

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

3 STATE OF NEVADA, CANNABIS  
4 COMPLIANCE BOARD,

Case No. 2020-14

5 Petitioner,

6 vs.

7 WILLIAM ALBERTO GIRON,

8 Respondent.

9 **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER REGARDING**  
10 **DISCIPLINE**

11 This matter came on for hearing before the Cannabis Compliance Board, State of  
12 Nevada (the “CCB”), during a regular agenda on February 23, 2021, via video conference  
13 with no physical public location (as permitted by the Governor’s Declaration of Emergency,  
14 Directive 006, as extended by Directive 026 and 029) (the “Hearing”). Ashley A. Balducci,  
15 Esq., Senior Deputy Attorney General with the Nevada Attorney General’s Office, appeared  
16 on behalf of the CCB. Respondent William Alberto Giron (“Respondent Giron”) appeared  
17 on his own behalf. The Hearing Officer commenced the hearing on this matter on November  
18 12, 2020 and the CCB conducted the adjudication hearing on February 23, 2021. On  
19 December 14, 2020, the Hearing Officer issued a Findings of Fact, Conclusion of Law, and  
20 Recommendation for Discipline attached hereto as Exhibit “1.”

21 At the Hearing, the CCB confirmed receipt of the following: Hearing Officer’s  
22 Findings of Fact, Conclusions of Law and Recommendations for Discipline dated December  
23 14, 2020; the audio recording of the November 12, 2020 hearing; electronic copies of the  
24 CCB’s Notice of Witnesses and Documents dated October 20, 2020, containing documents  
25 marked CCB000001 through CCB000041 along with five video segments; Respondent  
26 Giron’s Motion to Dismiss and seven exhibits; the audio recording of the Discovery  
27 Conference on October 23, 2020; the Early Case Conference Report, Prehearing Order and  
28 Notice of Hearing dated October 15, 2020; the audio recording of the Early Case Conference

1 on October 13, 2020; Order and Notice Assigning the Hearing Officer dated October 2, 2020;  
2 Mr. Giron's Answer dated September 28, 2020; and the CCB's Complaint for Disciplinary  
3 Action dated August 25, 2020. On the record, Chair Douglas, Board Member Neilander,  
4 Board Member Durrett, Board Member Merritt, and Board Member Young confirmed  
5 review of the documents received by the CCB. Both Counsel for the CCB and Respondent  
6 Giron had an opportunity to argue and answer questions posed by the CCB, pursuant to  
7 NCCR 4.135.

8 Based on the evidence and argument presented by both parties at the Hearing, the  
9 CCB enters the following Findings of Fact, Conclusions of Law, and Order. Under Title 56  
10 of the Nevada Revised Statutes ("NRS") and Nevada Cannabis Compliance Board  
11 Regulations ("NCCR"), the CCB has jurisdiction over this matter.

#### 12 **FINDINGS OF FACT**

13 Based on a preponderance of the evidence in the record and testimony presented at  
14 the Hearing and in November, the CCB voted 5-0 to find the factual allegations were proven  
15 and hereby adopt the Hearing Officer's factual findings in Exhibit "1."

#### 16 **CONCLUSIONS OF LAW**

17 Based on the foregoing factual findings and the preponderance of the evidence, the  
18 CCB voted 5-0 that the violations of law occurred and hereby adopts the Hearing Officer's  
19 conclusions of law in Exhibit "1."

#### 20 **ORDER REGARDING DISCIPLINE**

21 For good cause appearing to the CCB, by a 5-0 vote, the CCB affirms the Hearing  
22 Officer's recommendation for discipline as to Violation 1, but modifies the Hearing Officer's  
23 recommendation for discipline as to Violation 2 as follows: Respondent Giron's past and  
24 current cannabis establishment registration agent cards to work or volunteer in a  
25 dispensary (1900024487), cultivation (1900009547), production (1900002168), and  
26 distribution (1900002171) (collectively "cannabis establishment agent cards) are revoked  
27 for a period of four years, if Respondent Giron pays the civil penalty of \$1,250 within the  
28 four-year revocation period starting from the date this Order is executed. If Respondent

1 Giron fails to pay the civil penalty of \$1,250 within the four-year revocation period,  
2 Respondent Giron's cannabis establishment registration agent cards are revoked for a  
3 period of nine years and 11-month revocation period from the date this Order is executed.  
4 At the end of the four years or nine years and 11-month revocation period, whichever  
5 applies, Respondent Giron may request reinstatement of his cannabis establishment agent  
6 registration cards from the CCB pursuant to NCCR 4.030(b).

