

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

3
4 STATE OF NEVADA, CANNABIS
COMPLIANCE BOARD,

Case No. 2021-34

5 Petitioner,

6 vs.

7 ZENWAY CORP.,


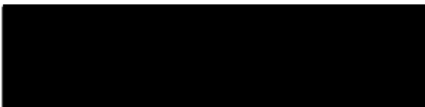
8 Respondent.
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10 **COMPLAINT FOR DISCIPLINARY ACTION**

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 Zenway Corp. ("Zenway" or
15 "Respondent") has violated provisions of Chapters 678A through 678D of the Nevada
16 Revised Statutes ("NRS"), and the Nevada Cannabis Compliance Regulations ("NCCR"),
17 hereby issues its Complaint, stating the CCB's charges and allegations as follows:
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19 **JURISDICTION**

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

21 ID	22 License/Certificate	23 Last Issued / Renewed	24 Address
C140	25 Medical Cultivation 53373204442849028916	7/1/2020	
RC140	26 Adult-use Cultivation 59240477366367737854	1/1/2021	

27 2. During all relevant times mentioned in this Complaint, ZENWAY is and was
registered as a Domestic Corporation in the State of Nevada. The Nevada Secretary of State
28 lists the President and Treasurer of ZENWAY as Joseph M. Donatacci, Sr., and the

1 Secretary as Kristen M. Black.

2 3. The investigation at issue in this matter took place on November 13, 2020,
3 and the violations set forth herein occurred and/or were found to exist on that date.
4 Effective July 1, 2020 and pursuant to NRS 678A.350, the CCB superseded the Marijuana
5 Enforcement Division of the Department of Taxation (the "Department") in enforcing
6 Nevada's laws and regulations for the cannabis industry. The NCCR became effective as
7 of August 5, 2020. As a result, ZENWAY is subject to NRS Title 56 and the NCCR for the
8 violations asserted herein. Therefore, ZENWAY is subject to the jurisdiction of the CCB
9 and subject to discipline pursuant to NRS 678A through 678D and the relevant provisions
10 of the NCCR.

11 4. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director
12 has transmitted the details of the suspected violations of ZENWAY to the Attorney General
13 and the Attorney General has conducted an investigation of the suspected violations to
14 determine whether they warrant proceedings for disciplinary action. The Attorney General
15 has recommended to the Executive Director that further proceedings are warranted, as set
16 forth in this CCB Complaint. The Executive Director has transmitted this recommendation
17 and information to the CCB. Pursuant to NRS 678A.510(2)(b), the CCB has voted to
18 proceed with appropriate disciplinary action under NRS 678A.520 through 678A.600, and
19 has authorized service of this CCB Complaint upon Respondent pursuant to NRS
20 678A.510(1).

21 FACTUAL ALLEGATIONS

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

23 6. On or about November 13, 2020, CCB staff conducted an investigation of the
24 ZENWAY medical and adult-use cannabis cultivation facility at [REDACTED]

25 [REDACTED] The CCB agents for this investigation were Jason Bañales and
26 Brandon Vickrey.

27 7. During the course of the aforementioned investigation, CCB agents first
28 conducted a check of the agent cards of the individuals working at the Zenway cultivation

1 facility. The CCB agents found that Zenway's employee Chris Guerra ("Guerra") was
2 working at the facility without a valid agent card and observed Guerra leaving the facility
3 upon the agents' arrival. On examining the facility's work hours log, CCB agents found
4 that Zenway had documented that Guerra had worked at the facility without a valid agent
5 card or temporary letter on at least the following eight dates: (1) November 2; (2) November
6 3; (3) November 4; (4) November 5; (5) November 6; (6) November 9; (7) November 10; and
7 (8) November 11.

8 8. In addition, CCB staff found that Zenway had improperly conducted research
9 and development activities with respect to pre-rolled cannabis without the required prior
10 CCB approval.

