

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

STATE OF NEVADA, CANNABIS  
COMPLIANCE BOARD,

Petitioner,

Case No. 2022-60

vs.

DAMIEN JAMAL NESS

Respondent.

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

The Cannabis Compliance Board of the State of Nevada (the “CCB”), by and through counsel, Aaron D. Ford, Attorney General of the State of Nevada Emily N. Bordelove, Esq., Senior Deputy Attorney General, and Ashley A. Balducci, Esq., Senior Deputy Attorney General, hereby enters into this Stipulation and Order for Settlement of Disciplinary Action (“Stipulation and Order”) with DAMIEN JAMAL NESS (“NESS” or “Respondent”) *pro se*. Under this Stipulation and Order, NESS and the CCB (collectively, the “Parties”) hereby stipulate and agree that Case No. 2022-60 (the “Administrative Action”) shall be fully and finally settled and resolved upon terms and conditions set out herein.

**PERTINENT FACTS**

1. On March 7, 2022, the CCB initiated this disciplinary action via the service and filing of a Complaint for Disciplinary Action (the “Complaint”). The Complaint alleges that, contrary to Nevada law, NESS failed to verify the age of a person less than 21 years of age using the VeriScan system or independent from the VeriScan system and/or sold and/ or otherwise provided cannabis or cannabis paraphernalia to a person who is less than 21 years of age. The Complaint alleged a violation NRS 678B.385(2), a revocable offense, or alternatively violations of NCCR 7.020 & 4.040(1)(a)(3), a Category II violation.

2. The Parties have engaged in good faith negotiations to reach an agreement that is mutually acceptable to NESS and counsel for the CCB to resolve this matter, with the understanding that this Stipulation and Order must be approved by a majority vote of the

1 members of the CCB.

2 **ACKNOWLEDGEMENTS AND APPLICABLE LAW**

3 This Stipulation and Order is made and based upon the following acknowledgments  
4 by the Parties:

5 3. NESS has entered into this Stipulation and Order on his own behalf and with full  
6 authority to resolve the claims against him and is aware of his rights to contest the  
7 violations pending against him. These rights include representation by an attorney at  
8 NESS's own expense, the right to a hearing on any violations or allegations formally filed,  
9 the right to confront and cross-examine witnesses called to testify against NESS, the right  
10 to present evidence on NESS's own behalf, the right to testify on NESS's behalf, the right  
11 to obtain any other type of formal judicial review of this matter, and any other rights which  
12 may be accorded to NESS under provisions of Title 56 of NRS (NRS Chapters 678A through  
13 678D), the Nevada Cannabis Compliance Regulations ("NCCR"), and any other provisions  
14 of Nevada law. NESS waves all these rights by entering into this Stipulation and Order.

15 4. Should this Stipulation and Order be rejected by the CCB or not timely performed  
16 by NESS, the Parties agree that presentation to and consideration by the CCB of such  
17 proposed stipulation or other documents or matters pertaining to the consideration of this  
18 Stipulation and Order shall not unfairly or illegally prejudice the CCB or any of its  
19 members from further participation, consideration, adjudication, or resolution of these  
20 proceedings and that no CCB member shall be disqualified or challenged for bias.

21 5. NESS acknowledges that this Stipulation and Order shall only become effective  
22 after the CCB has approved it.

23 6. NESS enters this Stipulation and Order after being fully advised of NESS's rights  
24 and as to the consequences of this Stipulation and Order. This Stipulation and Order  
25 embodies the entire agreement reached between the CCB and NESS. It may not be altered,  
26 amended, or modified without the express written consent of the Parties. All alterations,  
27 amendments, and/or modifications to this Stipulation and Order must be in writing.

28 7. In an effort to avoid the cost and uncertainty of a disciplinary hearing, NESS has

1 agreed to settle this matter. In settling this matter, NESS acknowledges that the facts  
2 contained in the paragraphs in the above "Pertinent Facts" portion of this Stipulation and  
3 Order are true and correct. NESS further acknowledges that specific facts contained in the  
4 Complaint in Case No. 2022-60 could be found to constitute violations of Title 56 of NRS  
5 (NRS Chapters 678A through 678D) and the NCCR, with penalties up to and including a  
6 civil penalty of \$2,500 and revocation of his cannabis establishment agent registration  
7 cards if this matter went to an administrative hearing.

