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

**STATE OF NEVADA, CANNABIS  
COMPLIANCE BOARD,**

Case No. 2020-23

Petitioner,

vs.

**DESERT AIRE WELLNESS, LLC,**

Respondent.

**STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION**

The Cannabis Compliance Board (the "CCB"), by and through its counsel, Aaron D. Ford, Attorney General for the State of Nevada, L. Kristopher Rath, Esq., Senior Deputy Attorney General and Ashley A. Balducci, Esq., Senior Deputy Attorney General, hereby enters into this Stipulation and Order for Settlement of Disciplinary Action ("Stipulation and Order") with Respondent Desert Aire Wellness, LLC (hereinafter "DAW"), by and through its counsel of record, Derek Connor, Esq., of the Law Offices of Connor & Connor, PLLC. Pursuant to this Stipulation and Order, DAW and CCB (collectively, the "Parties") hereby stipulate and agree that CCB Case No. 2020-23 (the "Administrative Action") shall be fully and finally settled and resolved upon terms and conditions set out herein.

**PERTINENT FACTS**

1. On November 17, 2020, CCB initiated this disciplinary action via the service and filing of a Complaint for Disciplinary Action (the "Complaint"). The Complaint alleges that, contrary to Nevada law, the DAW adult-use dispensary (RD169) sold cannabis product that had not been approved for sale. Specifically, a directive had been issued via Listserv in March 2020 requiring all cannabis dispensaries to check their inventories for

1 certain cannabis brands which had failed product testing<sup>1</sup> and to destroy or return these  
2 failed products. The Complaint alleged that Respondent had sold one of these cannabis  
3 brands in violation of the directive. Respondent DAW contended that such sale was  
4 inadvertent, as its staff had missed the aforementioned March 2020 Listserv email due to  
5 the start of Covid-19 disruptions to its operations and therefore did not realize the METRC  
6 hold on the subject cannabis product had been removed so that the subject cannabis product  
7 could be returned or destroyed. DAW also provided a plan of correction to prevent such an  
8 occurrence in the future.

9       2. After service of the Complaint and prior to Respondent filing an answer,  
10 counsel for CCB and counsel for Respondent engaged in good faith negotiations to reach an  
11 agreement that is mutually acceptable to Respondent and counsel for the CCB for  
12 resolution of this matter, with the understanding that this Stipulation and Order must be  
13 approved by majority vote of the members of the CCB. Accordingly, the parties entered  
14 into an agreement to stay the disciplinary process to allow the CCB to consider this  
15 Stipulation and Order for approval.

#### 16                                   ACKNOWLEDGEMENTS AND APPLICABLE LAW

17       This Stipulation and Order is made and based upon the following acknowledgements  
18 by the Parties:

19       3. DAW has entered into this Stipulation and Order on its own behalf and with  
20 full authority to resolve the claims against it and is aware of DAW's rights to contest the  
21 violations pending against it. These rights include representation by an attorney at DAW's  
22 own expense, the right to a hearing on any violations or allegations formally filed, the right  
23 to confront and cross-examine witnesses called to testify against DAW, the right to present  
24 evidence on DAW's own behalf, the right to have witnesses testify on DAW's behalf, the  
25 right to obtain any other type of formal judicial review of this matter, and any other rights  
26 which may be accorded to DAW pursuant to provisions of NRS Chapters 678A through  
27

28 <sup>1</sup> A prior Public Health and Safety Advisory the Department promulgated in February 2020 notified licensees  
and consumers that 20 brands of cannabis that had originally been listed as passing microbial testing by a  
certain cannabis testing facility were determined to have actually failed such testing after later analysis.

1 678D, NRS Chapters 453A and 453D, NAC Chapters 453A and 453D, the Nevada  
2 Cannabis Compliance Regulations (NCCR), and any other provisions of Nevada law. DAW  
3 is waiving all these rights by entering into this Stipulation and Order. If the CCB rejects  
4 this Stipulation and Order, or any portion thereof, DAW reserves the right to withdraw any  
5 or all such waivers.

6 4. Should this Stipulation and Order be rejected by the CCB or not timely  
7 performed by DAW, it is agreed that presentation to and consideration by the CCB of such  
8 proposed stipulation or other documents or matters pertaining to the consideration of this  
9 Stipulation and Order shall not unfairly or illegally prejudice the CCB or any of its  
10 members and/or assigned hearing officers from further participation, consideration,  
11 adjudication, and/or resolution of these proceedings and that no CCB member shall be  
12 disqualified or challenged for bias.

