1
110	DGF 092719-02	1909RSR0684.6159	Venom OG	1
111	DGF 092719-06	1909RSR0684.6163	Banana Cookies	1
112	DGF 100219-12	1910RSR0692.6258	Banana Cookies	1
113	DGF 100219-20	1910RSR0692.6266	Venom OG FG	1
114	DGF 100219-28	1910RSR0692.6274	Afternoon Delight #7 Bs	1
115	DGF 100219-29	1910RSR0692.6275	Afternoon Delight #7 Trim	1
116	DGF 100319-03	1910RSR0701.6355	Purple Headband FG	1
117	DGF 100319-10	1910RSR0701.6362	818 Headband #10	1
118	DGF 100319-16	1910RSR0701.6368	Slurricane 1X #13	1
119	DGF 100319-18	1910RSR0701.6370	Burnt Toast #1	1
120	DGF 100319-19	1910RSR0701.6371	Lilac Diesel #1	1
121	DGF 100419-12	1910RSR0704.6405	Slurricane IX #8	1
122	DGF 100419-18	1910RSR0704.6411	818 Headband #6	1
123	DGF 101619-01	1910RSR0744.6667	Cactus OG	1
124	DGF 101619-05	1910RSR0744.6671	Bruce Banner 2.0 #3	1
125	DGF 101619-07	1910RSR0744.6673	S.C. x Slimer	1
126	DGF 101619-08	1910RSR0744.6674	Cactus OG Trim	1
127	DGF 101619-09	1910RSR0744.6675	Desert Sunset #1 Trim	1
128	DGF 101619-14	1910RSR0744.6680	Desert Sunset #1 FG	1
129	DGF 101619-15	1910RSR0744.6681	Desert Sunset #3 FG	1
130	DGF 101719-03	1910RSR0746.6699	Island OG #5 Frozen	1
131	DGF 101719-04	1910RSR0746.6700	Island OG #5 Frozen	1
132	DGF 101719-08	1910RSR0746.6704	Citrus Tsunami #9	1
133	DGF 101719-09	1910RSR0746.6705	Citrus Tsunami #1	1
134	DGF 101719-10	1910RSR0746.6706	Citrus Tsunami #1	1
135	DGF 101719-12	1910RSR0746.6708	Citrus Tsunami #1	1
136	DGF 101719-18	1910RSR0746.6714	Terpee Slerpee	1
137	DGF 101719-19	1910RSR0746.6715	Citrus Tsunami #9 Trim	1
138	DGF 101719-20	1910RSR0746.6716	Citrus Tsunami #9 FG	1
139	DGF 101819-01	1910RSR0750.6732	Jack Herer	1
140	DGF 101819-02	1910RSR0750.6733	Jack Herer	1
141	DGF 101819-03	1910RSR0750.6734	Jack Herer	1
142	DGF 101819-05	1910RSR0750.6736	Jack Herer	1
143	DGF 101819-11	1910RSR0750.6742	Citrus Tsunami #1 FG	1
144	DGF 101819-12	1910RSR0750.6743	Indica Blend	1
145	DGF 101819-13	1910RSR0750.6744	White OG Blend	1
146	DGF 102119-05	1910RSR0754.6761	Lemon Meringue	1
147	DGF 102119-14	1910RSR0754.6770	Terpee Slerpee FG	1
148	DGF 102219-02	1910RSR0758.6789	S.C. x Slimer Kief	1
149	DGF 102219-06	1910RSR0758.6793	Flavor Pack #9	1
150	DGF 102219-08	1910RSR0758.6795	Melonade Breath #1	1
151	DGF 102319-03	1910RSR0763.6853	Purple Headband	1
152	DGF 102319-05	1910RSR0763.6855	Lemon Meringue Kief	1
153	DGF 102519-08	1910RSR0773.6920	White OG	1
154	DGF 102519-09	1910RSR0773.6921	White OG	1
155	DGF 110419-06	1911RSR0797.7118	Afternoon Delight #4	1
156	DGF 110519-17	1911RSR0798.7139	OG Story	1
157	DGF 110619-02	1911RSR0807.7227	Venom OG FG	1
158	DGF 110719-09	1911RSR0811.7251	Tha Melon #2 Trim	1

