

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

3         STATE OF NEVADA, CANNABIS  
4         COMPLIANCE BOARD,

Case No. 2021-39

5                         Petitioner,

6         vs.

7         FSWFL, LLC,

8                         Respondent.

9  
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 FSWFL, LLC (“FSWFL” 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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JURISDICTION

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

ID	License/Certificate	Last Issued / Renewed	Address
C138	Medical Cultivation 81700356720034395193	7/1/2020	[REDACTED]
RC138	Adult-use Cultivation 38329603677293790867	7/1/2020	[REDACTED]
P086	Medical Production 84513239111237996349	7/1/2020	[REDACTED]
RP086	Adult-use Production 65689461925309882262	7/1/2020	[REDACTED]

2. During all relevant times mentioned in this Complaint, FSWFL is and was registered as a domestic limited liability company in the State of Nevada. The Nevada Secretary of State lists the Manager of FSWFL as Lindsay Werner. Mr. William R. Acheson is listed as the Point of Contact for FSWFL with the CCB.

3. As FSWFL holds its licenses and certificates with the CCB, it is subject to NRS Title 56 and the NCCR for the violations asserted herein. Therefore, FSWFL is subject to the jurisdiction of the CCB and subject to discipline pursuant to NRS 678A through 678D and the relevant provisions of the NCCR.

4. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director has transmitted the details of the suspected violations of FSWFL 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 forth in this CCB Complaint. The Executive Director has transmitted this recommendation and information to the CCB. Pursuant to NRS 678A.510(2)(b), the CCB has voted to

1 proceed with appropriate disciplinary action under NRS 678A.520 through 678A.600.  
2 Pursuant to NRS 678A.520(1), the CCB's Executive Director has authorized service of this  
3 Complaint upon Respondent.

#### 4 **FACTUAL ALLEGATIONS**

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

##### 6 **A. Cultivation Facilities**

7 6. On September 29, 2020, CCB staff conducted an audit/investigation of the  
8 FSWFL medical and adult-use production and cultivation facilities at [REDACTED]

9 [REDACTED] The Board agents for this investigation  
10 were Christy Thurston and Isabel Mota.

11 7. During the course of the aforementioned investigation at the cultivation  
12 facilities, CCB staff found 7 twenty-seven-gallon bins of cannabis inside the dry room that  
13 did not have any METRC tags, and an additional 6 bins in the packing room that did not  
14 have METRC tags.

15 8. Also at the cultivation facilities, CCB staff found 10 fresh frozen cannabis bags  
16 in a freezer in the flower room that did not have any METRC tags and an additional 6 bags  
17 of fresh frozen cannabis located in a freezer in the electrical room that did not have any  
18 METRC tags.

19 9. Based on the facts set forth in Paragraphs 7 and 8, there were a total of  
20 twenty-nine (29) bins and bags of untagged cannabis in multiple locations in the cultivation  
21 facilities, each of which demonstrates a failure to comply with seed to sale tracking  
22 requirements and storage of cannabis outside the seed to sale tracking system.

23 10. In addition to the foregoing, at the cultivation facility, CCB staff found that  
24 FSWFL's cultivation waste log did not include the method of disposal and did not include  
25 the name and agent card number of the agent responsible for the disposal, as required by  
26 NCCR 6.080(5)(d)(9), thereby failing to meet the requirements for the disposal of cannabis  
27 waste.

28 ///



1           16. As to certificate C138 and license RC138, Respondent FSWFL violated NCCR  
2 6.080(5)(d)(9) and 4.050(1)(a)(14) by failing to meet the requirements for the disposal of  
3 cannabis waste. Specifically, as set forth in Paragraph 10, above, FSWFL's waste log did  
4 not include the method of disposal and did not include the name and agent card number of  
5 the agent responsible for the disposal. This is at least a second Category III violation, which  
6 carries a fine of \$30,000 and/or a suspension of FSWFL's cultivation license and certificate  
7 of not more than 10 days. NCCR 4.050(2)(a)(2). In the alternative, CCB may find this  
8 Paragraph to constitute the thirtieth Category III violation, requiring revocation of  
9 FSWFL's cultivation license and certificate. NCCR 4.050(2)(a)(2)-(5).

10           **B. FSWFL's Production Facilities**

11           17. As to certificate P086 and license RP086, Respondent FSWFL violated NCCR  
12 6.080(5) and 4.050(1)(a)(3) & (13) by failing to follow seed to sale tracking requirements  
13 and storing cannabis products outside the seed to sale tracking system. Specifically, as set  
14 forth in Paragraph 11, above, 22 packages of cannabis had not been transferred out of the  
15 cultivation inventory in METRC to the production inventory in METRC. In addition, for 17  
16 other packages of cannabis, there were discrepancies between the actual weights in each  
17 package and the weights recorded in METRC for each package. These violations constitute  
18 at least one Category III violation, which carries a civil penalty of \$10,000. NCCR  
19 4.050(2)(a)(1). In the alternative, the CCB may find up to 39 Category III violations for  
20 each package of cannabis product that was not properly recorded in the seed to sale  
21 tracking system. If 39 Category III violations are found, the civil penalty for the first four  
22 violations is \$220,000 and the fifth violation and those violations thereafter require  
23 revocation of FSWFL's production license and certificate. NCCR 4.050(2)(a)(2)-(5).

24           18. As to certificate P086 and license RP086, Respondent FSWFL violated NCCR  
25 4.050(1)(a)(13) by storing cannabis product outside the seed to sale tracking system.  
26 Specifically, as set forth in Paragraph 12, above, FSWFL was storing 3.46 pounds of the  
27 GMO cannabis strain in its physical inventory; however, the production facility could not  
28 locate this package anywhere in its METRC inventory. This is at least a second Category

1 III violation, which carries a fine of \$30,000 and/or a suspension of FSWFL's cultivation  
2 license and certificate of not more than 10 days. NCCR 4.050(2)(a)(2). In the alternative,  
3 CCB may find this Paragraph to constitute the fortieth Category III violation, requiring  
4 revocation of FSWFL's cultivation license and certificate. NCCR 4.050(2)(a)(2)-(5).

