

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

11               The Cannabis Compliance Board of the State of Nevada (the “CCB”), by and through  
12 its counsel, Aaron D. Ford, Attorney General for the State of Nevada, Ashley A. Balducci,  
13 Senior Deputy Attorney General, and Michael D. Detmer, Senior Deputy Attorney General  
14 hereby enters into this Stipulation and Order for Settlement of Disciplinary Action  
15 (“Stipulation and Order”) with Joseph Foley (“Respondent” or “Foley”), *pro se*. Under this  
16 Stipulation and Order, Respondent and the CCB (collectively, the “Parties”) hereby  
17 stipulate and agree that Case No. 2022-101 (the “Administrative Action”) shall be fully and  
18 finally settled and resolved upon terms and conditions set out herein.

19                                   **PERTINENT FACTS**

20       1.       On or about July 6, 2022, the CCB initiated this disciplinary action via the service  
21 and filing of a Complaint for Disciplinary Action (the “Complaint”). The Complaint alleges  
22 that, contrary to Nevada law, Respondent logged one hundred (100) cannabis and cannabis-  
23 products as wasted and disposed/destroyed when in fact he had gifted said cannabis and  
24 cannabis products to himself and/or others without charge. The Complaint also alleges that  
25 Respondent’s actions constitute a Category I violation which requires a civil penalty of not  
26 more than \$90,000 and a suspension for not more than 30 days or revocation of the  
27 Respondent’s cannabis establishment agent registration card. NCCR 4.035(2)(a)(1). The  
28 Complaint further alleges that, in the alternative, these acts constitute a Category III

violation of NCCR 4.050(1)(a)(14) for failing to meet requirements for the disposal of cannabis waste requiring a civil penalty of not more than \$10,000.

2. Respondent has not filed an Answer and/or a Request for a Hearing as of the date of this Stipulation and Order. Rather, Respondent requested and was granted an extension to file his Answer and Request for a Hearing to initiate and proceed with settlement negotiations. The due date for Respondent's Answer and Request for a Hearing was August 23, 2022, but the parties stipulated to vacate this deadline and stay the Administrative Action for sixty (60) days to give the Parties time to finalize a mutually acceptable agreement to present to the Board at its next available public meeting for approval. Should the Board approve the Stipulation and Order at its September 27, 2022, meeting, there would be no need for Respondent to file his Answer or Request for a Hearing.

3. As to the factual allegations in the Complaint in CCB Case No 2022-101, for the purpose of settling this matter, Respondent specifically admits to the allegations contained in Paragraphs 5 through 11. However, Respondent denies any attempt to construe his admission of the allegations contained in Paragraph 10 as an admission that it was Respondent's own idea to provide cannabis and/or cannabis samples for free to the staff.

4. The Parties have engaged in good faith negotiations to reach an agreement that is mutually acceptable to Respondent, CCB staff, 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 members of the CCB.

#### **ACKNOWLEDGEMENTS AND APPLICABLE LAW**

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

5. Respondent has entered into this Stipulation and Order on his own behalf and with full authority to resolve the claims against him and is aware of his rights to contest the violations pending against him. These rights include representation by an attorney at Respondent's own expense, the right to a hearing on any violations or allegations formally filed, the right to confront and cross-examine witnesses called to testify against

1 Respondent, the right to present evidence on Respondent's own behalf, the right to testify  
2 on Respondent's behalf, the right to obtain any other type of formal judicial review of this  
3 matter, and any other rights which may be accorded to Respondent under provisions of  
4 Title 56 of NRS (NRS Chapters 678A through 678D), the NCCR, and any other provisions  
5 of Nevada law. Respondent waives all these rights by entering into this Stipulation and  
6 Order.

7 6. Should this Stipulation and Order be rejected by the CCB or not timely performed  
8 by Respondent, the Parties agree that presentation to and consideration by the CCB of such  
9 proposed stipulation or other documents or matters pertaining to the consideration of this  
10 Stipulation and Order shall not unfairly or illegally prejudice the CCB or any of its  
11 members from further participation, consideration, adjudication, or resolution of these  
12 proceedings and that no CCB member shall be disqualified or challenged for bias.

