

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

3 STATE OF NEVADA, CANNABIS
4 COMPLIANCE BOARD,

5 Petitioner,

6 vs.

7 LAS VEGAS WELLNESS AND
8 COMPASSION, LLC,

9 Respondent.


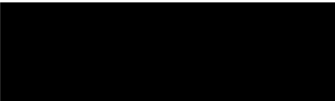
Case No. 2021-29

10
11 **COMPLAINT FOR DISCIPLINARY ACTION**

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

20 **JURISDICTION**

21 1. During all relevant times mentioned in this Complaint, LVWC held, and
22 currently holds, the following licenses and certificates:

23 ID	License/Certificate	Last Issued / Renewed	Address
24 C137	Medical Cultivation 61866401407522624698	7/1/2020	
26 RC137	Adult-use Cultivation 1018592385-137-CUL	7/1/2020	

27 2. During all relevant times mentioned in this Complaint, LVWC is and was
28 registered as a domestic limited liability company in the State of Nevada. The Nevada

1 Secretary of State lists the Managers of LVWC as Chad Wallace and George Marnell.

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

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

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

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

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

6. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director
has transmitted the details of the suspected violations of LVWC to the Attorney General
and the Attorney General has conducted an investigation of the suspected violations to
determine whether they warrant proceedings for disciplinary action. The Attorney General
has recommended to the Executive Director that further proceedings are warranted, as set

1 forth in this CCB Complaint. The Executive Director has transmitted this recommendation
2 and information to the CCB. Pursuant to NRS 678A.510(2)(b), the CCB has voted to
3 proceed with appropriate disciplinary action under NRS 678A.520 through 678A.600, and
4 has authorized service of this CCB Complaint upon Respondent pursuant to NRS
5 678A.510(1).

6 **FACTUAL ALLEGATIONS**

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

8 8. On or about March 5, 2019, Department staff conducted an
9 audit/investigation of the LVWC medical and adult-use cultivation facility at [REDACTED]

10 [REDACTED] The Department agents for this investigation were
11 Damon Hernandez, Shandon Snow, and Terrence Whittier.

12 9. During the course of the aforementioned investigation, Department staff
13 observed an individual leaving the facility via a side door. LVWC facility staff told
14 Department agents that the individual who left the facility during the investigation was
15 Brian Payopay, who held a marijuana establishment agent card to work at the facility.
16 LVWC subsequently provided Department staff with a copy of Brian Payopay's temporary
17 marijuana establishment agent card that same day.

18 10. On Department staff's further investigation, which included a recorded
19 interview with LVWC owner/manager Chad Wallace¹ on March 8, 2019, Department staff
20 discovered that the individual who left during the investigation and was identified as Brian
21 Payopay was, in fact, Garrett Wallace, the son of owner/manager Chad Wallace. Chad
22 Wallace further explained that Brian Payopay had worked briefly at LVWC and that the
23 facility had hired Garrett Wallace (hereinafter "Garrett") to work at the cultivation facility
24 as a volunteer while using Mr. Payopay's marijuana establishment agent card. Chad
25 Wallace acknowledged that Garrett was under the age of 21 during this time. Chad
26 Wallace further stated that Garrett's volunteer work at the facility included acting as a
27 runner, data entry, and pruning and plucking from marijuana/cannabis plants. Garrett

28 _____
¹ Chad Wallace was aware the interview was being recorded and consented to that recording.

1 worked at the facility starting on or about mid-December 2018 and continuing until at least
2 March 5, 2019. According to Chad Wallace, Garrett typically worked Monday through
3 Friday from about 6:00 a.m. to 4:00 pm. Chad Wallace further acknowledged that he had
4 previously instructed Garrett to leave the facility, if any agents or staff from the State of
5 Nevada appeared at the facility. While working at the facility, Garrett would wear Brian
6 Payopay's temporary agent card. Chad Wallace further stated that not all facility
7 employees knew Garret was under 21, but facility employees were aware that Garrett was
8 improperly using Brian Payopay's agent card and knew that he was not Brian Payopay.

9 10 VIOLATIONS OF LAW

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

12 12. As to certificate C137 and license RC137, Respondent LVWC violated NRS
13 453A.332(6)(b), NRS 453D.222(6)(b), NRS 453D.300(1)(c), NAC 453D.340(2)(b), and NAC
14 453D.905(3)(b)(7), by allowing a person who is less than 21 years of age to work or volunteer
15 at its marijuana/cannabis establishment. Specifically, LVWC allowed Garrett to volunteer
16 and/or work at its cannabis establishment numerous times, as set forth in Paragraph 10,
17 above. There were multiple such violations and each day Garrett worked and/or
18 volunteered at the facility was a separate violation. These are Category II violations. The
19 first Category II violation carries a civil penalty of \$10,000 and a suspension of not more
20 than 20 days. NAC 453D.905(4)(b)(1). The second Category II violation carries a civil
21 penalty of \$20,000 and a suspension of not more than 30 days. NAC 453D.905(4)(b)(2).
22 The third and subsequent Category II violations require revocation of the license and
23 certificate. NAC 453D.905(4)(b)(3).

