

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

3 STATE OF NEVADA, CANNABIS
4 COMPLIANCE BOARD,

5 Petitioner,

Case No. 2022-101

6 vs.

7 JOSEPH FOLEY,

8 Respondent.

9
10 **COMPLAINT FOR DISCIPLINARY ACTION**

11 The Cannabis Compliance Board of the State of Nevada (the “CCB”), by and
12 through counsel, Aaron D. Ford, Attorney General of the State of Nevada and Mike
13 Detmer, Esq., Senior Deputy Attorney General, having a reasonable basis to believe
14 that Joseph Foley (“Foley” or “Respondent”) has violated provisions of Title 56 of
15 the Nevada Revised Statutes (“NRS”), and the Nevada Cannabis Compliance Board
16 Regulations (“NCCR”), hereby issues its Complaint, stating the CCB’s charges and
17 allegations as follows:

18 **JURISDICTION**

19 1. During all relevant times mentioned in this Complaint, Foley held, and
20 currently holds, the following cannabis establishment agent registration card
21 (“agent card”):

ID No.	Cannabis Establishment	Application Date
2000011420	Dispensary	December 22, 2020

22 2. As set forth below, the events at issue in this CCB Complaint occurred
23 after July 1, 2020. Foley applied for his agent card on December 22, 2020, and the
24 CCB issued the agent card to Foley. Therefore, Foley is subject to the jurisdiction of
25 the CCB and subject to discipline pursuant to NRS 678A through 678D and the
26 NCCR.
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28

- e. Sixty-eight (68) "Pre-Roll-1G-Last OG-102920B83-ABLOG01"
- f. (METRC tag # ending in 10539) ("LOG"); and
- g. One (1) "Poison Headband Cured Resin Badder" (METRC tag # ending in 17628) ("PHCRB").

7. Each of the above-listed cannabis/cannabis-product was entered by Foley into METRC and/or SSW's destruction log as having been destroyed on June 19, 2021 and/or June 23, 2021 and/or July 13, 2021.

8. SSW responded to the above requests by stating that on July 7, 2021, the City of Las Vegas (the "City") inspected SSW and discovered the seven (7) packages of BHOD were physically present in the Dispensary, despite SSW recording these seven (7) packages of BHOD as waste and disposed/destroyed in METRC and in its waste disposal log on June 19, 2021. SSW explained that it did not destroy the seven (7) packages of BHOD until after the City inspected and found the seven (7) packages on July 7, 2021.

9. In addition to the above, SSW told the CCB agents that subsequent to the City's inspection, it learned that Foley and two SSW employees acting under his direction, Sarah Evans ("Evans") and/or Nicole Brown ("Brown"), recorded SSW's cannabis/cannabis products into SSW's waste disposal log and its disposal/destroyed in METRC as waste. They would then gift, at no charge, said cannabis/cannabis products, including one hundred (100) of the cannabis/cannabis products referenced above in Paragraph 6¹, to themselves and other SSW employees. These recipients did not pay any amount or consideration for said cannabis/cannabis products, nor did they receive a receipt for the transaction.

10. Foley provided a written statement to SSW, wherein he stated, in relevant part that, "The process of using wasted out product as samples for the staff was a procedure that I had crafted and instructed my staff to follow..."

¹ Excludes the seven packages of BHOD which were destroyed after the City's inspection.

1 11. SSW stated that Foley was terminated after these findings.

2 **VIOLATIONS OF LAW**

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

4 13. As to Foley's agent card, Foley violated NCCR 4.035(1)(a)(3) by making
5 a false statement to the Board or Board Agents. Specifically, as set forth in
6 Paragraphs 6 through 10 above, CCB Agents discovered that Foley logged one
7 hundred (100) cannabis and cannabis-products as waste and disposed/destroyed
8 when in fact he had gifted said cannabis and cannabis-products to himself and/or
9 others without charge. These acts or omissions constitute a Category I violation
10 requiring a civil penalty of not more than \$90,000 and a suspension for not more
11 than thirty (30) days or revocation of the Respondent's cannabis establishment
12 agent registration card. NCCR 4.035(2)(a)(1). Alternatively, these acts constitute a
13 Category III violation of NCCR 4.050(1)(a)(14) for failing to meet requirements for
14 the disposal of cannabis waste. A first (1st) Category III violation requires a civil
15 penalty of not more than \$10,000.