13 7. Respondent acknowledges that this Stipulation and Order shall only become  
14 effective after the CCB has approved it.

15 8. Respondent enters this Stipulation and Order after being fully advised of  
16 Respondent's rights and as to the consequences of this Stipulation and Order. This  
17 Stipulation and Order embodies the entire agreement reached between the CCB and  
18 Respondent. It may not be altered, amended, or modified without the express written  
19 consent of the Parties. All alterations, amendments, and/or modifications to this  
20 Stipulation and Order must be in writing.

21 9. In an effort to avoid the cost and uncertainty of a disciplinary hearing, Respondent  
22 has agreed to settle this matter. In settling this matter, Respondent acknowledges that the  
23 facts contained in the Paragraphs in the above "PERTINENT FACTS" portion of this  
24 Stipulation and Order are true and correct. Respondent further acknowledges that specific  
25 facts contained in the Complaint in Case No. 2022-101 could be found to constitute  
26 violations of Title 56 of NRS (NRS Chapters 678A through 678D) and the NCCR, with  
27 penalties up to and including a civil penalty \$90,000 and a suspension for not more than  
28 30 days or revocation of the Respondent's cannabis establishment agent registration card

1 if this matter went to an administrative hearing.

2 10. With respect to the Complaint in CCB Case No. 2022-101, to resolve the  
3 Administrative Action, Respondent admits explicitly to two violations of NCCR  
4 4.050(1)(a)(14) for failing to meet requirements for the disposal of cannabis waste and  
5 agrees to the following:

6 a. A payment of a civil penalty of \$1,000, due within 30 days after the Board's  
7 approval of this Stipulation and Order.<sup>1</sup>

8 b. To complete and submit to the CCB Office, and have approved by the same,  
9 a "Plan of Correction" ("POC"), detailing the manner and method in which  
10 Respondent will prevent the same or similar violation(s) from occurring  
11 again in the future.

12 11. Respondent agrees and understands that his failure to abide by any of the  
13 settlement terms in Paragraph 10 above will result in Respondent defaulting on this  
14 Stipulation and Order with all allegations in the CCB Complaint in Case No. 2022-101  
15 being deemed admitted. In the case of a default, Respondent shall pay all penalties and  
16 receive all discipline set forth under the "RELIEF REQUESTED" section of the Complaint.  
17 Such penalties include a civil penalty up to \$90,000 and a suspension for not more than 30  
18 days (effective on the date of the order of default) or revocation of the Respondent's cannabis  
19 establishment agent registration card. The CCB will enter an order of default to this effect  
20 after default, and all amounts due under this Paragraph shall be immediately due and  
21 payable to CCB. In the event of default, as described in this Paragraph, and in addition to  
22 all penalties due, Respondent's cannabis establishment agent registration card shall be  
23 revoked as of the date the CCB enters the default.

24 12. If the CCB approves this Stipulation and Order, it shall be discipline by the Board  
25 against Respondent.

26 \_\_\_\_\_  
27 <sup>1</sup> If the CCB approves this Stipulation and Order at its September 27, 2022, meeting, payment would be due  
28 on and must be physically received by Thursday, October 27, 2022, at 5:00 p.m. Pacific Time.

1 13. Both Parties acknowledge that the CCB has jurisdiction to consider and order this  
2 discipline because Respondent holds and/or held a privileged cannabis establishment agent  
3 registration card issued and regulated by the CCB as of July 1, 2020. Respondent expressly,  
4 knowingly, and intentionally waives the twenty-one (21) day and/or five (5) day notice  
5 requirements contained in the Nevada Open Meeting Law and acknowledges that this  
6 Stipulation and Order may be presented to the CCB for its consideration and potential  
7 ratification at the CCB's September 27, 2022, meeting.