24 13. As to certificate C137 and license RC137, Respondent LVWC violated NAC
25 453D.905(3)(a)(3) by making intentional false statements to the Department. Specifically,
26 LVWC, though its employees and its manager/owner Chad Wallace, represented to the
27 Department that Brian Payopay was a cannabis/marijuana establishment agent working
28 at its facility and was the individual who left the facility through a side door on or about

1 March 5, 2019, during the aforementioned inspection. At the time this representation was
2 made, LVWC knew that the individual they represented as Brian Payopay was in fact,
3 Garrett, as set forth in Paragraph 10, above. This is a Category I violation, which carries
4 a civil penalty of \$35,000 and a suspension of not more than 30 days. NAC
5 453D.905(4)(a)(1).

6 14. As to certificate C137 and license RC137, Respondent LVWC violated NAC
7 453D.905(3)(a)(4) by intentionally concealing evidence. Specifically, LVWC used the agent
8 card of Brian Payopay to conceal the fact that Garrett was improperly working and/or
9 volunteering at LVWC's cultivation facility while under age and further concealed Garrett's
10 presence at that facility by instructing him to leave the facility whenever agents from the
11 State of Nevada arrived, as set forth in Paragraph 10 above. This is the second Category I
12 violation and requires revocation of LVWC's license and certificate. NAC
13 453D.905(4)(a)(2).

14 **DISCIPLINE AUTHORIZED**

15 Pursuant to the provisions of NRS 678A.600, NAC 453A.332, NAC 453D.312,, NAC
16 453D.900, and NAC 453D.905, the CCB has the discretion to impose the following
17 disciplinary actions:

- 18 1. Revoke certificate C137 and license RC137;
- 19 2. Suspend the certificates and licenses of LVWC;
- 20 3. Impose a civil penalty of not more than \$35,000 for each separate violation of
21 NRS Chapters 453A and 453D and NAC Chapters 453A and 453D on the certificates and
22 licenses of LVWC; and
- 23 4. Take such other disciplinary action as the CCB deems appropriate.

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

25 **RELIEF REQUESTED**

26 Based on the foregoing, counsel for the CCB respectfully requests the CCB impose
27 the penalty of revocation against the certificates and licenses of LVWC: C137 and RC137.

28 In addition, counsel for CCB requests the CCB impose civil penalties against LVWC

1 in the amount of \$65,000 for C137 and RC137. In sum, counsel for the CCB respectfully
2 requests the CCB order revocation of LVWC's cultivation certificate and license and order
3 civil penalties of \$65,000. CCB reserves its rights to seek additional costs incurred as this
4 matter proceeds through hearing and rehearing, if applicable.

5 NOTICE TO RESPONDENT

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

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

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

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

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

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

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

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

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1 The Board shall determine the time and place of the hearing as soon as is reasonably
2 practical after receiving the Respondent's answer. The Board may assign a hearing officer
3 to conduct the hearing under NCCR 2.070, 4.095, and 4.110. The Board shall deliver or
4 send by registered or certified mail a notice of hearing to all parties at least 10 days before
5 the hearing. The hearing must be held within 45 days after receiving the respondent's
6 answer unless an expedited hearing is determined to be appropriate by the Board, in which
7 event the hearing must be held as soon as practicable. NRS 678A.520(4).

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

10 Tyler Klimas, Executive Director
11 Cannabis Compliance Board
12 555 E. Washington Avenue, Suite 4100
13 Las Vegas, Nevada 89101
14 tklimas@ccb.nv.gov

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

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

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

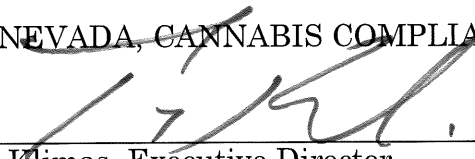
27 If the Respondent does not wish to dispute the charges and allegations set forth
28 herein, within 30 days of the service of this Complaint, Respondent may pay the civil
penalties and costs set forth above in the total amount of \$65,000 and surrender certificate
C137 and license RC137 on notice to:

1 Tyler Klimas, Executive Director
2 Cannabis Compliance Board
3 555 E. Washington Avenue, Suite 4100
4 Las Vegas, Nevada 89101

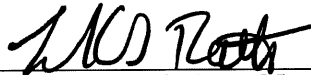
5 YOU ARE HEREBY ORDERED to immediately cease the activity described above
6 which is a violation of Nevada law.

7 DATED: February 23, 2021.

8 STATE OF NEVADA, CANNABIS COMPLIANCE BOARD

9 By: 
10 Tyler Klimas, Executive Director
11 555 E. Washington Avenue, Suite 4100
12 Las Vegas, Nevada 89101
13 (702) 486-2300

14 AARON D. FORD
15 Attorney General

16 By: 
17 L. Kristopher Rath (Bar No. 5749)
18 Senior Deputy Attorney General
19 Ashley A. Balducci (Bar No. 12687)
20 Senior Deputy Attorney General
21 555 E. Washington Ave, Suite 3900
22 Las Vegas, Nevada 89101
23 (702) 486-9287

24 Attorneys for the Cannabis Compliance Board
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26
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DECLARATION AND CERTIFICATE OF SERVICE OF COMPLAINT FOR DISCIPLINARY ACTION (Service via Mail)

Case No. 2021-29

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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:

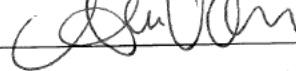
By placing a true and correct copy of the Complaint to be deposited for mailing in the United States Mail in a sealed envelope via registered or certified mail, prepaid in Las Vegas, Nevada, to Respondent's point of contact with the CCB under NCCR 2.050 at Respondent's address on file with the Board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

Name of point of contact served: Chad Wallace

Address on file with CCB: [REDACTED]

Date of Service: February 23, 2021

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

Executed on February 23, 2021 
(date) (signature)