7 IT IS SO ORDERED.

8 SIGNED AND EFFECTIVE this 23rd day of March, 2021.

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

11 By:   
12 HON. MICHAEL L. DOUGLAS, CHAIR

13 Submitted by:

14 AARON D. FORD  
15 Attorney General

16 /s/Ashley A. Balducci  
17 Ashley A. Balducci, Esq.  
18 Senior Deputy Attorney General  
19 555 E. Washington Avenue, Suite 3900  
20 Las Vegas, Nevada 89101  
21 (702) 486-3420  
22 Attorneys for Nevada Cannabis Compliance Board  
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**EXHIBIT 1**

**EXHIBIT 1**

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

3 **BEFORE THE HEARING OFFICER**

4  
5 STATE OF NEVADA, CANNABIS  
6 COMPLIANCE BOARD,

7 Petitioner,

8 vs.

9 WILLIAM ALBERTO GIRON,

10 Respondent.  
11

Case No. 2020-14

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION  
FOR DISCIPLINE**

12  
13 PROCEDURAL BACKGROUND

14 The Cannabis Compliance Board (“CCB” or “Petitioner”) issued a Complaint  
15 for Disciplinary Action dated August 25, 2020 (“Complaint”) against the Cannabis  
16 Establishment Agent Registration Cards (“Agent Cards”) of William Alberto Giron  
17 (“Respondent”). Respondent filed an Answer on September 28, 2020 and requested a  
18 hearing. By Order dated October 2, 2020, the matter was referred for hearing.  
19

20 Dena C. Smith, Chief Administrative Law Judge, acted as Hearing Officer.  
21 Ashley Balducci, Senior Deputy Attorney General, acted as legal counsel for  
22 Petitioner. Respondent represented himself.

23 The Hearing Officer held a telephonic early case conference with the parties  
24 on October 13, 2020 and a telephonic discovery conference on October 23, 2020.

25 Respondent requested and was granted 2 subpoenas for hearing witnesses.

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27 . . .

1 Respondent did not serve the subpoenas. Respondent’s request for additional video  
2 footage from Petitioner was denied.<sup>1</sup>

3 Respondent made a Motion to Dismiss the Complaint.<sup>2</sup> Respondent argued he  
4 was not given sufficient time to prepare and respond to the Complaint because the  
5 Complaint was not sent to his current address of record with the CCB. Respondent’s  
6 Motion to Dismiss was denied.<sup>3</sup> Before raising this issue, Respondent filed his  
7 Answer, participated in the early case conference, produced his proposed Exhibits,  
8 and requested witness subpoenas— all actions which indicated Respondent was  
9 actively preparing to respond to the merits of the Complaint. Respondent admitted  
10 he received the Complaint on September 5, 2020 and requested and was granted an  
11 extension of time to respond. He filed his Answer on September 28, which was 23  
12 days after he received the Complaint.<sup>4</sup> Consequently, Respondent was not prejudiced  
13 by any delay in service as he had more time than was statutorily required to respond  
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20 <sup>1</sup> Nevada Cannabis Compliance Regulation (“NCCR”) 4.110(4) provides that Petitioner’s  
21 investigative file, of which the videos in question were part, “is not discoverable unless Board counsel  
22 intends to present materials from the investigative file as evidence in support of the case.” Despite  
23 this rule, Respondent was allowed the opportunity to explain how additional video footage beyond  
24 that submitted by Board counsel would support his position. He was unable to do so and his request  
25 for the footage was denied.

26 <sup>2</sup> The Motion was made orally to the Hearing Officer. A written Motion was served on Petitioner’s  
27 counsel and provided to the Hearing Officer following the hearing.

28 <sup>3</sup> Petitioner objected to Respondent’s Motion to Dismiss as untimely. Neither Nevada Revised  
Statutes (“NRS”) Chapter 678A nor the NCCRs address the time for making a motion to dismiss for  
insufficient service. Petitioner likely relied on the Nevada Rules of Civil Procedure (“NRCP”) 12(b)  
and 12(h)(1) which requires that a motion to dismiss on these grounds be asserted in the  
Respondent’s Answer or in a motion before an Answer is filed. NRCP are not applicable to  
proceedings before the CCB. *Dutchess Business Services, Inc. v. Nevada State Bd. of Pharmacy*, 124  
Nev. 701,710, 191 P.3d 1159, 1165 (2008)(citation omitted)(NRCP “are not binding on a state agency  
in an adjudicatory proceeding, unless expressly adopted by the agency.”)