#### 8 **STIPULATED ADJUDICATION**

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

12 14. Violation. As to Respondent's cannabis establishment agent registration card,  
13 Respondent is found to have committed two Category III violations, as set forth in  
14 Paragraph 10.

15 15. Plan of Correction. As outlined in Paragraph 10(b) above, Respondent was required  
16 to submit a completed POC to the CCB office for approval. Respondent represents and  
17 warrants that he will follow the POC that he submitted to the CCB, and which CCB staff  
18 has approved, that serves to remedy and prevent the recurrence of the violations set forth  
19 in this Stipulation and Order and/or as alleged in the Complaint. In summary, the  
20 Respondent's POC included, but was not limited to: 1.) declarations requiring Respondent's  
21 immediate and annual review of NCCR 4.035 through 4.060, and the violations listed  
22 therein, as well requiring Respondent to report witnessed violations of the same; 2.)  
23 Creation and adherence to a "Personal Policy" relating to the proper destruction, and  
24 logging of destruction, of cannabis waste; 3.) Requirements that the Personal Policy be  
25 updated as necessary, be disclosed to current or future employers, and that any cannabis  
26 establishment for which he is employed have standard operating procedures for the  
27 destruction of cannabis, and/or the logging of the destruction of cannabis, that is as  
28 demanding as the Personal Policy.

1       16. Payment of Civil Penalties. Respondent must pay the \$1,000 civil penalty set forth  
2 in this Stipulation and Order within thirty (30) days of the Board's approval of this  
3 Stipulation and Order.

4       17. Penalties for Failure to Comply with Payment Deadline. Respondent  
5 acknowledges that it is critical to comply with the payment deadline enumerated in  
6 Paragraph 10(a) and 16. Respondent agrees that, should he fail to timely pay the civil  
7 penalty, the following penalties and procedures will be in effect:

8           a. The CCB will allow a five (5) business day grace period for late payment.<sup>2</sup>

9           b. If payment is not physically received by the CCB at its Carson City office  
10 by 5:00 p.m., Pacific Time, on the last day of the grace period, Respondent  
11 shall be in default and have admitted all allegations in the CCB Complaint  
12 in Case No. 2022-101 and shall pay all penalties and receive all discipline  
13 set forth under the "Relief Requested" section of the Complaint, inclusive  
14 of a 30 day suspension (effective on the date of the order of default) and  
15 civil penalties up to \$90,000 or and/or revocation of his cannabis  
16 establishment agent card. The CCB will enter an order of default to this  
17 effect after default, and all amounts due under Paragraph 16 shall be  
18 immediately due and payable to the CCB.

19           c. Respondent agrees he cannot and will not file any petition for judicial  
20 review and/or any action in any forum for relief from such order of default  
21 and that CCB may file any judicial action necessary to recover the amounts  
22 owed under this Stipulation and Order, along with its attorneys' fees and  
23 costs for recovery of amounts owed.

24       18. Contingency if Approval Denied. If the CCB denies approval of this Stipulation  
25 and Order, Respondent and counsel for the CCB agree to resume settlement negotiations

26 \_\_\_\_\_  
27 <sup>2</sup> If a check or other form of payment is returned for insufficient funds, or otherwise rejected, the failed  
28 payment will not be considered a payment and no additional time beyond the five (5) day grace period will be  
granted for payment.

1 in good faith and attempt to reach an agreement to amend this Stipulation and Order and  
2 resubmit an amended Stipulation and Order to the CCB to review for approval at its next  
3 regularly scheduled meeting. If the Parties cannot reach such an agreement, the Parties  
4 agree to proceed with the Administrative Action, which shall include a disciplinary hearing  
5 before the CCB or its assigned hearing officer. Should the Administrative Action proceed  
6 for the reasons outlined in this Paragraph, the CCB preserves all its claims and arguments  
7 in the Administrative Action as outlined in its Complaint, and Respondent preserves all  
8 defenses and arguments he will assert in his Answer. An unapproved Stipulation and Order  
9 shall not be admissible as evidence or referenced in argument at any disciplinary hearing  
10 in CCB Case No. 2022-101 or any other matter involving the CCB.