13 5. DAW acknowledges that this Stipulation and Order shall only become  
14 effective after the CCB has approved it.

15 6. DAW enters this Stipulation and Order after being fully advised of DAW's  
16 rights and as to the consequences of this Stipulation and Order. This Stipulation and Order  
17 embodies the entire agreement reached between the CCB and DAW. It may not be altered,  
18 amended, or modified without the express written consent of the Parties and all alterations,  
19 amendments and/or modifications must be in writing.

20 7. In an effort to avoid the cost and uncertainty of a disciplinary hearing, DAW  
21 has agreed to settle this matter. For purposes of settling this matter, DAW acknowledges  
22 that the facts contained in the paragraphs in the above "Pertinent Facts" portion of this  
23 Stipulation and Order are true and correct. Without waiving any constitutional rights  
24 against self-incrimination, DAW further acknowledges that certain facts contained in the  
25 CCB Complaint in Case No. 2020-23 could be found to constitute violations of NRS  
26 Chapters 453A and 453D and NAC Chapters 453A and 453D, with penalties up to and  
27 including suspension of license RD169, and a civil penalty of up to \$10,000, if this matter  
28 went to an administrative hearing.

1           8.     In settling this matter, the Executive Director for CCB and counsel for CCB  
2 have considered the factors set forth in NCCR 4.030(2) and NAC 453D.905(2), including:  
3 the gravity of the violations; the economic benefit or savings, if any, resulting from the  
4 violations; the size of the business of the violator; the history of compliance with the Nevada  
5 statutes and regulations governing marijuana/cannabis by the violator; actions taken to  
6 remedy and/or correct the violations; and the effect of the penalty on the ability of the  
7 violator to continue in business.

8           9.     To resolve the Administrative Action, and only for those purposes and no  
9 other, DAW specifically admits to the following violation with respect to the Complaint in  
10 CCB Case No. 2020-23 for license RD169: One violation of NRS 453D.905(3)(d)(11) for  
11 selling an unauthorized cannabis product, which constitutes one Category III violation.

12           10.    As to the remaining allegations in the Complaint, DAW neither admits nor  
13 denies those allegations and no civil penalties shall be assessed as to the remaining  
14 violations.

15           11.    With respect to RD169, DAW further agrees to pay a civil penalty in the  
16 amount of \$7,500 in consideration for its admitted violation in Paragraph 10, above, and  
17 in consideration of CCB's agreement to resolve the Administrative Action on the terms set  
18 forth herein. Said sum must be paid within 30 days of CCB approval of this Stipulation  
19 and Order.

20           12.    If the CCB approves this Stipulation and Order, it shall be deemed and  
21 considered disciplinary action by the CCB against DAW.

22           13.    Both parties acknowledge that the CCB has jurisdiction to consider and order  
23 this Stipulation and Order because DAW holds privileged licenses/certificates regulated by  
24 the CCB as of July 1, 2020. DAW expressly, knowingly, and intentionally waives the 21-  
25 day and/or 5 day notice requirements contained in the Nevada Open Meeting Law and  
26 acknowledges that this Stipulation and Order may be presented to the CCB for its  
27 consideration and potential ratification at the CCB's meeting on January 26, 2020.  
28

1 **STIPULATED ADJUDICATION**

2 Based upon the above acknowledgments of the Parties and their mutual agreement,  
3 the Parties stipulate and agree that the following terms of discipline shall be imposed by  
4 the CCB in this matter:

5 14. **Violations:** As to license RD169, DAW is found to have one Category III  
6 violation, as set forth in Paragraph 10, above.

7 15. **Imposition and Payment of Civil Penalties.** DAW shall pay a total civil  
8 penalty in the amount of seven thousand, five hundred dollars (\$7,500) within 30 days of  
9 the date the CCB approves this Stipulation and Order.

10 16. **Plan of Correction.** Respondent represents and warrants that it has put in  
11 place a plan of correction to remedy and to prevent the recurrence of the violations set forth  
12 in this Stipulation and Order. As to RD169, Respondent further represents and warrants  
13 that it is now, as of the date it has executed this Stipulation and Order, operating in full  
14 compliance with NRS Title 56 and NCCR. In summary, the plan of correction is as follows:  
15 DAW management staff will ensure they check all Listserv and other notices from CCB.  
16 Also, once a METRC hold has been put in place on a product, and then that hold is later  
17 lifted, DAW staff will investigate why the hold has been lifted and verify the product can  
18 be sold before allowing it to be sold. DAW has instituted staff training for these procedures.