<sup>4</sup> An Answer must be filed within 20 days after service of the Complaint. NRS 678A.520(2). Failure to  
file an Answer constitutes an admission of the facts alleged in the Complaint. NRS 678A.520(3).

1 to the Complaint. In addition to this, Respondent was allowed even more time to  
2 respond as he was given the opportunity to supplement or correct his Answer at the  
3 hearing.

4 The disciplinary hearing was held on November 12, 2020 by telephone and  
5 videoconference. Petitioner submitted Exhibits with Bates number 1 through 41  
6 and 5 video clips. Elizabeth Perez, Inspector II, Kimberly Wayman, Lab Program  
7 Supervisor, and Shandon Snow, Investigator, all appeared and testified under oath  
8 on behalf of Petitioner.<sup>5</sup> Respondent testified under oath on his own behalf at the  
9 hearing. Respondent submitted 7 Exhibits. The parties' Exhibits were accepted into  
10 the record.  
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12 The following Findings of Fact, Conclusions of Law, and Recommendation for  
13 Discipline, as required by Nevada Cannabis Compliance Regulation ("NCCR")  
14 4.095(3), are based on the exhibits and testimony of the parties offered at the  
15 disciplinary hearing.  
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#### 17 FINDINGS OF FACT

18 Respondent currently holds Agent Card number 1900024487 for dispensary  
19 facilities.<sup>6</sup> In March 2019, Respondent obtained Agent Card 1900009547 for  
20 cultivation facilities, which expired March 14, 2020.<sup>7</sup>

21 During the times relevant to the violations alleged in this disciplinary matter,  
22 Respondent held 2 Agent Cards: number 1900002169 for production facilities and  
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26 <sup>5</sup> These individuals were all employed by the Department of Taxation during the investigation and  
27 were employees of the CCB at the time of this hearing.

<sup>6</sup> Respondent's current Agent Card will expire January 15, 2021. The application for this Agent Card  
28 may be found at Petitioner's Exhibits pp. 19-28.

<sup>7</sup> The application for this Agent Card may be found at Petitioner's Exhibits pp. 9-18.

1 number 1900002171 for distribution.<sup>8</sup> These Agent Cards were issued by the  
2 Department of Taxation (“Department”) in January 2019 and expired January 30,  
3 2020. Respondent was employed by CWNevada which held multiple licenses and  
4 certificates for medical and retail cannabis facilities in Las Vegas, Nevada.

5 When Respondent applied for each of these Agent Cards, Respondent was  
6 required to execute an “Applicant Dispense/ Divert Pledge Form.”<sup>9</sup> By signing the  
7 form, Respondent pledged: “Not to dispense or otherwise divert marijuana to any  
8 person who is not authorized to possess marijuana in accordance with provisions of  
9 Nevada Revised Statutes 453A and/ or 453D.”<sup>10</sup>

10 On March 1, 2019, the Department received an anonymous complaint  
11 concerning CWNevada’s Canopi dispensary located at 1324 South 3<sup>rd</sup> Street, North  
12 Las Vegas, Nevada 89104 (“Dispensary”).<sup>11</sup> The complaint alleged employees had  
13 handled cannabis flower in an employee breakroom at the facility.

14 On March 9, 2019, Inspectors Perez and Wayman visited the Dispensary to  
15 investigate the anonymous complaint. The inspectors viewed a sign-in sheet for the  
16 Dispensary which indicated that Respondent visited the Dispensary on February 21  
17 and 22, 2019.<sup>12</sup> The inspectors also obtained video footage from CWNevada’s  
18 surveillance system for those dates. Inspectors Perez, Wayman, and Snow viewed  
19 the video and confirmed that Respondent was among the individuals who handled  
20 bags of cannabis flower in an employee breakroom at the Dispensary on those  
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26 <sup>8</sup> The applications for these Agent Cards may be found at Petitioner’s Exhibits pp. 1-7.

27 <sup>9</sup> Petitioner’s Exhibits pp. 5, 13, and 23.

28 <sup>10</sup> *Id.*

<sup>11</sup> Petitioner’s Exhibits p. 29.

<sup>12</sup> Petitioner’s Exhibits pp. 30-31.



1 dates.<sup>13</sup> The inspectors also observed Respondent placing a bag of cannabis flower in  
2 his pocket.