11 9. CCB staff also found that Zenway failed to prevent the consumption of alcohol
12 and cannabis on the premises of its facility in violation of NAC 4.050(1)(a)(2). More
13 specifically, CCB agents found and photographed evidence of such consumption as follows:
14 numerous opened and unopened beer bottles and cans, cannabis smoking paraphernalia,
15 and three bags of untagged cannabis product, inside an unfinished suite of the building
16 leased to Zenway as part of its cultivation facility ("Suite J").

17 10. CCB agents further found that Zenway had failed to install and maintain a
18 security alarm and surveillance systems in Suite J.

19 11. Zenway had also failed to notify CCB or its agents within 24 hours of a
20 security system disruption. Specifically, Zenway did not notify CCB that there had been a
21 failure of the security cameras covering the north side of the building.

22 12. Lastly, Zenway failed to notify CCB of a modification or expansion of storage
23 space with respect to Suite J. CCB agents found that Suite J was being used for storage of
24 cannabis and as an employee break room without prior CCB approval.

25 VIOLATIONS OF LAW

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

27 14. As to certificate C140 and license RC140, Respondent ZENWAY violated
28 NCCR 4.055(1)(a)(1), by failing to have a cannabis establishment agent in immediate

1 possession of a valid cannabis establishment registration card or proof of registration.
2 Specifically, as set forth in Paragraph 7, above, Zenway employee Guerra was working at
3 Zenway on at least 8 separate occasions without a valid cannabis registration agent card
4 or proof of registration in his possession, as neither had been issued to him as of those
5 dates. This constitutes at least 8 separate violations of NCCR 4.055(1)(a)(1), which are
6 each Category IV violations. Pursuant to NCCR 4.055(2): the first Category IV violation
7 carries a civil penalty of \$5,000; the second Category IV violation carries a civil penalty of
8 \$10,000 and/or a suspension of not more than 7 days; the third Category IV violation carries
9 a civil penalty of \$20,000 and/or a suspension of not more than 10 days; the fourth Category
10 IV violation carries a civil penalty of \$40,000 and/or a suspension of not more than 20 days;
11 the fifth Category IV violation carries a civil penalty of \$80,000 and a suspension of not
12 more than 30 days; the sixth and subsequent Category IV violations require revocation. In
13 the alternative, should the CCB determine these acts and omissions constitute a single
14 Category IV violation, Zenway is subject to a civil penalty of \$5,000 for one Category IV
15 violation. NCCR 4.055(2)(a)(1).

16 15. As to certificate C140 and license RC140, Respondent ZENWAY violated
17 NCCR 4.060(1)(a)(6) and 11.045(2) by failing to obtain pre-approval for research and
18 development activities on pre-rolled cannabis product without prior CCB approval. This is
19 a Category V violation and carries the penalty of a formal warning from CCB. NCCR
20 4.060(2)(a)(1).

21 16. As to certificate C140 and license RC140, Respondent ZENWAY violated
22 NCCR 4.050(1)(a)(2) by allowing the consumption of alcohol and cannabis on the premises
23 of its facility or areas adjacent thereto and under the control of Zenway. As set forth in
24 Paragraph 9, above, Zenway allowed the use of both alcohol and cannabis in Suite J of its
25 facility. This a Category III violation and carries a civil penalty of \$10,000. NCCR
26 4.055(1)(a)(2)) and 4.055(2)(a)(1).

27 17. As to certificate C140 and license RC140, Respondent ZENWAY violated
28 NCCR 4.040(1)(a)(14) and 6.085(1) by failing to maintain a required security alarm and

1 surveillance system. Specifically, as set forth in Paragraph 10, above, Zenway had failed
2 to install and maintain a security alarm and surveillance system in Suite J. This is a
3 Category II violation. NCCR 4.040(1)(a)(14). As this the first Category II violation, it
4 carries a civil penalty of \$25,000 and a suspension of not more than 20 days. NCCR 4.040
5 (2)(a)(2).