19 17. **Contingency if Approval Denied.** If approval of this Stipulation and Order is  
20 denied by CCB, DAW and counsel for the CCB agree to resume settlement negotiations in  
21 good faith and attempt to reach an agreement to amend this Stipulation and Order and  
22 resubmit an amended Stipulation and Order to the CCB to review for approval at its next  
23 regularly scheduled meeting. If such an agreement cannot be reached, the Parties agree to  
24 proceed with the Administrative Action, which shall include a disciplinary hearing before  
25 the CCB or its assigned hearing officer. DAW shall file its Answer to the Complaint no later  
26 than February 18, 2021. Should the Administrative Action proceed for the reasons set forth  
27 in this Paragraph, CCB preserves all its claims and arguments in the Administrative  
28 Action as set forth in its Complaint and DAW preserves all its defenses and arguments set

1 forth in its Answer. An unapproved Stipulation and Order shall not be admissible as  
2 evidence or referenced in argument at any disciplinary hearing in CCB Case No. 2020-23  
3 or any other matter involving the CCB.

4 18. Contingency if Approval Conditioned. If the CCB approves this Stipulation  
5 and Order, but said approval is contingent on certain conditions, the parties will undertake  
6 further good faith negotiations to include said conditions in an amended stipulation and  
7 order for execution by the CCB Chair. If DAW does not agree to the certain conditions  
8 imposed by the CCB, the parties will undertake additional negotiations and attempt to  
9 reach an agreement to amend this Stipulation and Order and resubmit an amended  
10 Stipulation and Order to the CCB to review for approval at its next regularly scheduled  
11 meeting. If such an agreement cannot be reached, the Parties agree to proceed with the  
12 Administrative Action, which shall include a disciplinary hearing before the CCB or its  
13 assigned hearing officer. DAW shall file its answer to the Complaint no later than February  
14 18, 2021. Should the Administrative Action proceed for the reasons set forth in this  
15 Paragraph, CCB preserves all its claims and arguments in the Administrative Action as  
16 set forth in its Complaint and DAW preserves all its defenses and arguments asserted in  
17 its Answer. An unapproved Stipulation and Order shall not be admissible as evidence or  
18 referenced in argument at any disciplinary hearing in CCB Case No. 2020-23 or any other  
19 matter.

20 19. Closure of Disciplinary Action. Once this Stipulation and Order is fully  
21 performed by DAW, the Administrative Action will be closed.

22 20. Communications with CCB Members. DAW understands that this  
23 Stipulation and Order will be presented to the CCB in open session at a duly noticed and  
24 scheduled CCB meeting. DAW understands that the CCB has the right to decide in its own  
25 discretion whether or not to approve this Stipulation and Order. The CCB's counsel, which  
26 is the Nevada Attorney General and its staff attorneys, will recommend approval of this  
27 Stipulation and Order. In the course of seeking CCB acceptance of this Stipulation and  
28 Order, counsel for CCB may communicate directly with individual CCB members. DAW

1 acknowledges that such communications may be made or conducted *ex parte*, without notice  
2 or opportunity for DAW to be heard on its part until the public CCB meeting where this  
3 Stipulation and Order is discussed, and that such contacts and communications may  
4 include, but may not be limited to, matters concerning this Stipulation and Order, the  
5 Administrative Action and any and all information of every nature whatsoever related to  
6 these matters. DAW agrees that it has no objections to such *ex parte* communications. CCB  
7 agrees that DAW and/or its counsel may appear at the CCB meeting where this Stipulation  
8 and Order is discussed and, if requested, respond to any questions that may be addressed  
9 to DAW and/or the Attorney General's staff attorneys. DAW agrees that, should the CCB  
10 decline to approve this Stipulation and Order, DAW will not contest or otherwise object to  
11 any CCB member, and/or CCB appointed hearing officer, hearing and adjudicating the  
12 Administrative Action based on the aforementioned *ex parte* communications with anyone  
13 from the Nevada Attorney General's Office.