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	Internal Lab ID	CoA Number	Product Name	# Retests
159	DGF 111219-02	1911RSR0824.7317	S.C. x Slimer	1
160	DGF 111219-05	1911RSR0824.7320	S.C. x Slimer	1
161	DGF 111219-06	1911RSR0824.7321	S.C. x Slimer	1
162	PC 090419-01	1909RSR0612.5506	GELATO GLUE	1
163	PC 090419-02	1909RSR0612.5507	MONSTER COOKIES	2
164	PC 090419-03	1909RSR0612.5508	MONSTER COOKIES	2
165	PC 090519-03	1909RSR0619.5584	LAST OG	1
166	PC 090619-04	1909RSR0621.5592	SECRET WEAPON	1
167	PC 091919-02	1909RSR0658.5969	KIND KOND COOKIES	1
168	PC 092519-02	1909RSR0677.6116	Monster Cookies	2
169	PC 092519-07	1909RSR0677.6121	LA CHOCOLOPE	1
170	PC 100819-02	1910RSR0718.6497	PURPLE GOATS	1
171	PC 101019-01	1910RSR0731.6549	Vegas Golden Kush	1
172	PC 102119-01	1910RSR0757.6782	CODE ORANDE	1
173	PC 102819-12	1910RSR0780.6963	PURPLE GOATS	1
174	PC 110419-05	1911RSR0800.7164	GELATO GLUE - -	3
175	PC 110419-06	1911RSR0800.7165	LAST OG	3
176	PC 110419-07	1911RSR0800.7166	KIND KOND COOKIES	2
177	PC 110419-08	1911RSR0800.7167	GREEN CRACK	2
178	PC 110519-01	1911RSR0808.7233	GREEN CRACK	2
179	PC 110519-03	1911RSR0808.7235	LAST OG	1
180	PC 111219-01	1911RSR0831.7381	GELATO GLUE	2
181	PC 111219-02	1911RSR0831.7382	GELATO GLUE	2
182	PC 111219-04	1911RSR0831.7384	PURPLE GOATS	1
183	PC 111219-05	1911RSR0831.7385	PURPLE GOATS	1
184	PC 111819-03	1911RSR0843.7464	KIND KOND COOKIES	1
185	PC 112619-02	1911RSR0868.7671	LAST OG	2
186	PC 112619-04	1911RSR0868.7673	ZOMBIE KUSH	1
187	ACC 090519-09	1909RSR0614.5518	AK-47-SHAKE-A	1
188	ACC 090519-16	1909RSR0614.5525	FRUIT PUNCH-SHAKE-A	1
189	ACC 090519-18	1909RSR0614.5527	BURKEL-BUD-A	1
190	ACC 090519-27	1909RSR0614.5536	DEADHEAD OG-POPCORN-C	2
191	ACC 092719-25	1909RSR0686.6200	GARLIC SHERBERT-BUD-B	1
192	ACC 101519-15	1910RSR0739.6617	GARLIC SHERBERT-TRIM-A	1
193	ACC 101519-18	1910RSR0739.6620	THC BOMB-POPCORN-A	2
194	ACC 111519-02	1911RSR0837.7423	SUPER LEMON HAZE- POPCORN-A	2
195	ACC 111519-03	1911RSR0837.7424	SUPER LEMON HAZE- POPCORN-B	2
196	ACC 111519-04	1911RSR0837.7425	SUPER LEMON HAZE-TRIM-A	1
197	ACC 111519-15	1911RSR0837.7436	THC BOMB-TRIM-A	2
198	ACC 111519-22	1911RSR0837.7443	GARLIC SHERBERT-BUD-B	1
199	SSW 091119-02	1909RSR0636.5784	Bio-Jesus	1
200	SSW 091619-01	1909RSR0646.5843	Lemonade Dream	1
201	SSW 091619-02	1909RSR0646.5844	Lemonade Dream	1
202	SSW 091619-03	1909RSR0646.5845	Lemonade Dream	1
203	SSW 092719-08	1909RSR0685.6171	GG #4	1
204	SSW 093019-05	1909RSR0688.6216	Bio-Diesel	1
205	SSW 101019-02	1910RSR0730.6546	Lemonade Dream	1
206	SSW 101819-01	1910RSR0755.6775	Deadhead OG	1
207	SSW 101819-02	1910RSR0755.6776	Lemonade Dream	1
208	SSW 101819-04	1910RSR0755.6778	SFV OG Kush	1
209	SSW 102219-06	1910RSR0761.6835	SFV OG Kush	1
210	SSW 102219-09	1910RSR0761.6838	Lemonade Dream	1
211	SSW 102319-09	1910RSR0769.6890	Jilly Bean	1
212	SSW 102319-13	1910RSR0769.6894	707 Headband	1
213	SSW 102319-17	1910RSR0769.6898	Jilly Bean	1
214	SSW 102419-05	1910RSR0775.6927	707 Headband	1
215	SSW 102419-08	1910RSR0775.6939	707 Headband	1
216	SSW 102419-10	1910RSR0775.6942	Bio-Jesus	1
217	SSW 102419-11	1910RSR0775.6943	Bio-Jesus	1
218	SSW 102519-01	1910RSR0779.6945	Sour Diesel	1
219	SSW 102519-03	1910RSR0779.6947	Deadhead OG	1
220	SSW 110119-03	1910RSR0791.7051	Jilly Bean	1
221	SSW 110119-06	1910RSR0791.7054	Jilly Bean	2
222	SSW 110119-09	1910RSR0791.7057	Sour Diesel	1
223	SSW 110119-11	1910RSR0791.7059	Island Sweet Skunk	1

	Internal Lab ID	CoA Number	Product Name	# Retests
224	SSW 110719-01	1911RSR0816.7274	Lemonade Dream	1
225	SSW 111319-04	1911RSR0832.7390	Bio-Jesus	2
226	SSW 112119-02	1911RSR0851.7533	Bio-Diesel	2
227	SSW 112219-05	1911RSR0855.7562	GG#4	1
228	SSW 112219-06	1911RSR0855.7563	Bio-Diesel	4
229	SSW 112519-07	1911RSR0861.7595	King Louis XIII	2
230	SSW 112619-01	1911RSR0864.7642	GG#4	2
231	CSN-100319-01	1910RSR0697.6333	San Fernando Valley Flower	1
232	CSN-100319-02	1910RSR0697.6334	Mixed Harvest Trim	1

76. Seventeenth, Cannex was performing unauthorized retesting for their clients, with intent to pass products that should have failed Heavy Metals testing. Heavy Metals testing data demonstrated that the lab routinely retested samples from Silver Sage Wellness Cultivation that failed for Cadmium. During the period of review, all of Silver Sage Wellness's Cadmium fails were retested at least twice more, with some up to 4 or 5 more times. As a consequence of this practice, Cannex reported multiple samples which failed for Cadmium as passing from September 2019 – November 2019. This is evidenced by the 22 samples below, all of which initially failed for Cadmium (>820ppb):

