

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

3
4 STATE OF NEVADA, CANNABIS
 COMPLIANCE BOARD,

Case No. 2021-31

5 Petitioner,

6
7 vs.

8 NCMM, LLC,

9 Respondent.

10
11 **STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION**

12 The Cannabis Compliance Board (the "CCB"), by and through its counsel, Aaron D.
13 Ford, Attorney General for the State of Nevada, L. Kristopher Rath, Esq., Senior Deputy
14 Attorney General and Ashley A. Balducci, Esq., Senior Deputy Attorney General, hereby
15 enters into this Stipulation and Order for Settlement of Disciplinary Action ("Stipulation
16 and Order") with Respondent NCMM, LLC ("NCMM" or "Respondent") by and through
17 their counsel, Michael L. Becker, Esq. Pursuant to this Stipulation and Order, Respondent
18 and CCB (collectively, the "Parties") hereby stipulate and agree that CCB Case No. 2021-
19 31 (the "Administrative Action") shall be fully and finally settled and resolved upon terms
20 and conditions set out herein.

21 **PERTINENT FACTS**

22 1. Respondent NCMM is a registered domestic limited-liability company
23 licensed in Nevada to operate medical and adult-use cannabis cultivation (C159 and
24 RC159), and medical and adult-use cannabis production (P099 and RP099) establishments.

25 2. On January 26, 2021, CCB held a public meeting at which it considered
26 multiple transfer of interest applications ("TOI") submitted by Respondent. Specifically,
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1 CCB considered TOI No. 17002¹, TOI No. 17012², and TOI No. 20020³.

2 3. On investigation of the TOI requests, CCB staff found that certain ownership
3 transfers had been made and completed prior to approval by a cannabis licensing authority
4 in Nevada⁴. At its meeting on January 26, 2021, the CCB considered input on this issue
5 from CCB staff and NCMM and found unauthorized transfers occurred, but that there were
6 mitigating circumstances, including the fact that NCMM had to take legal action to
7 effectuate a transfer when owners who could not make a capital call could not be found.
8 The CCB provided NCMM an opportunity to resolve the matter through negotiations and
9 noted a \$2,500 fine would be appropriate for the violation.

10 4. Respondent has conferred with CCB staff and the Office of the Attorney
11 General, as counsel for CCB, and the Parties have come to an agreement to resolve this
12 matter as set forth in this Stipulation and Order. Respondent has stipulated to pay a
13 \$2,500 civil penalty for violation of NAC 453D.905(3)(b)(4) in lieu of the CCB filing and
14 serving a Complaint for Disciplinary Action ("Complaint") and proceeding to a disciplinary
15 hearing. Should the CCB approve this Stipulation and Order, TOI No.'s 17002, 17012, and
16 20020 filed by NMCC, and as amended as of January 26 2021, shall be deemed approved
17 on the CCB's receipt of payment of the aforementioned civil penalty.

18 **ACKNOWLEDGEMENTS AND APPLICABLE LAW**

19 This Stipulation and Order is made and based upon the following acknowledgements
20 by the Parties:

21 5. Respondent has entered into this Stipulation and Order on its own behalf and
22 with full authority to resolve the claims against it and is aware of its rights to contest the
23 violations pending against it. These rights include the filing and service of a disciplinary
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25 ¹ TOI No. 17002 was filed on February 13, 2017, and requested a forfeiture of the ownership interests of BD
26 Tech, Jason Burke, and Sheryl Cork, due to their inability to make a capital calls during 2016.

27 ² TOI No. 17012 was filed on August 7, 2017, and requested approval for owner Neil Beller to sell and transfer
his interest to Lawrence Smith.

28 ³ TOI No. 20020 was filed on January 8, 2021, and requested approval for owner Justin Mohny to sell and
transfer his interest to Valerie Small.

⁴ Including the CCB's predecessors, the Department of Health and Human Services (Division of Public and
Behavioral Health) and the Department of Taxation (Marijuana Enforcement Division), as well as the CCB.

1 complaint specifying the charges against Respondent, representation by an attorney at
2 Respondent's own expense, the right to a hearing on any violations or allegations formally
3 filed, the right to confront and cross-examine witnesses called to testify against
4 Respondent, the right to present evidence on Respondent's own behalf, the right present
5 witnesses to testify on Respondent's behalf, the right to obtain any other type of formal
6 judicial review of this matter, and any other rights which may be accorded to Respondent
7 pursuant to provisions of NRS Chapters 678A through 678D, NAC Chapters 453A and
8 453D, the NCCR, and any other provisions of Nevada law. Respondent is waiving all these
9 rights by entering into this Stipulation and Order. If the CCB rejects this Stipulation and
10 Order, or any portion thereof, Respondent reserves the right to withdraw any or all waivers.