16 **DISCIPLINE AUTHORIZED**

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

- 20 1. Revoke the agent card;
21 2. Suspend the agent card;
22 3. Impose a civil penalty of not more than \$90,000; and
23 4. Take such other disciplinary actions as the CCB deems appropriate.

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

25 **RELIEF REQUESTED**

26 Based on the foregoing, counsel for the CCB respectfully requests the CCB
27 impose the penalty of a civil penalty of \$90,000 and suspension of 30 days or
28 revocation of Foley's agent card with a nine (9) years and eleven (11) months ban to

1 apply for reinstatement of the agent card pursuant to NCCR 4.030(b) and NCCR
2 4.100. The CCB reserves its rights to seek additional costs incurred as this matter
3 proceeds through hearing and rehearing, if applicable.

4 NOTICE TO RESPONDENT

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

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

- 14 (a) Must state in short and plain terms the defenses to each claim asserted.
- 15 (b) Must admit or deny the facts alleged in the Complaint.
- 16 (c) Must state which allegations the Respondent is without knowledge or
17 information to form a belief as to their truth. Such allegations shall be deemed
18 denied.
- 19 (d) Must affirmatively set forth any matter which constitutes an avoidance
20 or affirmative defense,
- 21 (e) May demand a hearing. **Failure to demand a hearing constitutes a**
22 **waiver of the right to a hearing and to judicial review of any decision**
23 **or order of the Board**, but the Board may order a hearing even if the
24 Respondent so waives its 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**
27 **action based on such an admission and on other evidence without further**
28 **notice to the Respondent.** NRS 678A.520(3).

1 The Board shall determine the time and place of the hearing as soon as is
2 reasonably practical after receiving the Respondent's Answer. The Board may
3 assign a hearing officer to conduct the hearing under NCCR 2.070, 4.095, and 4.110.
4 The Board or its assigned hearing officer shall deliver or send by registered or
5 certified mail a notice of hearing to all parties at least ten (10) days before the
6 hearing. The hearing must be held within forty-five (45) days after receiving
7 Respondent's Answer unless an expedited hearing is determined to be appropriate
8 by the Board, in which event the hearing must be held as soon as practicable. NRS
9 678A.520(4). The Chair of the Board or the assigned hearing officer may grant one
10 or more extensions to the forty-five (45) day requirement pursuant to the request of
11 a party or an agreement by both parties.

12 Respondent's Answer and Request for Hearing must be either: mailed via
13 registered mail, return receipt; or emailed to:

14 Tyler Klimas, Executive Director
15 Cannabis Compliance Board
16 700 East Warm Springs Road, Suite 100
Las Vegas, Nevada 89119
tklimas@ccb.nv.gov

17 If serving its Answer and Request for Hearing via email, Respondent must ensure
18 that it receives an acknowledgement of receipt email from the CCB as proof of
19 service. Respondent is also requested to email a copy of its Answer and Request for
20 Hearing to the Senior Deputy Attorney General listed below at mdetmer@ag.nv.gov,

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

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

5 If the Respondent does not wish to dispute the charges and allegations set
6 forth herein, within 30 days of the service of this Complaint, Respondent may pay
7 the \$90,000 civil penalty and accept a suspension of 30 days or cease operating as a
8 cannabis establishment agent and surrender his agent card on notice to:

9 Tyler Klimas, Executive Director
10 Cannabis Compliance Board
11 700 East Warm Springs Road, Suite 100
12 Las Vegas, Nevada 89119

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

15 DATED: July 6, 2022.

16 STATE OF NEVADA, CANNABIS COMPLIANCE BOARD

17 By: 
18 Tyler Klimas, Executive Director
19 700 East Warm Springs Road, Suite 100
20 Las Vegas, Nevada 89119
21 (775) 687-6299

22 AARON D. FORD
23 Attorney General

24 By: 
25 Michael D. Detmer (Bar No. 10873)
26 Senior Deputy Attorney General

27 Attorney for the Cannabis Compliance Board
28

**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 NCCR 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 follows:

Name of point of contact served: Joseph Foley

Address on file with CCB: [REDACTED]

Date of Service: 7/6/22

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

Executed on 7/6/22 (date) [Signature] (signature)

CC: Joseph Foley, [REDACTED]
First Class Mail

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