	Internal Lab ID	CoA Number	Product Name	# Retests	Initial Cadmium Result (ppb)	Reported Cadmium Result (ppb)	Cadmium Pass/ Fail
1	SSW-091619-5845	1909RSR0646.5845	Lemonade Dream	3	1003	1003	Fail
2	SSW-092019-5981	1909RSR0661.5981	Lemonade Dream	2	1401	1401	Fail
3	SSW-092019-5982	1909RSR0661.5982	Lemonade Dream	2	1226	1226	Fail
4	SSW-092019-5984	1909RSR0661.5984	Lemonade Dream	2	1078	786	Pass
5	SSW-092719-6175	1909RSR0685.6175	Grape Krush	2	1773	1773	Fail
6	SSW-093019-6214	1909RSR0688.6214	Bio-Diesel	3	1123	371	Pass
7	SSW-093019-6215	1909RSR0688.6215	Bio-Diesel	2	914	454	Pass
8	SSW-093019-6216	1909RSR0688.6216	Bio-Diesel	2	1470	519	Pass
9	SSW-093019-6218	1909RSR0688.6218	Bio-Diesel	2	939	939	Fail
10	SSW-093019-6220	1909RSR0688.6220	Bio-Diesel	2	1133	1133	Fail
11	SSW-093019-6221	1909RSR0688.6221	Bio-Diesel	2	1025	1025	Fail
12	SSW-100219-6344	1910RSR0699.6344	Outer Space	2	1157	572	Pass
13	SSW-100219-6346	1910RSR0699.6346	Outer Space	4	807	807	Pass
14	SSW-100219-6347	1910RSR0699.6347	Outer Space	5	920	552	Pass
15	SSW-102419-6942	1910RSR0775.6942	Bio-Jesus	2	884	884	Fail
16	SSW-102919-6996	1910RSR0782.6996	NYC Diesel	2	856	<LOQ	Pass
17	SSW-103019-7024	1910RSR0786.7024	Island Sweet Skunk	2	1023	1021	Fail
18	SSW-110119-7059	1910RSR0791.7059	Island Sweet Skunk	2	1042	901	Fail
19	SSW-110119-7061	1910RSR0791.7061	Island Sweet Skunk	2	1125	937	Fail
20	SSW-110719-7276	1911RSR0816.7276	Lemonade Dream	2	1219	779	Pass
21	SSW-110719-7277	1911RSR0816.7277	Lemonade Dream	2	869	720	Pass
22	SSW-111319-7391	1911RSR0832.7391	Bio-Jesus	3	850	850	Fail

77. Eighteenth, Cannex was performing unauthorized retesting of samples for cannabinoid potency based on internal trends that were being maintained for their clients.

This is evidenced by examples for two of their clients, Integral Associates (Essence, product brand name “Desert Grown Farms”) and Nevada Group Wellness (Prime Cannabis), as listed below. The 56 samples below were already tested once.

	Internal Lab ID	CoA ID	Product Name	# Retests
1	DGF-111219-7316	1911RSR0824.7316	Cactus OG	1
2	DGF-112619-7607	1911RSR0862.7607	Afternoon Delight #4	2
3	DGF-120919-7904	1912RSR0890.7904	Sour Banana Sherbet	1
4	DGF-120919-7906	1912RSR0890.7906	Sour Banana Sherbet	2
5	DGF-120919-7907	1912RSR0890.7907	Sour Banana Sherbet	1
6	DGF-120919-7908	1912RSR0890.7908	Sour Banana Sherbet	1
7	DGF-120219-7680	1911RSR0871.7680	Tha Melon #2	1
8	DGF-120219-7686	1911RSR0871.7686	Island OG #5	1
9	DGF-112619-7596	1911RSR0862.7596	Tahoe Alien	1
10	DGF-112619-7597	1911RSR0862.7597	Tahoe Alien	1
11	DGF-112619-7600	1911RSR0862.7600	Purple Headband	2
12	DGF-112619-7603	1911RSR0862.7603	Afternoon Delight #7	1
13	DGF-112619-7605	1911RSR0862.7605	Afternoon Delight #4	2
14	DGF-112619-7606	1911RSR0862.7606	Afternoon Delight #4	2
15	DGF-112619-7608	1911RSR0862.7608	Afternoon Delight #4	2
16	DGF-111219-7317	1911RSR0824.7317	S.C. x Slimer	1
17	DGF-111219-7321	1911RSR0824.7321	S.C. x Slimer	1
18	DGF-110819-7292	1911RSR0819.7292	Sour Banana Sherbet	1
19	DGF-110819-7293	1911RSR0819.7293	Sour Banana Sherbet	3
20	DGF-110819-7294	1911RSR0819.7294	Sour Banana Sherbet	1
21	DGF-110819-7295	1911RSR0819.7295	Sour Banana Sherbet	1
22	DGF-110419-7116	1911RSR0797.7116	Afternoon Delight #4	1
23	DGF-110419-7117	1911RSR0797.7117	Afternoon Delight #4	1
24	DGF-110419-7119	1911RSR0797.7119	Afternoon Delight #4	3
25	DGF-110419-7120	1911RSR0797.7120	Afternoon Delight #4	3
26	PC-120319-7811	1912RSR0880.7811	SECRET WEAPON	2
27	PC-120319-7809	1912RSR0880.7809	ZOMBIE KUSH	1
28	PC-120319-7808	1912RSR0880.7808	GELATO GLUE	2
29	PC-120319-7806	1912RSR0880.7806	LAST OG	3
30	PC-120319-7805	1912RSR0880.7805	MONSTER COOKIES	1
31	PC-120319-7802	1912RSR0880.7802	OBI TRAIN	1
32	PC-120319-7801	1912RSR0880.7801	CODE ORANGE	1
33	PC-120319-7800	1912RSR0880.7800	CODE ORANGE	1
34	PC-120319-7799	1912RSR0880.7799	CODE ORANGE	1
35	PC-112619-7669	1911RSR0868.7669	CODE ORANGE	1
36	PC-112619-7670	1911RSR0868.7670	GELATO GLUE	2
37	PC-112619-7671	1911RSR0868.7671	LAST OG	1
38	PC-112619-7672	1911RSR0868.7672	OBI TRAIN	1
39	PC-112619-7673	1911RSR0868.7673	Zombie Kush	3
40	PC-112619-7674	1911RSR0868.7674	Zombie Kush	3
41	PC-111819-7462	1911RSR0843.7462	KING KONG COOKIES	1
42	PC-111819-7463	1911RSR0843.7463	KING KONG COOKIES	1
43	PC-111819-7464	1911RSR0843.7464	KING KONG COOKIES	1
44	PC-111819-7465	1911RSR0843.7465	LAST OG	1
45	PC-111219-7381	1911RSR0831.7381	GELATO GLUE	1
46	PC-111219-7384	1911RSR0831.7384	Purple Goats	2
47	PC-110519-7233	1911RSR0808.7233	GREEN CRACK	1
48	PC-110519-7234	1911RSR0808.7234	GREEN CRACK	1
49	PC-110519-7235	1911RSR0808.7235	LAST OG	1
50	PC-110419-7160	1911RSR0800.7160	PURPLE GOATS)	2
51	PC-110419-7162	1911RSR0800.7162	ZOMBIE KUSH	1
52	PC-110419-7163	1911RSR0800.7163	ZOMBIE KUSH	2
53	PC-110419-7164	1911RSR0800.7164	GELATO GLUE	2
54	PC-110419-7165	1911RSR0800.7165	LAST OG	2
55	PC-110419-7166	1911RSR0800.7166	KING KONG COOKIES	1
56	PC-110419-7167	1911RSR0800.7167	GREEN CRACK	1