11 6. Should this Stipulation and Order be rejected by the CCB or not timely
12 performed by Respondent, it is agreed that presentation to and consideration by the CCB
13 of such proposed stipulation or other documents or matters pertaining to the consideration
14 of this Stipulation and Order shall not unfairly or illegally prejudice the CCB or any of its
15 members from further participation, consideration, adjudication, or resolution of these
16 proceedings and that no CCB member shall be disqualified or challenged for bias.

17 7. Respondent acknowledges that this Stipulation and Order shall only become
18 effective after the CCB has approved it.

19 8. Respondent enters into this Stipulation and Order after being fully advised of
20 Respondent's rights and as to the consequences of this Stipulation and Order. This
21 Stipulation and Order embodies the entire agreement reached between the CCB and
22 Respondent. It may not be altered, amended, or modified without the express written
23 consent of the Parties and all alterations, amendments and/or modifications must be in
24 writing.

25 9. In an effort to avoid the cost and uncertainty of a disciplinary hearing, the
26 Parties have agreed to settle this matter. In settling this matter, Respondent acknowledges
27 that the facts contained in the paragraphs in the above "Pertinent Facts" portion of this
28 Stipulation and Order are true and correct. Respondent further acknowledges that, if the

1 CCB filed and served a Complaint, the "Pertinent Facts" could be found to constitute one
2 or more violations of Title 56 of NRS (NRS Chapters 678A through 678D), NRS Chapters
3 453A and 453D and NAC Chapters 453A and 453D, with civil penalties of up to \$10,000
4 per violation and a suspension of Respondent's licenses and certificates for not more than
5 20 days, if this matter went to an administrative hearing.

6 10. To resolve the Administrative Action, and only for those purposes and no
7 other, Respondent specifically admits to the following violation with respect to CCB Case
8 No. 2021-31: One violation of NAC 453D.905(3)(b)(4) for failing to notify the Department of
9 a change of ownership. This violation is applicable to Respondent for the each of the
10 following certificates and licenses: C159; RC159; P099; and RP099.

11 11. Respondent agrees to pay a civil penalty of two thousand, five hundred dollars
12 (\$2,500)⁵ in consideration of the CCB's agreement to fully resolve the Administrative Action
13 on the terms set forth herein.

14 12. If the CCB approves this Stipulation and Order, it shall be deemed and
15 considered disciplinary action by the Board against the Respondent as to each of the
16 certificates and licenses set forth in Paragraph 10, above.

17 13. Both parties acknowledge that the CCB has jurisdiction to consider and order
18 this Stipulation and Order because Respondent holds privileged certificates/licenses
19 regulated by the CCB as of July 1, 2020. Respondent expressly, knowingly, and
20 intentionally waives the 21-day and/or 5-day notice requirements contained in the Nevada
21 Open Meeting Law and acknowledges that this Stipulation and Order may be presented to
22 the CCB for its consideration and potential ratification at the Board's meeting on February
23 23, 2021.

24 STIPULATED ADJUDICATION

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

28 ⁵ This \$2,500 civil penalty shall be apportioned \$625.00 each as to C159; RC159; P099; and RP099.

1 14. One Category II Violation. Respondent shall be deemed to have committed a
2 Category II violation, as to each and every license and certificate set forth in Paragraph 10,
3 above, effective on the date the CCB approves this Stipulation and Order.

4 15. Imposition and Payment of Civil Penalties. Respondent shall pay a total civil
5 penalty in the amount of two thousand, five hundred dollars (\$2,500) within 30 days of the
6 date the CCB approves this Stipulation and Order, to be apportioned as set forth in
7 Paragraph 11, above.

8 16. Potential Future Action against Respondent. The Parties agree that,
9 pursuant to the specific facts of this case, the progressive disciplinary provisions of NAC
10 453D.905(4)(b) of two years shall apply to the disciplinary actions herein. Said two-year
11 period shall commence on the date the CCB approves this agreement. Any additional
12 Category II violations within said two-year period would invoke the progressive
13 disciplinary provisions of NAC 453D.905(4)(b). After said two-year period expires, the CCB
14 may still consider the compliance history of Respondent under NCCR 4.030(2). In addition
15 to the factors listed for consideration in NCCR 4.030(2), in any future disciplinary action
16 involving the licenses and certificates of Respondent at issue in this case, CCB will also
17 take into account and consider the fact that Respondent has cooperated in and negotiated
18 in good faith in the resolution of CCB Case No. 2021-031.