11 19. Contingency if Approval Conditioned. If the CCB approves this Stipulation and  
12 Order but said approval is contingent on certain conditions, the Parties will undertake  
13 further good faith negotiations to include said conditions in an amended Stipulation and  
14 Order for execution by the CCB Chair. If Respondent does not agree to the specific  
15 conditions imposed by the CCB, the Parties will undertake additional negotiations and  
16 attempt to reach an agreement to amend this Stipulation and Order and resubmit an  
17 amended Stipulation and Order to the CCB to review for approval at its next regularly  
18 scheduled meeting. If the Parties cannot reach such an agreement, the Parties agree to  
19 proceed with the Administrative Action, which shall include a disciplinary hearing before  
20 the CCB or its assigned hearing officer. Should the Administrative Action proceed for the  
21 reasons outlined in this Paragraph, the CCB preserves all its claims and arguments in the  
22 Administrative Action as outlined in its Complaint, and Respondent preserves all defenses  
23 and arguments he asserted in his Answer. An unapproved Stipulation and Order shall not  
24 be admissible as evidence or referenced in argument at any disciplinary hearing in CCB  
25 Case No. 2022-101 or any other matter involving the CCB.

26 20. Closure of Disciplinary Action. Once Respondent fully performs this Stipulation  
27 and Order, the Administrative Action will be closed.

28 21. Communications with CCB Members. Respondent understands that this

1 Stipulation and Order will be presented to the CCB in an open session at a duly noticed  
2 and scheduled CCB meeting. Respondent understands that the CCB has the right to decide  
3 at its own discretion whether or not to approve this Stipulation and Order. The CCB's  
4 counsel, which is the Nevada Attorney General and its staff attorneys, will recommend  
5 approval of this Stipulation and Order. In the course of seeking the CCB's acceptance of  
6 this Stipulation and Order, counsel for the CCB may communicate directly with individual  
7 CCB members one at a time. Respondent acknowledges that such communications may be  
8 made or conducted *ex parte*, without notice or an opportunity for Respondent to be heard  
9 on his part until the public CCB meeting where this Stipulation and Order is discussed,  
10 and that such contacts and communications may include, but may not be limited to, matters  
11 concerning this Stipulation and Order, the Administrative Action and any and all  
12 information of every nature whatsoever related to these matters. Respondent agrees that  
13 he has no objections to such *ex parte* communications. The CCB agrees that Respondent  
14 and/or his counsel may appear at the CCB meeting where this Stipulation and Order is  
15 discussed and, if requested, respond to any questions that may be addressed to Respondent  
16 and/or the Attorney General's staff attorneys. Respondent agrees that, should the CCB  
17 decline to approve this Stipulation and Order, Respondent will not contest or otherwise  
18 object to any CCB member, and/or CCB appointed hearing officer, hearing and adjudicating  
19 the Administrative Action based on the aforementioned *ex parte* communications with  
20 anyone from the Nevada Attorney General's Office.

21 22. Release. In execution of this agreement, Respondent agrees that the State of  
22 Nevada, the CCB, the Office of the Attorney General, and each of their members, staff,  
23 attorneys, investigators, experts, hearing officers, consultants, and agents are immune  
24 from any liability for any decision or action taken in good faith in response to information  
25 and data acquired by the CCB. Respondent agrees to release the State of Nevada, the CCB,  
26 the Office of the Attorney General, and each of their members, staff, attorneys,  
27 investigators, experts, hearing officers, consultants, and agents from any and all manner  
28 of actions, causes of action, suits, debts, judgments, executions, claims, and demands



1 whatsoever, known or unknown, in law or equity, that Respondent ever had, now has, may  
2 have or claim to have against any and/or all of the persons, government agencies or entities  
3 named in this Paragraph, arising out of, or because of, the CCB's investigation of the  
4 matters outlined in its Complaint, the matters outlined in this Stipulation and Order, or  
5 the administration of Case No. 2022-101.