78. Nineteenth, Cannex was performing retesting using the “chem sample” for

1 products which initially failed microbiological testing. This method of sample preparation
2 was not validated and is not appropriate for microbiological testing.

3 79. Twentieth, Director Yin and Zhou both stated to Wayman that their process
4 was to retest samples that failed for Aspergillus twice more and then report the majority
5 result. PCR records revealed that they would often report the sample as passing, even if
6 the majority result was a fail. Cannex's pattern of Aspergillus retesting was not designed
7 for accuracy, but rather to provide additional opportunities to obtain a passing result.
8 Wayman was intentionally misinformed about the nature and intent of their Aspergillus
9 retesting process.

10 a. Thirteen samples from ACC Industries ("ACC") failed for Aspergillus
11 during the period September 2019 – November 2019. When a sample
12 from ACC failed for Aspergillus, Cannex did not automatically retest
13 the sample in duplicate and report the majority result, as purported.
14 PCR records revealed that their process for ACC was to retest the
15 sample once more, and if the retest passed, they would report the
16 sample as passing. If the retest failed, they would repeat the test once
17 more, sometimes using the "chem sample" (which is not an appropriate
18 sample.) Cannex retested and reported passing results for all 13 ACC
19 samples that failed for Aspergillus. They chose the passing result
20 regardless of the majority answer.

21 b. Thirty-three samples from Silver Sage Wellness Cultivation failed for
22 Aspergillus during the time period September 2019 – November 2019.
23 Cannex reported 30 of the 33 samples as passing through unapproved
24 retesting. They did not follow the process that Director Yin and Zhou
25 described to Wayman. One sample initially showed a fail for
26 Aspergillus and was subsequently retested in duplicate. The duplicate
27 results showed one fail and one pass. Rather than report the fail as the
28 majority result, they proceeded to retest the sample in duplicate once

1 more, and the results showed two fails. Only then did the laboratory
2 report a failing result.

3 80. Twenty-first, Cannex was engaging in practices designed to inflate THC
4 potency. This is a repeat violation from the December 26, 2017 suspension. Potency
5 inflation poses a danger to consumers, as it precludes their ability to accurately estimate
6 their response to the product. Additionally, potency inflation is a deceptive trade practice
7 designed to attribute higher monetary value to products than what they are worth in the
8 marketplace. Retail stores tend to have tier levels for cannabis flower with increasing levels
9 of cost, with the top tier containing products with traits considered to be most desirable to
10 consumers. THC is the primary psychoactive component in marijuana responsible for the
11 “high”, and consumers will pay more for product with higher THC potency results. Retail
12 stores often will not accept flower that is below a certain THC value.

- 13 a. THC potency trend results were being maintained, and the laboratory
14 was managing routine test results to these trends rather than reporting
15 results as produced by their validated method. This practice has
16 resulted in the mean THC potency increasing over time for clients of
17 Cannex, continuously perpetuating higher and higher results.
- 18 b. Although Director Yin stated to the CCB inspector that Cannex
19 retested potency results that fell outside of the current “normal range”,
20 review of raw testing data as compared with the trend logs shows that
21 Cannex was primarily repeating those samples with results that were
22 lower than the established mean, and would still repeat results that
23 were within their defined range. Cannex specifically selected the values
24 that were included in their running mean and left out others.
- 25 c. Sample homogenization and sample preparation practices bias potency
26 results on the high side. Inadequate homogenization allowed for the
27 selection of portions of the sample to include in the analytical portion.
28 Inappropriate pipetting technique resulted in less diluent being

1 included in samples, resulting in inaccurately depicted sample
2 concentrations. When directed to re-prepare and re-analyze recent
3 potency samples under Perez's observation, the original results could
4 not be reproduced. The original results were higher than those
5 produced under direct observation.

- 6 d. Comparison of samples which were approved for retesting in METRC
7 shows that, when Cannex tested the same lot as another laboratory,
8 Cannex's results were higher over 80% of the time by an average of 4
9 whole percentage points.
- 10 e. Analysis of METRC data for the time period May 2019 – December 2019
11 revealed that Cannex has the highest Total Potential THC distribution
12 of all laboratories, most prominently in the 30% - 35% range.
- 13 f. Nevada Group Wellness's flower samples demonstrated a mean THC-
14 A of 31.9% during the time period May 2019 – December 2019, with
15 testing performed almost exclusively by Cannex. After Cannex's
16 suspension was lifted, Nevada Group Wellness resumed testing with
17 Cannex, and used them for almost all of their testing up through June
18 2020. Results reported by Cannex for Nevada Group Wellness's flower
19 demonstrate a mean THC-A of 26.7% during the time period after
20 Cannex's suspension (February 2020 – June 2020.) The only difference
21 between the data from 2019 and the data from 2020 is that Cannex
22 discontinued their inflation practices.