3 In the Complaint, Petitioner alleged Respondent's actions on February 21 and  
4 22, 2019 constituted 2 violations of Nevada law. First, Respondent worked at the  
5 Dispensary on February 21 and 22, 2019 but failed to hold an Agent Card for  
6 dispensary facilities. Second, Respondent diverted cannabis product by putting a bag  
7 of cannabis flower in his pocket. Petitioner requested discipline against Respondent  
8 in the form of a civil penalty of \$1,250 and revocation of his Agent Cards followed by  
9 a bar on applying for a new Agent Card for 9 years and 11 months. Petitioner also  
10 reserved the right to seek recovery of its costs for, among other things, time and  
11 effort of the inspectors, in this matter.  
12

13 In his Answer, Respondent admitted to both violations but blamed CWNevada  
14 for misleading him and his fellow employees and not properly training them  
15 regarding Nevada's cannabis laws and regulations. He felt coerced into accepting this  
16 work at the Dispensary because he had unpaid wages from CWNevada. He also  
17 claimed he could not seek employment elsewhere in the industry because CWNevada  
18 had threatened legal action against employees who did. Finally, he claimed he also  
19 could not seek employment outside the industry because of potential drug testing  
20 requirements. Based upon this, Respondent proposed his discipline be limited to  
21 revocation of his Agent Cards and a bar from applying for new Agent Cards for 1  
22 year.<sup>14</sup>  
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27 <sup>13</sup> In the video clips, Respondent is the individual in the plaid flannel shirt with glasses. The  
Inspectors compared the photos from Respondent's Agent Card applications to the video footage to  
confirm that Respondent appeared in the videos. Petitioner's Exhibits pp. 2, 6, 10, 14, 20, and 24.

28 <sup>14</sup> Respondent also relied in part on a mistaken belief that no disciplinary action had been taken  
against CWNevada or Brian Padgett, CWNevada's owner.

1 **Violation 1: Working at the Dispensary Without a Dispensary Agent Card**

2 Respondent and 3 other individuals worked at the Dispensary on February 21  
3 and 22, 2019 to break down bags of cannabis flowers. Specifically, they opened bags of  
4 cannabis flowers from various cannabis establishments (referred to by the parties as  
5 “eights”) and repackaged the cannabis flowers into smaller bags (referred to by the  
6 parties as “dime bags”). While the original bags were marked with Metrc<sup>15</sup> tags and  
7 recorded in Metrc, the new, smaller bags were not. This repackaging project was  
8 performed in an employee breakroom at the Dispensary.  
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10 The information gathered by the Department during its investigation  
11 established that employees and management at the Dispensary were aware of and  
12 assisted the repackaging project. The video showed an individual who brought and  
13 set-up a folding table for use during the repackaging project. The Dispensary’s  
14 security guard, Mathew Socca, and facility manager, Ruby Gonzales, were aware that  
15 individuals not regularly employed by the Dispensary were repackaging cannabis  
16 flower at the Dispensary for a grand reopening event which, ultimately, never took  
17 place. Martin Romley, compliance manager for the Dispensary, admitted he was  
18 aware of the repackaging project, allowed it to proceed, made no effort to track the  
19 dime bags in Metrc, and did not file an incident report at CWNevada or with the  
20 Department concerning this event.

21 The sign-in sheets further demonstrated that the Dispensary’s management  
22 was aware that Respondent’s work at the Dispensary was a deviation from normal  
23 operations because CWNevada was not required to, and did not, record on the sign-in  
24 sheet employees who held Agent Cards for dispensary facilities. Yet CWNevada did  
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28 <sup>15</sup> Metrc is the seed-to-sale tracking system (electronic database) required by the Department for all  
marijuana establishments in Nevada. See NAC 453D.136 and 453D.430.