19 17. Contingency if Approval Denied. If approval of this Stipulation and Order is
20 denied by CCB, Respondent and counsel for the CCB agree to resume settlement
21 negotiations in good faith and attempt to reach an agreement to amend this Stipulation
22 and Order and resubmit an amended Stipulation and Order to the CCB to review for
23 approval at its next regularly scheduled meeting. If such an agreement cannot be reached,
24 the Parties agree to proceed with the Administrative Action, which shall include the filing
25 and service of a disciplinary complaint and a disciplinary hearing before the CCB or its
26 assigned hearing officer. Should the Administrative Action proceed for the reasons set forth
27 in this Paragraph, CCB preserves all its claims and arguments in the Administrative
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1 Action as set forth in its Complaint⁶ (to be filed) and Respondent preserves all its defenses
2 and arguments it may assert. An unapproved Stipulation and Order shall not be admissible
3 as evidence or referenced in argument at any disciplinary hearing in CCB Case No. 2021-
4 31 or any other matter involving the CCB.

5 18. Contingency if Approval Conditioned. If the CCB approves this Stipulation
6 and Order, but said approval is contingent on certain conditions, the Parties will undertake
7 further good faith negotiations to include said conditions in an amended Stipulation and
8 Order for execution by the CCB Chair. If Respondent does not agree to the certain
9 conditions imposed by the CCB, the parties will undertake additional negotiations and
10 attempt to reach an agreement to amend this Stipulation and Order and resubmit an
11 amended Stipulation and Order to the CCB to review for approval at its next regularly
12 scheduled meeting. If such an agreement cannot be reached, the Parties agree to proceed
13 with the Administrative Action, which shall include the filing and service of a Complaint
14 and a disciplinary hearing before the CCB or its assigned hearing officer. Should the
15 Administrative Action proceed for the reasons set forth in this Paragraph, CCB preserves
16 all its claims and arguments in the Administrative Action as set forth in its Complaint⁷ (to
17 be filed) and Respondent preserves all its defenses and arguments it may assert. An
18 unapproved Stipulation and Order shall not be admissible as evidence or referenced in
19 argument at any disciplinary hearing in CCB Case No. 2021-31 or any other matter
20 involving the CCB.

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

23 20. Communications with CCB Members. Respondent understands that this
24 Stipulation and Order will be presented to the CCB in open session at a duly noticed and
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26 ⁶ If the Parties cannot reach a final agreement approved by CCB, then CCB shall not be limited by this
27 Stipulation and Order in the filing of a Complaint for disciplinary action, which may include allegations which
28 are not contained in this Stipulation and Order.

⁷ If the Parties cannot reach a final agreement approved by CCB, then CCB shall not be limited by this
Stipulation and Order in the filing of a Complaint for disciplinary action, which may include allegations which
are not contained in this Stipulation and Order.

1 scheduled CCB meeting. Respondent understands that the CCB has the right to decide in
2 its own discretion whether or not to approve this Stipulation and Order. The CCB's counsel,
3 which is the Nevada Attorney General and its staff attorneys, will recommend approval of
4 this Stipulation and Order. In the course of seeking CCB acceptance of this Stipulation and
5 Order, counsel for CCB may communicate directly with individual CCB members.
6 Respondent acknowledge that such communications may be made or conducted *ex parte*,
7 without notice or an opportunity for Respondent to be heard on its part until the public
8 CCB meeting where this Stipulation and Order is discussed, and that such contacts and
9 communications may include, but may not be limited to, matters concerning this
10 Stipulation and Order, the Administrative Action and any and all information of every
11 nature whatsoever related to these matters. Respondent agrees that it has no objections to
12 such *ex parte* communications. CCB agrees that Respondent and/or its counsel may appear
13 at the CCB meeting where this Stipulation and Order is discussed and, if requested,
14 respond to any questions that may be addressed to Respondent and/or the Attorney
15 General's staff attorneys. Respondent agrees that, should the CCB decline to approve this
16 Stipulation and Order, Respondent will not contest or otherwise object to any CCB member,
17 and/or CCB appointed hearing officer, hearing and adjudicating the Administrative Action
18 based on the aforementioned *ex parte* communications with anyone from the Nevada
19 Attorney General's Office.