23 81. Twenty-second, Cannex was not maintaining impartiality in testing, as
24 required. Rather than protecting consumers through accurate and honest testing, Cannex
25 implemented testing processes that were designed to protect the monetary assets of their
26 clients without regard for consumer safety. Below are examples of five of Cannex's major
27 cultivation clients, detailing improper testing practices that were implemented for the
28 purpose of protecting their clients' businesses, and therefore their own.

1 a. THC Nevada:

2 i. Potency inflation. Cannex used trend log Excel spreadsheets to
3 track the Total Potential THC, with a tab for each strain.
4 Graphical representation of the monthly average “THC Max”
5 demonstrates a continual upward trending of results over time.
6 Review of raw instrument data showed that the laboratory’s
7 internal retesting processes were designed to obtain the highest
8 THC result possible within their defined limits.

9 ii. Passing of microbial failures through unapproved retesting. The
10 actual microbial fail rate for THC Nevada as tested by Cannex
11 was approximately 31% during the time period reviewed
12 (September – November 2019.) Cannex retested all failed
13 samples and reported passing results when possible. This
14 resulted in a reported microbial fail rate of only 13% for that time
15 period. Of those fails, 13 samples initially failed for Aspergillus.
16 Cannex subsequently retested and reported passing results for
17 all 13 of the failed Aspergillus samples

18 b. Silver Sage Wellness

19 i. Potency Inflation: Cannex used trend log Excel spreadsheets to
20 track the Total Potential THC, with a tab for each strain.
21 Graphical representation of the monthly average “THC Max”
22 demonstrates a continual upward trending of results. Review of
23 raw instrument data demonstrates that the laboratory’s internal
24 retesting processes are designed to obtain the highest THC result
25 possible within their defined limits.

26 ii. Passing of microbial failures through unapproved retesting. The
27 actual microbial fail rate was 15% for the time period September
28 2019 – November 2019. Cannex’s retesting practices resulted in

1 a reported microbial fail rate of 1% for that period. Of the
2 microbial fails, 33 were for Aspergillus. Cannex retested and
3 reported passing results for 30 of the 33 samples.

4 iii. Passing of Cadmium failures through unapproved retesting.

5 Requests for Research and Development (“R&D”) demonstrate
6 that the cultivator and the laboratory were both aware of issues
7 with Cadmium failures. During the time period September 2019
8 – November 2019, 22 samples initially failed for Cadmium. The
9 laboratory retested all 22 of these failures (some of them several
10 times) and subsequently passed 10 of the 22 samples. When R&D
11 samples failed for Cadmium, Cannex reported them as is,
12 without retesting.

13 c. ACC Industries

14 i. Passing of microbial failures through unapproved retesting. The
15 actual microbial fail rate for ACC Industries was approximately
16 10% for the time period September 2019 – November 2019.
17 Cannex’s retesting practices resulted in a reported microbial fail
18 rate of 0% for that time period. Cannex stated to Wayman that
19 the process was to run failed Aspergillus samples twice more and
20 report the majority result. Several ACC samples that were
21 failing for Aspergillus were run twice more with a majority result
22 of fail, but Cannex still reported the samples as passing.

23 d. Nevada Group Wellness (Prime Cannabis)

24 i. Potency inflation. Nevada Group Wellness’s average THC-A for
25 flower was 31.9% for the time period May 2019 – December 2019
26 while testing with Cannex. Cannex was suspended in December
27 2019. After their suspension, the cultivator resumed testing
28 almost exclusively with Cannex, yet their mean THC-A was then

1 more than 5 whole percentage points lower than it was prior to
2 Cannex's suspension.

3 ii. Passing of microbial failures through unapproved retesting.

4 Nevada Group Wellness's actual microbial fail rate was 30% for
5 the time period September 2019 – November 2019. Cannex's
6 retesting practices resulted in a reported microbial fail rate of
7 16% for that time period.

8 e. Integral Associates (Essence)

9 i. Potency Inflation: Cannex used trend log Excel spreadsheets to
10 track the Total Potential THC, with a tab for each strain.
11 Graphical representation of the monthly average "THC Max"
12 demonstrates a continual upward trending of results. Review of
13 raw instrument data demonstrates that the laboratory's internal
14 retesting processes are designed to obtain the highest THC result
15 possible within their defined limits.

16 ii. Testing flower as trim. This enabled Essence to circumvent the
17 testing requirements by naming their flower as trim in METRC
18 and testing in larger lot sizes. Records revealed at least two
19 occasions during the period of review where flower was tested as
20 trim in lot sizes greater than 5 pounds. Upon completion of
21 testing, Essence packaged almost the entire "trim" package into
22 flower, and then transferred it to the Essence dispensaries for
23 sale as flower.

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VIOLATIONS OF LAW

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

83. As to certificate L006 and license RL006, Respondent LTL violated NAC 453D.405, NAC 453D.434(7), and NAC 453D.905(3)(d)(6). Specifically, as set forth in Paragraph 60, above, LTL did not have a designated security manager or director. NAC 453D.434(7) requires each cannabis establishment have a security manager or director and that said employee undergo specific training, including training in theft prevention, emergency responses, and security services. NAC 453D.434(7)(a) through (h). As part of this, and in addition to it, LTL violated NAC 453D.905(3)(d)(3) because LTL did not have an approved security plan. This is a Category III violation. As the first Category III violation, this carries a civil penalty of \$2,500. NAC 453D.905(4)(d)(1).