1 not request authorization to perform packaging, an activity reserved for production  
2 and cultivation facilities, at the Dispensary.<sup>16</sup> And CWNevada did not obtain  
3 authorization to use the employee breakroom to breakdown product. If CWNevada  
4 had requested and been granted these changes, this would have allowed employees  
5 without dispensary Agent Cards to work at the Dispensary for that limited project.  
6

7 Respondent did not dispute that he worked at the Dispensary on February 21  
8 and 22, 2019 and participated in the repackaging project.<sup>17</sup> He admitted that he  
9 knew he was working without the required Agent Card. However, he was told by his  
10 direct manager, Reichen Gihbsson, that CWNevada had received approval for  
11 Respondent to work at the Dispensary while the production facility where he usually  
12 worked was closed for investigation by the Department. Respondent understood he  
13 could do this repackaging work at the Dispensary because it was the type of work he  
14 had done under his production and distribution Agent Cards at one of CWNevada's  
15 production facilities. Respondent believed he was repackaging product for a  
16 promotion intended to bring in revenue that would allow CWNevada to pay past-due  
17 employee wages. He accepted this work opportunity because he was told he would be  
18 paid immediately in cash. He only learned upon receipt of the Complaint that  
19 CWNevada had not secured approval from the Department for this activity.  
20 Respondent's testimony on these points was credible.  
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26 <sup>16</sup> Generally, when facility modification requests were submitted to the Department, the Department  
27 inspected the facility making the request and required new procedures and new training for  
28 employees based on the requested modification.

<sup>17</sup> Respondent's Answer dated September 28, 2020. Respondent affirmed this statement during the hearing.

1 **Violation 2: Diversion/ Unauthorized Handling of Marijuana**

2 The video also showed Respondent slip a bag of cannabis flower into the left  
3 front pocket of his pants while repackaging the product.<sup>18</sup> Respondent took the bag on  
4 February 21, 2019, the first day of the repackaging project. Respondent began by  
5 picking up and concealing a dime bag in his gloved left hand. He removed the glove  
6 on his right hand followed by the glove on his left hand, turning the gloves inside out  
7 and securing the product inside the left glove. He folded the gloves together and  
8 slipped the gloves with the concealed product into his pocket. Respondent’s manner  
9 was surreptitious, attempting to hide the product by sleight of hand from either the  
10 camera or the 3 other individuals in the room. The bag Respondent placed in his  
11 pocket was not marked for, or tracked in, Metrc. Consequently, there is no record  
12 –other than this video footage– of where that bag of cannabis flower went. The full  
13 video footage from February 21, 2019 showed that the individuals took a small break  
14 after Respondent took the bag and then continued to repackage product for at least  
15 55 minutes that day.  
16

17 Respondent did not dispute that he put a bag of cannabis flower in his pocket  
18 while separating the product.<sup>19</sup> He claimed he and the other individuals involved in  
19 repackaging were instructed that “any leftover cannabis product could be distributed  
20 amongst those who agreed to work extra hours.”<sup>20</sup> The individuals were further  
21 instructed to hide the product in their pockets to prevent other employees from seeing  
22 this additional compensation.  
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25 <sup>18</sup> See video clip vlc-record-2020-10-08-14h15m02s-3rd St 2-  
26 Cam08\_20190221\_110000\_20190221\_210000\_ID\_0000\_0009.avi- between 00:04 and 00:24 seconds.

27 <sup>19</sup> Respondent’s Answer dated September 28, 2020. Respondent affirmed this statement during the  
28 hearing. His line of questioning for Inspector Perez suggests that the product he pocketed was CBD  
product rather than marijuana, but Inspector Perez denied that proposition and Respondent  
provided no testimony or other evidence in support of his questions.

<sup>20</sup> Respondent’s Answer dated September 28, 2020.

1 Respondent's claims are not credible. His explanation suggests that the  
2 individuals doing the repackaging work would divide up the "leftovers" between  
3 themselves at the completion of the assignment and then conceal them from  
4 employees not involved in the repackaging project. But he did not take "leftovers" –  
5 he took one of the dime bags created in the repackaging process. And he took that bag  
6 on the first day and even before the project was completed for that day. Additionally,  
7 he took care to conceal the bag even before he left the breakroom. Respondent's  
8 behavior as recorded on the video indicated that he knew he was not authorized to  
9 take that bag of product.  
10

11 Respondent claimed during the hearing that he assumed the product had been  
12 rung up for sale in the Dispensary's point-of-sale system before he took it and that  
13 process would record it in the Metrc system. This claim is also not credible. By the  
14 time of this incident, Respondent had experience with Metrc tagging and tracking  
15 requirements. He worked as a shipping associate for CWNevada where he packaged  
16 product, created Metrc tags, and made transfers of product. He knew that Metrc tags  
17 were required for product and should have noted the lack of a Metrc tag on the bag he  
18 took. He knew that without a Metrc tag, the dime bag could not be recorded in Metrc.  
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## 20 CONCLUSIONS OF LAW

21 Nevada strictly regulates all facets of the cannabis industry.<sup>21</sup> The  
22 Department was responsible for licensing and oversight of the cannabis industry  
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27 <sup>21</sup> During the time period in question, NRS Chapters 453A and 453D as well as NAC 453A and 453D  
28 were in effect to regulate the cannabis industry. Now, NRS Chapters 678A, 678B, 678C, and 678D  
and the NCCR are in effect.