8 8. To resolve the Administrative Action, NESS admits explicitly to allowing an  
9 underage individual to purchase cannabis under NCCR 7.020 & 4.040(1)(a)(3), with respect  
10 to the Complaint in CCB Case No. 2022-60.

11 9. NESS further agrees to revocation of his cannabis establishment agent  
12 registration cards, prior and existing, for a four (4) year period from the date the CCB  
13 approves this Stipulation and Order and agrees to pay the civil penalty of \$2,500 within  
14 the four (4) year revocation period. If NESS fails to pay the civil penalty of \$2,500 within  
15 the four (4) year revocation period, then his cannabis establishment agent registration  
16 cards, prior and existing, will be revoked for nine (9) years and eleven (11) months in  
17 consideration for his admitted violation of NCCR 7.020 & 4.040(1)(a)(3) and in  
18 consideration of the CCB's agreement to resolve the Administrative Action on the terms  
19 set forth herein. At the end of the four (4) year or nine (9) year and eleven (11) month  
20 revocation period, whichever applicable, NESS may request reinstatement of his cannabis  
21 establishment agent registration cards from the CCB under NCCR 4.030(b).

22 10. If the CCB approves this Stipulation and Order, it shall be deemed and considered  
23 a disciplinary action by the Board against NESS.

24 11. Both Parties acknowledge that the CCB has jurisdiction to consider and order this  
25 Stipulation and Order because NESS holds and/or held a privileged cannabis  
26 establishment agent registration cards regulated by the CCB as of July 1, 2020. NESS  
27 expressly, knowingly, and intentionally waives the twenty-one (21) day and/or five (5) day  
28 notice requirements contained in the Nevada Open Meeting Law and acknowledges that

1 this Stipulation and Order may be presented to the CCB for its consideration and potential  
2 ratification at the CCB's next meeting.

3 **STIPULATED ADJUDICATION**

4 Based upon the above acknowledgments of the Parties and their mutual agreement,  
5 the Parties stipulate and agree that the CCB shall impose the following terms of discipline  
6 in this matter:

7 12. Revocation. NESS's prior and existing cannabis establishment agent registration  
8 cards are deemed revoked for a four (4) year period only if NESS pays the civil penalty of  
9 \$2,500 within that time, or nine (9) years and eleven (11) months if NESS fails to pay the  
10 civil penalty of \$2,500 within the four (4) year revocation period from the CCB, effective on  
11 the date the CCB approves this Stipulation and Order. Should NESS seek reinstatement  
12 of his cannabis establishment agent registration cards after the revocation period, the CCB  
13 may consider this discipline in determining whether to reinstate NESS's cannabis  
14 establishment agent registration cards. In exchange for NESS's agreements herein, the  
15 CCB shall not seek any further discipline against him for the violations alleged in the  
16 Complaint in Case No. 2022-60.

17 13. Surrender of Agent Cards. NESS shall surrender any cannabis establishment  
18 agent registration cards in his possession to the CCB within thirty (30) days of the date the  
19 CCB approves this Stipulation and Order.

20 14. Contingency if Approval Denied. If the CCB denies approval of this Stipulation  
21 and Order, NESS and counsel for the CCB agree to resume settlement negotiations in good  
22 faith and attempt to reach an agreement to amend this Stipulation and Order and resubmit  
23 an amended Stipulation and Order to the CCB to review for approval at its next regularly  
24 scheduled meeting. If the Parties cannot reach such an agreement, the Parties agree to  
25 proceed with the Administrative Action, which shall include a disciplinary hearing before  
26 the CCB or its assigned hearing officer. Should the Administrative Action proceed for the  
27 reasons outlined in this Paragraph, the CCB preserves all its claims and arguments in the  
28 Administrative Action as outlined in its Complaint, and NESS preserves all defenses and

1 arguments he may assert. An unapproved Stipulation and Order shall not be admissible as  
2 evidence or referenced in argument at any disciplinary hearing in CCB Case No. 2022-60  
3 or any other matter involving the CCB.