84. As to certificate L006 and license RL006, Respondent LTL violated NAC 453A.420(1)(c), NAC 453D.434(1)(a)(3)(V) and (2)(b), and NAC 453D.905(3)(b)(14) by failing to maintain a required surveillance system. As set forth in Paragraph 61, above, LTL's security camera's coverage was blocked by a refrigerator. This is a Category II violation. As the first Category II violation, this carries a civil penalty of \$10,000 and a suspension for not more than 20 days. NAC 453D.905(4)(b)(1).

85. As to certificate L006 and license RL006, Respondent LTL violated NAC 453A.658(4), NAC 453D.426(5), NAC 453D.745(4), NAC 453D.788(4), and NAC 453D.905(3)(d)(4) and (15). Specifically, as set forth in Paragraph 62, above, LTL failed to document their disposal of test samples in METRC (the State's seed to sale tracking system) from mid-April 2018 through December 2019. During this time, only 2,016 of 14,305 (or 14.1%) of test samples reflected a quantity of zero in METRC. This is a second Category III violation, which carries a civil penalty of \$5,000 or a suspension of up to 10 days. NAC 453D.905(4)(d)(2). Alternatively, as 12,289 test samples were not properly recorded as disposed, the CCB may determine these omissions constitute 12,289 separate Category III violations, which requires revocation. NAC 453D.905(4)(d)(5).

86. As to certificate L006 and license RL006, Respondent LTL violated NAC

1 453D.788(10)(b)(3) and NAC 453D.905(3)(d)(4), (8), and (13) by improperly issuing a
2 certificate of analysis as set forth in Paragraph 63, above. This is at least the third Category
3 III violation, which carries at least a civil penalty of \$10,000 or a suspension for not more
4 than 20 days (NAC 453D.905(4)(d)(3)), if not revocation under NAC 453D.905(4)(d)(5).

5 87. As to certificate L006 and license RL006, Respondent LTL violated NAC
6 453D.776(4) and NAC 453D.905(3)(d)(4), (8), and (13) by failing to include the required
7 banner on 9 certificates of analysis, as set forth in Paragraph 64, above. This is at least the
8 fourth Category III violation, which carries at least a suspension for not more than 30 days
9 (NAC 453D.905(4)(d)(4)), if not 9 additional Category III violations requiring revocation
10 under NAC 453D.905(4)(d)(5).

11 88. As to certificate L006 and license RL006, Respondent LTL violated NAC
12 453A.658(9), NAC 453D.405, and NAC 453D.788(9) by failing to report test results to the
13 Department at the same time it reported test results to the licensee, as required by NAC
14 453D.788(9) and LTL's own standard operating procedures (at section 005.10), and as set
15 forth in Paragraph 65, above. Such actions further constitute the intentional concealing of
16 evidence from the Department because the results were reported to the licensee prior to
17 any reporting to the Department, a violation of NAC 453D.905(3)(a)(4). This is a Category
18 I violation, which carries a civil penalty of \$35,000 and a suspension for not more than 30
19 days, or revocation. NAC 453D.905(4)(a)(1). In the alternative, should this omission be
20 found to be an unintentional concealment of evidence, then it is a violation of NAC
21 453D.905(3)(b)(3), which constitutes LTL's second Category II violation. This second
22 Category II violation carries a civil penalty of \$20,000 and a suspension for not more than
23 30 days. NAC 453D.905(4)(b)(2).

24 89. As to certificate L006 and license RL006, Respondent LTL violated NAC
25 453D.905(3)(a)(3) by falsely reporting test samples of flower with results reported as trim,
26 as set forth in Paragraph 66, above. This constitutes at least 5 Category I violations,
27 requiring revocation. NAC 453D.905(4)(a)(2). In the alternative, should these acts or
28 omission be found to be unintentional false statements or representations to the

1 Department, they constitute 5 violations of NAC 453D.905(3)(b)(1) (Category II violations),
2 which requires revocation pursuant to NAC 453D.905(4)(b)(3).

3 90. As to certificate L006 and license RL006, Respondent LTL violated NAC
4 453A.650(1)(a) and (b), NAC 453D.755(1)(a) and (b), NAC 453D.905(3)(d)(7), NAC
5 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8). Specifically, as set forth in Paragraph 67,
6 above, LTL's Scientific Director Haifei Yin failed to ensure LTL achieved and maintained
7 quality standards of practice and failed to adequately supervise testing facility staff. See
8 also Paragraphs 14 through 30, above. These acts and omissions constitute at least a fifth
9 Category III violation, requiring revocation under NAC 453D.905(4)(d)(5).

10 91. As to certificate L006 and license RL006, Respondent LTL violated NAC
11 453A.650(1)(a) and (b), NAC 453A.652(1), (4), (6) & (7), NAC 453D.764(1), (4), (6) & (7),
12 NAC 453D.755(1)(a) and (b), NAC 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8) by failing
13 to provide adequate training and supervision of its technical staff, as set forth in Paragraph
14 68, above. This is an additional Category III violation, requiring revocation under NAC
15 453D.905(4)(d)(5).

16 92. As to certificate L006 and license RL006, Respondent LTL violated NAC
17 453A.652(1), (4), (6) & (7), NAC 453D.764(1) (4), (6) & (7), NAC 453D.352(1) and (3), NAC
18 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8), as set forth in Paragraph 69, above, by
19 failing to ensure the competency of its technical staff prior to performing cannabis testing.
20 This is an additional Category III violation, requiring revocation under NAC
21 453D.905(4)(d)(5).

22 93. As to certificate L006 and license RL006, Respondent LTL violated NRS
23 453A.368(2)(a)(1), NAC 453A.6544(1)(a), NAC 453D.405, NAC 453D.782(1)(a), NAC
24 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8) by failing to properly analyze cannabis
25 samples for THC potency. Specifically, as set forth in Paragraph 70, above, LTL was
26 analyzing cannabinoid potency in a manner that deviated from its own written procedures
27 and that precluded accurate reporting of all required cannabinoids. This is an additional
28 Category III violation, requiring revocation under NAC 453D.905(4)(d)(5).