1 between July 1, 2017 and July 1, 2020.<sup>22</sup> The CCB now regulates the cannabis  
2 industry.<sup>23</sup>

3 Agent Cards are issued to persons who wish to “volunteer or work at, contract  
4 to provide labor to or be employed by an independent contractor to provide labor to  
5 a marijuana establishment.”<sup>24</sup> On February 21 and 22, 2019, Respondent held 2  
6 Agent Cards, one for production facilities and one for distribution facilities. Because  
7 Respondent held Agent Cards, he was subject to the requirements for those Agent  
8 Cards as well as the regulations governing participation in the cannabis industry  
9 in Nevada.  
10

11 The Department was authorized to investigate all cannabis establishments.<sup>25</sup>  
12 Pursuant to these powers, the Department investigated CWNevada and  
13 Respondent’s activities as an Agent Card holder at the Dispensary.

14 The CCB is authorized to impose disciplinary action – including revocation,  
15 warnings, and civil penalties – on Agent Card holders who violate NRS Chapters  
16 453A and 453D and NAC Chapters 453A and 453D.<sup>26</sup> Based upon the Department’s  
17 investigation, the CCB determined there were grounds to allege 2 violations of  
18 Nevada law by Respondent. The CCB issued the Complaint against Respondent for  
19 2 violations and recommended discipline for those violations.<sup>27</sup> In disciplinary  
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24 <sup>22</sup> See NRS Chapters 453A and 453D.

25 <sup>23</sup> See NRS Chapters 678A, 678B, 678C, and 678D.

26 <sup>24</sup> NRS 453A.332(1). See also NRS 453A.117, NRS 453A.118, NAC 453D.075, and NAC 453D.077.

27 <sup>25</sup> NRS 453A.352(7) and 453D.300(5).

28 <sup>26</sup> Laws 2019, c. 595, § 240, eff. July 1, 2020; NAC 453D.900 and 453D.905.

<sup>27</sup> The CCB pursued revocation of Respondent’s Agent Cards, including expired cards, because  
revocation of an Agent Card carries different consequences than mere expiry – it is grounds to bar  
that person from applying for another Agent Card for a specified period of time. NAC 453A.348, NAC  
453D.365, and NCCR 4.030.

1 proceedings, the CCB has the burden of proof to establish violations by a  
2 preponderance of the evidence.<sup>28</sup>

3 **Violation 1: Working at Dispensary Without Dispensary Agent Card**

4 Each Agent Card issued by the Department specifically identified the category  
5 or type of cannabis establishment for which it was issued.<sup>29</sup> And Nevada law required  
6 “A person who is employed by or volunteers at a marijuana establishment and to  
7 whom a marijuana establishment agent registration card is issued may only be  
8 employed by or volunteer at the type of marijuana establishment for which he or  
9 she is registered.”<sup>30</sup> Here, Respondent held production and distribution Agent  
10 Cards. Consequently, Respondent could only be employed by production and  
11 distribution licensees. Despite this, Respondent accepted an opportunity to work at  
12 the Dispensary on February 21 and 22, 2019 without holding an Agent Card for a  
13 dispensary facility.  
14

15 Nevada law classified “Failing to display or have in the immediate possession  
16 of each marijuana establishment agent a marijuana establishment agent  
17 registration card or proof of temporary registration” as a Category IV violation.<sup>31</sup>  
18 The first Category IV violation committed by an Agent Card holder is punishable by  
19 a civil penalty of up to \$1,250.<sup>32</sup> Petitioner established by a preponderance of the  
20 evidence that Respondent committed a Category IV violation by working at the  
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25 <sup>28</sup> NCCR 4.120 adopts preponderance of the evidence as defined in NRS 233B.0375 as the standard of  
26 proof in disciplinary hearings before the CCB. “Preponderance of the evidence amounts to whether  
27 the existence of the contested fact is found to be more probable than not.” *Nassiri v. Chiropractic*  
28 *Physicians’ Bd. of Nev.*, 130 Nev. 245, 250, 327 P.3d 487, 489 (Nev. 2014)(citation omitted).

<sup>29</sup> NAC 453D.348.