4 15. Contingency if Approval Conditioned. If the CCB approves this Stipulation and  
5 Order but said approval is contingent on certain conditions, the Parties will undertake  
6 further good faith negotiations to include said conditions in an amended Stipulation and  
7 Order for execution by the CCB Chair. If NESS does not agree to the specific conditions  
8 imposed by the CCB, the Parties will undertake additional negotiations and attempt to  
9 reach an agreement to amend this Stipulation and Order and resubmit an amended  
10 Stipulation and Order to the CCB to review for approval at its next regularly scheduled  
11 meeting. If the Parties cannot reach such an agreement, the Parties agree to proceed with  
12 the Administrative Action, which shall include a disciplinary hearing before the CCB or its  
13 assigned hearing officer. Should the Administrative Action proceed for the reasons outlined  
14 in this Paragraph, the CCB preserves all its claims and arguments in the Administrative  
15 Action as outlined in its Complaint, and NESS preserves all defenses and arguments he  
16 may assert. An unapproved Stipulation and Order shall not be admissible as evidence or  
17 referenced in argument at any disciplinary hearing in CCB Case No. 2022-60 or any other  
18 matter involving the CCB.

19 16. Closure of Disciplinary Action. Once NESS fully performs this Stipulation and  
20 Order, the Administrative Action will be closed.

21 17. Communications with CCB Members. NESS understands that this Stipulation  
22 and Order will be presented to the CCB in an open session at a duly noticed and scheduled  
23 CCB meeting. NESS understands that the CCB has the right to decide at its own discretion  
24 whether or not to approve this Stipulation and Order. The CCB's counsel, which is the  
25 Nevada Attorney General and its staff attorneys, will recommend approval of this  
26 Stipulation and Order. In the course of seeking the CCB's acceptance of this Stipulation  
27 and Order, counsel for the CCB may communicate directly with individual CCB members  
28 one at a time. NESS acknowledges that such communications may be made or conducted

1 *ex parte*, without notice or opportunity for NESS to be heard on his part until the public  
2 CCB meeting where this Stipulation and Order is discussed, and that such contacts and  
3 communications may include, but may not be limited to, matters concerning this  
4 Stipulation and Order, the Administrative Action and any and all information of every  
5 nature whatsoever related to these matters. NESS agrees that he has no objections to such  
6 *ex parte* communications. The CCB agrees that NESS and/or his counsel may appear at the  
7 CCB meeting where this Stipulation and Order is discussed and, if requested, respond to  
8 any questions that may be addressed to NESS and/or the Attorney General's staff  
9 attorneys. NESS agrees that, should the CCB decline to approve this Stipulation and  
10 Order, NESS will not contest or otherwise object to any CCB member, and/or CCB  
11 appointed hearing officer, hearing and adjudicating the Administrative Action based on the  
12 aforementioned *ex parte* communications with anyone from the Nevada Attorney General's  
13 Office.

14 18. Release. In execution of this agreement, NESS agrees that the State of Nevada,  
15 the CCB, the Office of the Attorney General, and each of their members, staff, attorneys,  
16 investigators, experts, hearing officers, consultants, and agents are immune from any  
17 liability for any decision or action taken in good faith in response to information and data  
18 acquired by the CCB. NESS agrees to release the State of Nevada, the CCB, the Office of  
19 the Attorney General, and each of their members, staff, attorneys, investigators, experts,  
20 hearing officers, consultants, and agents from any and all manner of actions, causes of  
21 action, suits, debts, judgments, executions, claims, and demands whatsoever, known or  
22 unknown, in law or equity, that NESS ever had, now has, may have or claim to have against  
23 any and/or all of the persons, government agencies or entities named in this Paragraph,  
24 arising out of, or because of, the CCB's investigation of the matters outlined in its  
25 Complaint, the matters outlined in this Stipulation and Order, or the administration of  
26 Case No. 2022-60.