1 94. As to certificate L006 and license RL006, Respondent LTL violated NAC
2 453A.652(1), (4), (6) & (7), NAC 453D.405, NAC 453D.764(1), (4), (6) & (7), and NAC
3 453D.905(3)(d)(4), as set forth in Paragraph 71, above, by failing to keep required
4 laboratory records when it discarded key laboratory testing information contained on post-
5 it notes. This is an additional Category III violation, requiring revocation under NAC
6 453D.905(4)(d)(5).

7 95. As to certificate L006 and license RL006, Respondent LTL violated NAC
8 453A.652(1), (4), (6) & (7), NAC 453D.405, NAC 453D.764(1), (4), (6) & (7), NAC
9 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8), as set forth in Paragraph 72, above, by
10 failing to follow proper laboratory procedures. As set forth in Paragraph 72, above, LTL
11 was using an unsanitary homogenization method conducive to cross-contamination of test
12 samples. This is an additional Category III violation, requiring revocation under NAC
13 453D.905(4)(d)(5).

14 96. As to certificate L006 and license RL006, Respondent LTL violated NAC
15 453A.652(1), (4), (6) & (7), NAC 453D.405, NAC 453D.764(1), (4), (6) & (7), NAC
16 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8), as set forth in Paragraph 73, above.
17 Specifically, LTL failed to maintain a quality assurance and quality control program. This
18 is an additional Category III violation, requiring revocation under NAC 453D.905(4)(d)(5).

19 97. As to certificate L006 and license RL006, Respondent LTL violated NRS
20 453A.368(2)(a)(2) & (2)(a)(4), NAC 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8), as set
21 forth in Paragraph 74, above. Specifically, LTL performed pesticide and mycotoxin testing
22 in a manner that precluded accuracy and the potential for endangering consumers. This is
23 an additional Category III violation, requiring revocation under NAC 453D.905(4)(d)(5).

24 98. As to certificate L006 and license RL006, Respondent LTL violated NAC
25 453A.658(11), NAC 453A.672(3), (4), (5) & (6), NAC 453D.788(11), NAC 453D.790(3), (4),
26 (5) & (6), and NAC 453D.905(3)(a)(3) by performing unauthorized retesting of cannabis
27 samples for microbials, as set forth in Paragraph 75, above. This unauthorized testing
28 resulted in false reporting of samples as passing for microbials, when they, in fact, should

1 have been reported as failed – an intentional misrepresentation of fact to the Department
2 and to the public. As set forth in Paragraph 75, above, there were at least 232 such
3 violations documented. These constitute 232 additional Category I violations, which
4 requires revocation. NAC 453D.905(4)(a)(2). In the alternative, should these acts and
5 omission be found to be unintentional, then these violations constitute 232 additional
6 Category II violations (under NAC 453D.905(3)(b)(1)), which also requires revocation. NAC
7 453D.905(4)(b)(3).

8 99. As to certificate L006 and license RL006, Respondent LTL violated NAC
9 453D.788(11), NAC 453D.790(3), (4), (5) & (6), and NAC 453D.905(3)(a)(3) by performing
10 unauthorized retesting of cannabis samples for Heavy Metals, as set forth in Paragraph
11 76, above. This unauthorized testing resulted in false reporting of samples as passing for
12 Heavy Metals, when they, in fact, should have been reported as failed – an intentional
13 misrepresentation of fact to the Department and to the public. As set forth in Paragraph
14 76, above, there were at least 22 such violations documented. These constitute 22 additional
15 Category I violations, which requires revocation. NAC 453D.905(4)(a)(2). In the alternative,
16 should these acts and omission be found to be unintentional, then these violations
17 constitute 22 additional Category II violations (under NAC 453D.905(3)(b)(1)), which also
18 requires revocation. NAC 453D.905(4)(b)(3).

19 100. As to certificate L006 and license RL006, Respondent LTL violated NAC
20 453D.782, NAC 453D.790(3), (4), (5) & (6), and NAC 453D.905(3)(a)(3) by performing
21 unauthorized retesting of cannabis samples for cannabinoid potency based on internal
22 trends LTL maintained for its clients, as set forth in Paragraphs 77 and 80, above. See also
23 Paragraphs 26 and 27, above. This unauthorized testing resulted in false reporting of
24 samples as having higher levels of THC than they really did – an intentional
25 misrepresentation of fact to the Department and to the public. As set forth in Paragraph
26 80, above, LTL deliberately and intentionally engaged in practices designed to inflate THC
27 potency, a deceptive trade practice. As set forth in Paragraph 77, above, there were at least
28 56 such violations documented. These constitute 56 additional Category I violations, which

1 requires revocation. NAC 453D.905(4)(a)(2). In the alternative, should these acts and
2 omission be found to be unintentional, then these violations constitute 56 additional
3 Category II violations (under NAC 453D.905(3)(b)(1)), which also requires revocation. NAC
4 453D.905(4)(b)(3).

5 101. As to certificate L006 and license RL006, Respondent LTL violated NAC
6 453D.764(1), (4), (6) & (7), NAC 453D.905(3)(d)(7), and NAC 453D.905(3)(d)(8) by
7 improperly using a "chem sample" for products that initially failed microbiological testing.
8 As set forth in Paragraph 78, above, this method is not validated and is not appropriate for
9 microbiological testing. This is an additional Category III violation, requiring revocation
10 under NAC 453D.905(4)(d)(5).