<sup>30</sup> *Id.*

<sup>31</sup> NAC 453D.905(3)(e)(1).

<sup>32</sup> NAC 453D.905(4)(e)(1).

1 Dispensary on February 21 and 22, 2019 even though he did not hold an Agent  
2 Card for dispensary facilities at that time.

3 **Violation 2: Diversion/ Unauthorized Handling of Marijuana**

4 Under Nevada law, the custody and control of cannabis products from  
5 cultivation to the consumer must be carefully tracked through Metrc, the seed-to-  
6 sale tracking system.<sup>33</sup> Nevada law identifies and defines the various marijuana  
7 licensees through whose possession and control cannabis product may pass— such as  
8 cultivators, distributors, and testing facilities— before ultimately arriving at a retail  
9 marijuana store where it is finally transferred to the end consumer, “a person who  
10 is 21 years of age or older who purchases marijuana or marijuana products for use  
11 by persons 21 years of age or older, but not for resale to others.”<sup>34</sup> Thus, Metrc  
12 records each transfer in the chain of possession up to and including that final  
13 transaction, the sale of the cannabis product by the retail establishment to the  
14 consumer. And Metrc requires the retailer to record the purchase of the product by  
15 the consumer. There is no exception for marijuana establishments to transfer  
16 untracked product to their employees.  
17

18 Execution of the Applicant Dispense/ Divert Pledge Form as part of the  
19 application for an Agent Card fulfills the requirement for an Agent Card applicant to  
20 sign a pledge not to “dispense or otherwise divert marijuana to any person who is  
21 not authorized to possess marijuana in accordance with the provisions of this  
22 chapter and chapter 453D of NRS.”<sup>35</sup>

23 When determining the meaning of “diversion” in the Agent Card pledge, it  
24 must be given its ordinary, everyday meaning unless the statutory context of the  
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27 <sup>33</sup> NAC 453D.136. and NAC 453D.426.

28 <sup>34</sup> NRS 453D.030(3).

<sup>35</sup> NAC 453D.340(1)(b).



1 pledge’s language indicates that it bears a technical meaning.<sup>36</sup> The statutes and  
2 regulations clearly intend the common meaning of “divert.” And this meaning  
3 necessarily encompasses any and all actions and situations which cause marijuana  
4 product to divert or deviate from the chain of custody contemplated in the  
5 regulatory scheme or from the seed-to-sale tracking requirements. The full  
6 language of the pledge must be construed to promote, not obstruct, its evident  
7 purpose.<sup>37</sup> The evident purpose of the pledge is to reinforce through a promise from  
8 every individual participating in the marijuana industry that all marijuana  
9 products in Nevada must, without exception, remain within the statutorily  
10 mandated system. The pledge must also be construed to avoid absurd or  
11 unreasonable results.<sup>38</sup> It would lead to absurd results to exempt Agent Card  
12 holders who receive product from dispensaries from these restrictions.  
13

14       Accordingly, when an employee takes product from his or her employer’s  
15 premises without ensuring that the product was properly tracked in Metrc, the  
16 employee has diverted product. Diversion means removing product from the facility  
17 and the tracking system without authorization— authorization by both the employer  
18 and the State. The Agent Card holder’s pledge is intended to maintain the integrity  
19 of the industry and the regulatory system at each step of that process and for each  
20 participant in the industry. An Agent Card holder is responsible for the product  
21 they handle and for the manner in which they handle it.  
22

23       Pursuant to Nevada law, the CCB “may revoke a marijuana establishment  
24 agent registration card if the marijuana establishment agent: (a) Sells or otherwise  
25

26 <sup>36</sup> Scalia & Garner. *Reading Law: The Interpretation of Legal Texts*. St. Paul, Minn.: Thomsen/West,  
27 2012, p. 69.

<sup>37</sup> *In re Estate of Thomas*, 16 Nev. 492, 495, 998 P.2d 560 (2000).

28 <sup>38</sup> *Meridian Gold Co. v. State ex rel. Department of Taxation*, 119 Nev. 630, 633, 81 P.3d 516, 518  
(2003) (quoting *Pellegrini v. State*, 117 Nev. 860, 874, 34 P.3d 519, 528 (2001)).