27 19. No Precedence. The Parties agree that this Stipulation and Order shall not  
28 constitute precedent for any other issues or proceedings before the CCB or District Court,

1 other than those outlined in this Stipulation and Order. Furthermore, this Stipulation and  
2 Order shall not be admissible in any other proceeding or action with respect to any other  
3 matter and/or any other licensee and/or cannabis establishment registration agent, except  
4 proceedings brought to enforce this Stipulation and Order under its terms and/or for the  
5 CCB's consideration of future disciplinary action against NESS. The CCB may consider the  
6 discipline imposed herein in any future disciplinary action against NESS, as required  
7 under NCCR 4.030(2), along with the other factors outlined in NCCR 4.030(2), and possible  
8 progressive discipline under NCCR 4.035 through 4.060. As every case concerns different  
9 facts and details, this Stipulation and Order does not act as precedence, or persuasive  
10 authority, to bind the CCB to impose any particular penalty, to charge or allege any  
11 particular violation, and/or to impose any particular disciplinary action in the future for  
12 NESS, or any other respondent, for violations of the same statutes and/or regulations  
13 addressed in this Stipulation and Order. Likewise, the CCB is not bound by any previous  
14 settlement agreements it has approved in entering into this Stipulation and Order.

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

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

20 22. Voluntary and Informed Agreement. NESS represents that he has completely  
21 read and fully understands the terms of this Stipulation and Order, that such terms are  
22 fully understood and voluntarily accepted by NESS in advance of and as memorialized by  
23 the signing of this Stipulation and Order, and that NESS's signature to this Stipulation  
24 and Order indicates the same. NESS further represents that he has voluntarily entered  
25 into this Stipulation and Order to make a full, final, and complete compromise upon the  
26 terms and conditions set forth herein. NESS further represents that any releases, waivers,  
27 discharges, covenants, and agreements provided for in this Stipulation and Order have  
28 been knowingly and voluntarily granted and without any duress or undue influence of any

1 nature from any person or entity. The Parties, and each of them, hereby expressly  
2 acknowledge that they are each represented by counsel of their own choice in this matter  
3 or have had an opportunity to obtain representation by counsel of their choice and have  
4 been advised by counsel or opted not to seek advice from counsel. NESS acknowledges his  
5 right and opportunity to have this Stipulation and Order reviewed by counsel of his choice  
6 and to obtain advice from said counsel regarding this Stipulation and Order.

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

12 24. Binding Effect. This Stipulation and Order shall be binding upon and inure to the  
13 benefit of the Parties hereto and the Parties' respective successors, predecessors, parents,  
14 affiliates, shareholders, employees, heirs, executors, assigns, and administrators.

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

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

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

28 28. Interpretation. This Stipulation and Order is the result of negotiations among the

1 Parties who have each negotiated and reviewed its terms. In the event a Court ever  
2 construes this Agreement, the Parties expressly agree, consent, and assent that such Court  
3 shall not construe this Agreement or any provision hereof against any Party as its drafter  
4 for purposes of interpreting any ambiguity or uncertainty in this Stipulation and Order.

5 29. Time is of the Essence. Time is of the essence in the performance of all terms of  
6 this Stipulation and Order.

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

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

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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 DocuSigned by:

5 *Damien Jamal Ness*

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6 DAMIEN JAMAL NESS,  
Respondent

Date: 4/11/2022 | 8:23:23 PM PDT

7  
8 *SNB*

9 ASHLEY A. BALDUCCI (Bar No. 12687)  
Senior Deputy Attorney General  
10 EMILY N. BORDELOVE (Bar No. 13202)  
Senior Deputy Attorney General

Date: 4/18/2022

11 *Attorneys for the Cannabis Compliance Board*

12  
13 **ORDER**

14 WHEREAS, on 26<sup>th</sup> day of April, 2022, the Nevada Cannabis  
15 Compliance Board approved and adopted all the terms and conditions set forth in the  
16 Stipulation and Order for Settlement of Disciplinary Action with DAMIEN JAMAL NESS.

17 IT IS SO ORDERED.

18 SIGNED AND EFFECTIVE this 26<sup>th</sup> day of April, 2022.

19  
20 STATE OF NEVADA,  
CANNABIS COMPLIANCE BOARD

21 By:

*Michael L. Douglas*  
22 HON. MICHAEL L. DOUGLAS, CHAIR  
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