5 19. As to certificate P086 and license RP086, Respondent FSWFL violated NCCR  
6 NCCR 6.080(5)(d)(9) and 4.050(1)(a)(14) by failing to meet the requirements for the disposal  
7 of cannabis waste at its production facilities. Specifically, as set forth in Paragraph 13,  
8 above, FSWFL's production waste log did not include the method of disposal and did not  
9 include the name and agent card number of the agent responsible for the disposal. This is  
10 at least a third Category III violation, which carries a fine of \$90,000 and/or a suspension  
11 of FSWFL's cultivation license and certificate of not more than 20 days. NCCR  
12 4.050(2)(a)(2). In the alternative, CCB may find this Paragraph to constitute the forty-first  
13 Category III violation, requiring revocation of FSWFL's cultivation license and certificate.  
14 NCCR 4.050(2)(a)(2)-(5).

#### 15 **DISCIPLINE AUTHORIZED**

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

- 19 1. Revoke certificate C138 and license RC138;
- 20 2. Revoke certificate P086 and license RP086;
- 21 3. Suspend the aforementioned certificates and licenses of FSWFL;
- 22 4. Impose a civil penalty of not more than \$90,000 for each separate violation of  
23 NRS Title 56 and the NCCR on the certificates and licenses of FSWFL; and
- 24 5. Take such other disciplinary action as the CCB deems appropriate.

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

#### 26 **RELIEF REQUESTED**

27 Based on the foregoing, counsel for the CCB respectfully requests the CCB impose  
28 the penalty of revocation against the certificates and licenses of FSWFL: C138, RC138,

1 P086, and RP086. In addition, counsel for CCB requests the CCB impose civil penalties  
2 against FSWFL in the amount of \$220,000 for C138 and RC138, plus \$220,000 for P086  
3 and RP002, for a total of \$440,000 in civil penalties.

4 In the alternative, CCB at least seeks civil penalties of \$40,000 for C138 and RC138,  
5 plus civil penalties of \$130,000 for P086 and RP086, for a total of \$170,000 in civil penalties.

6 CCB reserves its rights to seek additional costs incurred as this matter proceeds  
7 through hearing and rehearing, if applicable.

#### 8 NOTICE TO RESPONDENT

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

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

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

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

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

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

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

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

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 shall deliver or send by  
5 registered or certified mail a notice of hearing to all parties at least 10 days before the  
6 hearing. The hearing must be held within 45 days after receiving the respondent's answer  
7 unless an expedited hearing is determined to be appropriate by the Board, in which event  
8 the hearing must be held as soon as practicable. NRS 678A.520(4).

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

11 Tyler Klimas, Executive Director  
12 Cannabis Compliance Board  
13 555 E. Washington Avenue, Suite 4100  
14 Las Vegas, Nevada 89101  
[tklimas@ccb.nv.gov](mailto: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. Respondent is also requested to email a copy of its  
17 Answer to the Senior Deputy Attorneys General listed below at [lrath@ag.nv.gov](mailto:lrath@ag.nv.gov) and  
18 [abalducci@ag.nv.gov](mailto:abalducci@ag.nv.gov) .

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.



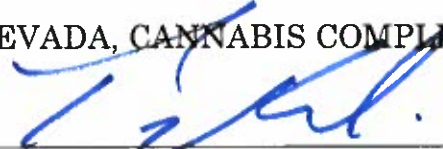
1 If the Respondent does not wish to dispute the charges and allegations set forth  
2 herein, within 30 days of the service of this Complaint, Respondent may pay the civil  
3 penalties and costs set forth above in the total amount of \$440,000 and surrender  
4 certificates C138 and P086 and licenses RC138 and PR086 on notice to:

5 Tyler Klimas, Executive Director  
6 Cannabis Compliance Board  
7 555 E. Washington Avenue, Suite 4100  
8 Las Vegas, Nevada 89101


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

11 DATED: August 3, 2021.

12 STATE OF NEVADA, CANNABIS COMPLIANCE BOARD

13 By:   
14 Tyler Klimas, Executive Director  
15 555 E. Washington Avenue, Suite 4100  
16 Las Vegas, Nevada 89101  
17 (702) 486-2300

18 AARON D. FORD  
19 Attorney General

20 By:   
21 L. Kristopher Rath (Bar No. 5749)  
22 Senior Deputy Attorney General  
23 Ashley A. Balducci (Bar No. 12687)  
24 Senior Deputy Attorney General  
25 555 E. Washington Ave, Suite 3900  
26 Las Vegas, Nevada 89101  
27 (702) 486-3420

28 Attorneys for the Cannabis Compliance Board


**DECLARATION AND CERTIFICATE OF SERVICE OF  
COMPLAINT FOR DISCIPLINARY ACTION  
(Service via Mail)**

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:

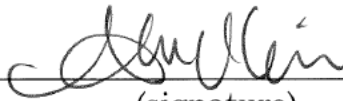
By placing a true and correct copy of the Complaint to be deposited for mailing in the United States Mail in a sealed envelope via registered or certified mail, prepaid in Las Vegas, Nevada, to Respondent's point of contact with the CCB under NCCR 2.050 at Respondent's address on file with the Board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

Name of point of contact served: James Duque

Address on file with CCB: 

Date of Service: August 3, 2021

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

Executed on August 3, 2021   
(date) (signature)