11 102. As to certificate L006 and license RL006, Respondent LTL violated NAC
12 453D.905(3)(a)(3), as set forth in Paragraph 79, above. Specifically, LTL reported
13 Aspergillus testing results as passing, when in fact they should have been reported as
14 failing. This was an intentional misrepresentation of fact. In addition, LTL intentionally
15 misinformed CCB Agent Wayman about the nature and intent of their Aspergillus re-
16 testing process. At least 43 false passing results for Aspergillus were reported. See
17 Paragraph 79, above. These constitute 43 additional Category I violations, which requires
18 revocation. NAC 453D.905(4)(a)(2). In the alternative, should these acts and omission be
19 found to be unintentional, then these violations constitute 43 additional Category II
20 violations (under NAC 453D.905(3)(b)(1)), which also requires revocation. NAC
21 453D.905(4)(b)(3).

22 103. As to certificate L006 and license RL006, Respondent LTL violated NAC
23 453A.652(1), (4), (6) & (7), NAC 453D.405, NAC 453D.764(1), (4), (6) & (7), and NAC
24 453D.905(3)(a)(3) by failing to conduct testing in an impartial manner as required by ISO
25 standards, as set forth in Paragraph 81, above. LTL implemented improper testing
26 procedures designed to protect the monetary assets of at least five of their customers, as
27 set forth in detail in Paragraph 81, above. These acts and omissions resulted in intentional
28 misstatements of fact to both the Department and the public. These constitute 5 additional

1 Category I violations, which requires revocation. NAC 453D.905(4)(a)(2). In the alternative,
2 should these acts and omission be found to be unintentional, then these violations
3 constitute 5 additional Category II violations (under NAC 453D.905(3)(b)(1)), which also
4 requires revocation. NAC 453D.905(4)(b)(3).

5 **DISCIPLINE AUTHORIZED**

6 Pursuant to the provisions of NRS 678A.600, NAC 453A.332, NAC 453D.312, NAC
7 453D.405, NAC 453D.900, and NAC 453D.905, the CCB has the discretion to impose the
8 following disciplinary actions:

- 9 1. Revoke certificate L006 and license RL006 of Cannex (now LTL);
- 10 2. Suspend certificate L006 and license RL006 of Cannex (now LTL);
- 11 3. Impose a civil penalty of not more than \$35,000 for each separate violation of
12 Chapters 453A and 453D of the NAC and NRS on the license and certificate of Cannex (now
13 LTL); and

- 14 4. Take such other disciplinary action as the CCB deems appropriate.

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

16 **RELIEF REQUESTED**

17 Based on the foregoing, counsel for the CCB respectfully requests the CCB revoke
18 certificate L006 and license RL006 and impose civil penalties against Cannex/LTL for
19 certificate L006 and License RL006 in the amount of \$62,500. Counsel for the CCB further
20 requests the amount expended for CCB's time and effort, pursuant to NAC 453A.352(4)
21 and 453D.200(3), in an amount to be determined. In sum, counsel for the CCB respectfully
22 requests the CCB order revocation and fines and penalties \$62,500.00, plus time and effort
23 costs for certificate R006 and license RL006. CCB reserves its rights to seek additional costs
24 incurred as this matter proceeds through hearing and rehearing, if applicable. CCB further
25 requests that, pursuant to NCCR 4.030(1)(b), Respondent not be permitted to apply for
26 reinstatement of license RL006 and certificate L006 for a period of 9 years and 11 months
27 after the date of imposition of revocation.

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

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

28

1 unless an expedited hearing is determined to be appropriate by the Board, in which event
2 the hearing must be held as soon as practicable. NRS 678A.520(4).

3 Respondent's answer and Request for Hearing must be either: mailed via registered
4 mail, return receipt; or emailed to:

5 Tyler Klimas, Executive Director
6 Cannabis Compliance Board
7 555 E. Washington Avenue, Suite 4100
8 Las Vegas, Nevada 89101
9 tklimas@ccb.nv.gov

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

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

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

22 If the respondent does not wish to dispute the charges and allegations set forth
23 herein, within 30 days of the service of this Complaint, Respondent may pay the civil
24 penalties set forth above in the total amount of \$62,500 and surrender certificate L006 and
25 license RL006 to:

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

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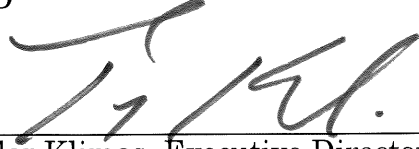
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2 YOU ARE HEREBY ORDERED to immediately cease the activity described above
3 which is a violation of Nevada law.

4 DATED: January 26, 2021.

5 STATE OF NEVADA, CANNABIS COMPLIANCE
6 BOARD

7 By: 
8 Tyler Klimas, Executive Director
9 555 E. Washington Avenue, Suite 4100
10 Las Vegas, Nevada 89101
11 (702) 486-2300

12 AARON D. FORD
13 Attorney General

14 By: 
15 L. Kristopher Rath (Bar No. 5749)
16 Senior Deputy Attorney General
17 Ashley A. Balducci (Bar No. 12687)
18 Senior Deputy Attorney General
19 555 E. Washington Ave, Suite 3900
20 Las Vegas, Nevada 89101
21 (702) 486-9287
22 Attorneys for the Cannabis Compliance Board
23
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**DECLARATION AND CERTIFICATE OF SERVICE OF
COMPLAINT FOR DISCIPLINARY ACTION
(Service via Mail)**

I, Amber Virkler, hereby certify and affirm that:

1. I am over the age of 18 years old.

2. I am a Board Agent of the Cannabis Compliance Board ("CCB"), as defined in NCR 1.068.

3. Pursuant to NRS 678A.520 and NCCR 4.075, I have served the Respondent herein with the Complaint for Disciplinary Action ("Complaint") in the above captioned matter as follows:

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

Name of point of contact served: Ricky Rushton

Address on file with CCB: [REDACTED]

Date of Service: January 26, 2021

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

Executed on January 26, 2021

(date)

[Signature]

(signature)