14       21. Release. In execution of this agreement, Respondent agrees that the State of  
15 Nevada, the CCB, the Office of the Attorney General, and each of their members, staff,  
16 attorneys, investigators, experts, hearing officers, consultants and agents are immune from  
17 any liability for any decision or action taken in good faith in response to information and  
18 data acquired by the CCB. Respondent agrees to release the State of Nevada, the CCB, the  
19 Office of the Attorney General, and each of their members, staff, attorneys, investigators,  
20 experts, hearing officers, consultants and agents from any and all manner of actions, causes  
21 of action, suits, debts, judgments, executions, claims and demands whatsoever, known or  
22 unknown, in law or equity, that Respondent ever had, now has, may have or claim to have  
23 against any and/or all of the persons, government agencies or entities named in this  
24 Paragraph, arising out of, or by reason of, CCB's investigation of the matters set forth in  
25 its Complaint, the matters set forth in this Stipulation and Order, or the administration of  
26 CCB Case No. 2020-23.

27       22. No Precedence. The Parties agree that this Stipulation and Order shall not  
28 constitute a precedent for any other issues or proceedings before the CCB and/or in any

1 other forum, other than those set forth in this Stipulation and Order. Furthermore, this  
2 Stipulation and Order shall not be admissible in any other proceeding or action with respect  
3 to proof of fact or any other matter and/or any other licensee and/or cannabis establishment  
4 registered agent, except proceedings brought to enforce this Stipulation and Order under  
5 its terms and/or for the CCB's consideration of future disciplinary action against this  
6 Respondent.

7 The CCB may consider the discipline imposed herein in any future disciplinary  
8 action against Respondent, as required under NCCR 4.030(2), along with the other factors  
9 set forth in NCCR 4.030(2), and possible progressive discipline pursuant to NCCR 4.035  
10 through 4.060. As every case concerns different facts and details, this Stipulation does not  
11 act as precedence to bind CCB to impose any particular penalty, to charge or allege any  
12 particular violation, and/or to impose any particular disciplinary action in the future for  
13 this Respondent, or any other respondent, for violations of the same statutes and/or  
14 regulations addressed in this Stipulation and Order. Likewise, CCB is not bound by any  
15 previous settlement agreements it has approved in entering into this Stipulation and  
16 Order.

17 23. Attorneys' Fees and Costs. The Parties each agree to bear their own attorneys'  
18 fees and costs.

19 24. Further Assurances. The Parties shall cooperate in executing such additional  
20 documents and performing such further acts as may be reasonably necessary to give effect  
21 to the purposes and provisions of this Stipulation and Order.

22 25. Voluntary and Informed Agreement. The Respondent represents that its  
23 owners, officers, and/or its directors, who are responsible for and able to legally bind DAW  
24 have read completely and understand fully the terms of this Stipulation and Order, that  
25 such terms are fully understood and voluntarily accepted by Respondent in advance of and  
26 as memorialized by the signing of this Stipulation and Order, and that the Respondent's  
27 signature to this Stipulation and Order indicates same. Respondent further represents that  
28 it has voluntarily entered into this Stipulation and Order to make a full, final, and complete



1 compromise upon the terms and conditions set forth herein. Respondent further represents  
2 that any releases, waivers, discharges, covenants, and agreements provided for in this  
3 Stipulation and Order have been knowingly and voluntarily granted and without any  
4 duress or undue influence of any nature from any person or entity. The Parties, and each  
5 of them, hereby expressly acknowledge that they are each represented by counsel of their  
6 own choice in this matter and have been advised by counsel accordingly.

7       **26. Warranties of Authority.** The Parties to this Stipulation and Order, and each  
8 of them, expressly warrant and represent to all other Parties that each has the full right,  
9 title, and authority to enter into and to carry out its obligations hereunder, with the sole  
10 exception of the required approval of this Stipulation and Order by the CCB. The Parties  
11 also expressly acknowledge the foregoing authority.

12       **27. Binding Effect.** This Stipulation and Order shall be binding upon and inure  
13 to the benefit of the Parties hereto and the Parties' respective successors, predecessors,  
14 parents, affiliates, shareholders, employees, heirs, executors, assigns, and administrators.

15       **28. Construction.** The headings of all Sections and Paragraphs of this Stipulation  
16 and Order are inserted solely for the convenience of reference and are not a part of the  
17 Stipulation and Order and are not intended to govern, limit, or aid in the construction or  
18 interpretation of any term or provision of this Stipulation and Order. In the event of a  
19 conflict between such caption and the paragraph at the head of which it appears, the  
20 paragraph and not such caption shall govern in the construction of this Stipulation and  
21 Order.