6 18. As to certificate C140 and license RC140, Respondent ZENWAY violated
7 NCCR 4.040(1)(a)(14) and 6.085(1) and (3), by failing to maintain a required surveillance
8 system and to notify CCB of the disruption of its security system. Specifically, as set forth
9 in Paragraph 11, above, there had been a failure of the security camera covering the north
10 side of the building and Zenway had not reported this. This is a Category II violation.
11 NCCR 4.040(1)(a)(14). As this the second Category II violation, it carries a civil penalty of
12 \$75,000 and a suspension of not more than 30 days. NCCR 4.040 (2)(a)(2).

13 19. As to certificate C140 and license RC140, Respondent ZENWAY violated
14 NCCR 4.040(1)(a)(11) by failing to notify CCB of a modification or expansion to its facilities.
15 Specifically, as set forth in Paragraph 12, above, Zenway did not notify CCB prior to using
16 Suite J for storage of cannabis and as an employee breakroom. This is a second Category
17 III violation. NCCR 4.040(1)(a)(11). It carries a civil penalty of \$30,000 and/or a
18 suspension of not more than 10 days. NCCR 4.040(2)(a)(2).

19 **DISCIPLINE AUTHORIZED**

20 Pursuant to the provisions of NRS 678A.600, NCCR 4.020, 4.030, 4.035 through
21 4.060, and 5.100, the CCB has the discretion to impose the following disciplinary actions:

- 22 1. Revoke the cultivation certificate and license of Zenway;
- 23 2. Suspend the cultivation certificate and license of Zenway;
- 24 3. Impose a civil penalty of not more than \$90,000 for each separate violation of
25 NRS Title 56 and the NCCR on the cultivation certificate and license of Zenway; and
- 26 4. Take such other disciplinary action as the CCB deems appropriate.

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

1 **RELIEF REQUESTED**

2 Based on the foregoing, counsel for the CCB respectfully requests the CCB impose
3 the penalty of revocation, civil penalties against Zenway in the amount of \$295,000¹ for
4 C140 and RC140, and a formal warning as to the first Category V violation for C140 and
5 RC140.

6 **NOTICE TO RESPONDENT**

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

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

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

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

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

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

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

25 **Failure to answer or to appear at the hearing constitutes an admission by**
26 **the respondent of all facts alleged in the Complaint. The Board may take action**

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¹ \$145,000 with a suspension, in the alternative, should it be determined the acts and omissions set forth in Paragraph 14 constitute one Category IV violation.

1 **based on such an admission and on other evidence without further notice to the**
2 **respondent.** NRS 678A.520(3).

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

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

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

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

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

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

29 If the Respondent does not wish to dispute the charges and allegations set forth
30 herein, within 30 days of the service of this Complaint, Respondent may pay the civil

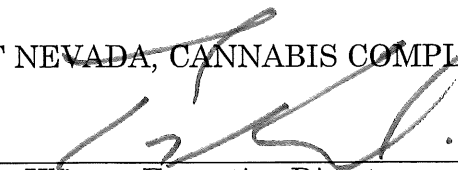
1 penalties set forth above in the total amount of \$295,000, cease operations, and surrender
2 its certificate C140 and license RC 140 to:

3 Tyler Klimas, Executive Director
4 Cannabis Compliance Board
5 555 E. Washington Avenue, Suite 4100
6 Las Vegas, Nevada 89101


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

9 DATED: March 23, 2021.

10 STATE OF NEVADA, CANNABIS COMPLIANCE BOARD

11 By: 
12 Tyler Klimas, Executive Director
13 555 E. Washington Avenue, Suite 4100
14 Las Vegas, Nevada 89101
15 (702) 486-2300

16 AARON D. FORD
17 Attorney General

18 By: 
19 L. Kristopher Rath (Bar No. 5749)
20 Senior Deputy Attorney General
21 Ashley A. Balducci (Bar No. 12687)
22 Senior Deputy Attorney General
23 555 E. Washington Ave, Suite 3900
24 Las Vegas, Nevada 89101
25 (702) 486-9287

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

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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: Kristen Black

Address on file with CCB: [Redacted]

Date of Service: March 23, 2021

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

Executed on March 23, 2021 (date) [Signature] (signature)