20 21. Release. In execution of this agreement, Respondent, agrees that the State of
21 Nevada, the CCB, the Office of the Attorney General, and each of their members, staff,
22 attorneys, investigators, experts, hearing officers, consultants and agents are immune from
23 any liability for any decision or action taken in good faith in response to information and
24 data acquired by the CCB. Respondent agrees to release the State of Nevada, the CCB, the
25 Office of the Attorney General, and each of their members, staff, attorneys, investigators,
26 experts, hearing officers, consultants and agents from any and all manner of actions, causes
27 of action, suits, debts, judgments, executions, claims and demands whatsoever, known or
28 unknown, in law or equity, that Respondent ever had, now has, may have or claim to have

1 against any and/or all of the persons, government agencies or entities named in this
2 Paragraph, arising out of, or by reason of, CCB's investigation of the matters set forth in
3 this Stipulation and Order, or the administration of CCB Case No. 2021-31.

4 22. No Precedence. The Parties agree that this Stipulation and Order shall not
5 constitute a precedent for any other issues or proceedings before the CCB and/or in any
6 other forum, other than those set forth in this Stipulation and Order. Furthermore, this
7 Stipulation and Order shall not be admissible in any other proceeding or action with respect
8 to proof of fact or any other matter and/or any other licensee and/or cannabis establishment
9 registered agent.

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

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

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

25 25. Voluntary and Informed Agreement. Respondent represents that its owners,
26 officers, and/or its directors, who are responsible for and able to legally bind Respondent,
27 have read completely and understand fully the terms of this Stipulation and Order, that
28 such terms are fully understood and voluntarily accepted by Respondent in advance of and

1 as memorialized by the signing of this Stipulation and Order, and that Respondent's
2 signature to this Stipulation and Order indicates same. Respondent further represents that
3 it has voluntarily entered into this Stipulation and Order to make a full, final, and complete
4 compromise upon the terms and conditions set forth herein. Respondent further represents
5 that any releases, waivers, discharges, covenants, and agreements provided for in this
6 Stipulation and Order have been knowingly and voluntarily granted and without any
7 duress or undue influence of any nature from any person or entity. The Parties, and each
8 of them, hereby expressly acknowledge that they are each represented by counsel of their
9 own choice in this matter or have had an opportunity to obtain representation by counsel
10 of their choice, and have been advised by counsel accordingly.

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

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

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

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

1 30. Jurisdiction and Forum Selection. The Parties consent to the jurisdiction of
2 the Eighth Judicial District Court of the State of Nevada, in and for Clark County, to
3 resolve any disputes related to the terms or enforcement of this Stipulation and Order.

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

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

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

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

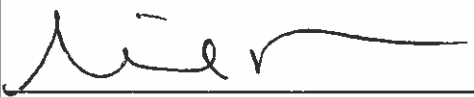
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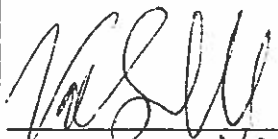
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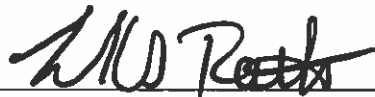
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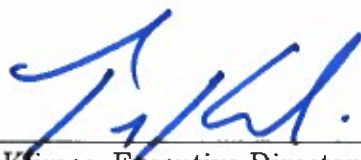
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1 IN WITNESS WHEREOF, this Stipulation and Order has been executed by the
2 Parties and attested by their duly authorized representatives as of the date(s) so indicated.
3 The Effective Date of this Stipulation and Order shall be the date it is ordered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

4
5  Date: Feb. 11, 2021
6 Michael L. Becker, Esq. (Nev. Bar No. 8765)
7 Counsel for Respondent NCMM, LLC

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10 Printed name: Valerie Smart Date: Feb 11, 2021
11 On behalf of NCMM, LLC

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13 
14 Date: 2/13/2021
15 L. Kristopher Rath (Nev. Bar No. 5749)
16 Ashley Balducci (Nev. Bar No. 12687)
17 Senior Deputy Attorney General
18 Counsel for Cannabis Compliance Board

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21 Date: 2/16/21
22 Tyler Klimas, Executive Director for the
23 Cannabis Compliance Board

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ORDER

WHEREAS, on 23rd day of February 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 Respondent NCMM of Nevada NLV, LLC.

IT IS SO ORDERED.

SIGNED AND EFFECTIVE this 23rd day of February, 2021.

STATE OF NEVADA,
CANNABIS COMPLIANCE BOARD

By: 
HON. MICHAEL L. DOUGLAS, CHAIR