22       **29. Governing Law.** This Stipulation and Order shall be governed by and  
23 construed in accordance with the laws of the State of Nevada, without reference to conflict  
24 of law principles.

25       **30. Jurisdiction and Forum Selection.** The Parties consent to the jurisdiction of  
26 the Eighth Judicial District Court of the State of Nevada, in and for Clark County, to  
27 resolve any disputes related to the terms or enforcement of this Stipulation and Order. The  
28 successful or prevailing Party or Parties in such action shall be entitled to recover

1 reasonable attorney fees, costs, and expenses actually incurred in initiating or responding  
2 to such proceeding, in addition to any other relief to which it may be entitled.

3 31. Interpretation. This Stipulation and Order is the result of negotiations among  
4 the Parties who have each negotiated and reviewed its terms. In the event a Court ever  
5 construes this Agreement, the Parties expressly agree, consent, and assent that such Court  
6 shall not construe this Agreement or any provision hereof against any Party as its drafter  
7 for purposes of interpreting any ambiguity or uncertainty in this Stipulation and Order.

8 32. Time is of the Essence. Time is of the essence in the performance of all terms  
9 of this Stipulation and Order.

10 33. Severability. If any portion of this Stipulation and Order, or its application  
11 thereof to any person or circumstance, shall be deemed to any extent to be invalid, illegal,  
12 or unenforceable as a matter of law, all remaining clauses of this Stipulation and Order  
13 and its application thereof shall be not affected and shall remain enforceable to the fullest  
14 extent permitted by law.

15 34. Counterparts and Copies. This Stipulation and Order may be executed in  
16 counterparts, each of which when so executed and upon delivery to counsel of record for the  
17 Parties shall be deemed an original ("Counterparts"). This Stipulation and Order shall be  
18 deemed executed when Counterparts of this Stipulation and Order have been executed by  
19 all the Parties and/or their counsel; such Counterparts taken together shall be deemed to  
20 be the Agreement. This Stipulation and Order may be executed by signatures provided by  
21 electronic facsimile or email, which signatures shall be binding and effective as original  
22 wet ink signatures hereupon. All fully executed copies of this Stipulation and Order are  
23 duplicate originals, equally admissible in evidence.

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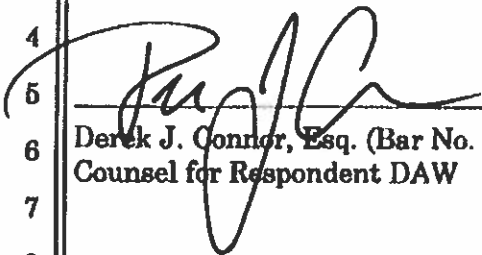
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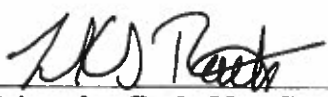
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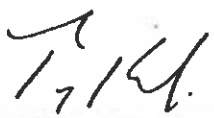
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1 IN WITNESS WHEREOF, this Stipulation and Order has been executed by the  
2 Parties and attested by their duly authorized representatives as of the date(s) so indicated.  
3 The Effective Date of this Stipulation and Order shall be the date it is ordered by the CCB.

4  \_\_\_\_\_ Date: 1-6-2021  
5  
6 Derek J. Connor, Esq. (Bar No. 12194)  
7 Counsel for Respondent DAW

8  
9  \_\_\_\_\_ Date: 1-4-2021  
10 (printed name Stacey Huffman),  
11 On behalf of Respondent DAW

12  
13  \_\_\_\_\_ Date: 1/7/2021  
14 L. Kristopher Rath (Nev. Bar No. 5749)  
15 Ashley Balducci (Nev. Bar No. 12687)  
16 Senior Deputy Attorney General  
17 Counsel for Cannabis Compliance Board

18  \_\_\_\_\_ Date: 1/15/2021  
19 Tyler Klimas, Executive Director for the  
20 Cannabis Compliance Board

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**ORDER**

WHEREAS, on 26<sup>th</sup> day of January, 2021, the Nevada Cannabis Compliance Board approved and adopted all the terms and conditions set forth in the Stipulation and Order for Settlement of Disciplinary Action with DAW.

IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 26<sup>th</sup> day of Jan, 2021.

**STATE OF NEVADA,  
CANNABIS COMPLIANCE BOARD**

By:   
**HON. MICHAEL L. DOUGLAS, CHAIR**