1 diverts marijuana to a person who is not authorized by law to possess marijuana in  
2 accordance with the provisions of this chapter and chapter 453D of NRS.”<sup>39</sup>

3 Petitioner established by a preponderance of evidence that Respondent diverted  
4 marijuana product by pocketing a bag of cannabis flower which was not tracked in  
5 Metrc.  
6

### 7 RECOMMENDATION FOR DISCIPLINE

8  
9 Petitioner requested discipline against Respondent in the form of a fine of  
10 \$1,250 and revocation of his Agent Cards followed by a bar on applying for a new  
11 Agent Card for 9 years and 11 months. Respondent proposed discipline of revocation  
12 of his Agent Cards and a bar from applying for new Agent Card for 1 year. As  
13 discussed above, Petitioner established that Respondent committed both violations  
14 charged in the Complaint. However, Respondent established mitigating  
15 circumstances as to Violation 1.

#### 16 **Violation 1: Working at Dispensary Without Dispensary Agent Card**

17 Marijuana licensees may request approval from the State for facility  
18 modifications and for Agent Card holders to temporarily work at a facility other  
19 than the type for which they hold an Agent Card. Respondent established that he  
20 reasonably believed that CWNevada had made those requests and obtained  
21 authorization from the State for the repackaging before offering this employment  
22 opportunity to Respondent. He also reasonably believed he was chosen to do these  
23 activities normally performed at a production facility because he held a production  
24 Agent Card. His belief in this regard was reinforced by the employees and managers  
25 at the Dispensary who were aware of and facilitated the repackaging project– there  
26

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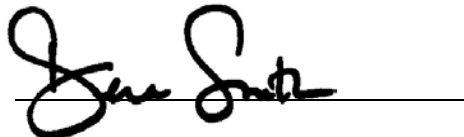
27  
28 <sup>39</sup> NAC 453D.365 (3)(a).

1 were no indications at the Dispensary that the repackaging project was  
2 unauthorized. It is recommended that the Board deny the \$1,250 fine requested for  
3 this violation.

4 **Violation 2: Diversion/ Unauthorized Handling of Marijuana**

5 Respondent's behavior on the video footage along with his explanations in his  
6 Answer and at the hearing support imposition of the requested discipline for this  
7 violation. Respondent's secretive manner of placing the bag of cannabis flower in his  
8 pocket using the cover of his inverted glove showed he did not believe that he was  
9 authorized to take the product as compensation for his work. He attempted to hide  
10 his taking of the product from the individuals working in the room with him, the  
11 security camera, or both. Additionally, he falsely claimed he believed the product had  
12 been rung up as a sale and thereby was tracked in the Metrc system. Based on his  
13 experience packaging and tagging product in the production facility, he knew the bag  
14 of product he took did not bear a Metrc tag and, therefore, could not have been  
15 tracked in Metrc. It is recommended that the Board impose revocation of  
16 Respondent's Agent Cards followed by a bar on applying for a new Agent Card for 9  
17 years and 11 months.  
18

19  
20 Submitted by:

21   
22

23 Dena C. Smith  
24 Chief Administrative Law Judge

25  
26 DATED this 14th day of December, 2020.  
27  
28

1 CERTIFICATE OF MAILING

2 I hereby certify that I have this day served the foregoing FINDINGS OF  
3 FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION FOR DISCIPLINE  
4 in the matter of WILLIAM ALBERTO GIRON, Case No. 2020-14, upon all parties of  
5 record in this proceeding as follows:

6 By mailing a copy thereof via regular mail, properly addressed, with postage  
7 prepaid to:

8 William Alberto Giron  
9 

10  
11  
12 By interoffice mail to:

13 Ashley A. Balducci, Senior Deputy Attorney General, Office of the Attorney  
14 General, Counsel for State of Nevada Cannabis Compliance Board  
15

16 Dated at Las Vegas, Nevada, this 14th day of December, 2020.  
17


18   
19  
20  
21 Signature  
22  
23  
24  
25  
26  
27  
28

1    CERTIFICATE OF ELECTRONIC SERVICE

2            I hereby certify that I have this day served the foregoing FINDINGS OF  
3 FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION FOR DISCIPLINE  
4 in the matter of WILLIAM ALBERTO GIRON, Case No. 2020-14, upon all parties of  
5 record in this proceeding by electronic mail to:

6            William Alberto Giron at [REDACTED]  
7            Ashley A. Balducci, Senior Deputy Attorney General, at abalducci@ag.nv.gov  
8            State of Nevada Cannabis Compliance Board Members

9  
10 Dated at Las Vegas, Nevada, this 14th day of December, 2020.

11  
12  
13      
14    \_\_\_\_\_  
15    Signature