6 23. No Precedence. The Parties agree that this Stipulation and Order shall not  
7 constitute precedent for any other issues or proceedings before the CCB or District Court  
8 other than those outlined in this Stipulation and Order. Furthermore, this Stipulation and  
9 Order shall not be admissible in any other proceeding or action with respect to any other  
10 matter and/or any other licensee and/or cannabis establishment registration agent, except  
11 proceedings brought to enforce this Stipulation and Order under its terms and/or for the  
12 CCB's consideration of future disciplinary action against Respondent. The CCB may  
13 consider the discipline imposed herein in any future disciplinary action against  
14 Respondent, as required under NCCR 4.030(2), along with the other factors outlined in  
15 NCCR 4.030(2), and possible progressive discipline under NCCR 4.035 through 4.060. As  
16 every case concerns different facts and details, this Stipulation and Order does not act as  
17 precedence, or persuasive authority, to bind the CCB to impose any particular penalty, to  
18 charge or allege any particular violation, and/or to impose any particular disciplinary  
19 action in the future for Respondent, or any other respondent, for violations of the same  
20 statutes and/or regulations addressed in this Stipulation and Order. Likewise, the CCB is  
21 not bound by any previous settlement agreements it has approved in entering into this  
22 Stipulation and Order.

23 24. Attorneys' Fees and Costs. The Parties each agree to bear their own attorneys'  
24 fees and costs.

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

28 26. Voluntary and Informed Agreement. Respondent represents that he has

1 completely read and fully understands the terms of this Stipulation and Order, that such  
2 terms are fully understood and voluntarily accepted by Respondent in advance of and as  
3 memorialized by the signing of this Stipulation and Order, and that Respondent' signature  
4 to this Stipulation and Order indicates the same. Respondent further represents that he  
5 has voluntarily entered into this Stipulation and Order to make a full, final, and complete  
6 compromise upon the terms and conditions set forth herein. Respondent further represents  
7 that any releases, waivers, discharges, covenants, and agreements provided for in this  
8 Stipulation and Order have been knowingly and voluntarily granted and without any  
9 duress or undue influence of any nature from any person or entity. The Parties, and each  
10 of them, hereby expressly acknowledge that they are each represented by counsel of their  
11 own choice in this matter or have had an opportunity to obtain representation by counsel  
12 of their choice and have been advised by counsel or opted not to seek advice from counsel.  
13 Respondent acknowledges his right and opportunity to have this Stipulation and Order  
14 reviewed by counsel of his choice and to obtain advice from said counsel regarding this  
15 Stipulation and Order.

16 27. Warranties of Authority. The Parties to this Stipulation and Order, and each of  
17 them, expressly warrant and represent to all other Parties that each has the full right, title,  
18 and authority to enter into and to carry out its obligations hereunder, with the sole  
19 exception of the required approval of this Stipulation and Order by the CCB. The Parties  
20 also expressly acknowledge the foregoing authority.

21 28. Binding Effect. This Stipulation and Order shall be binding upon and inure to the  
22 benefit of the Parties hereto and the Parties' respective successors, predecessors, parents,  
23 affiliates, shareholders, employees, heirs, executors, assigns, and administrators.

24 29. Construction. The headings of all Sections and Paragraphs of this Stipulation and  
25 Order are inserted solely for the convenience of reference and are not a part of the  
26 Stipulation and Order, and are not intended to govern, limit, or aid in the construction or  
27 interpretation of any term or provision of this Stipulation and Order. In the event of a  
28 conflict between such caption and the Paragraph at the head of which it appears, the

1 Paragraph and not such caption shall govern in the construction of this Stipulation and  
2 Order.

3 30. Governing Law. This Stipulation and Order shall be governed by and construed  
4 in accordance with the laws of the State of Nevada, without reference to conflict of law  
5 principles.

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

9 32. Interpretation. This Stipulation and Order results from negotiations among the  
10 Parties who have each negotiated and reviewed its terms. In the event a Court ever  
11 construes this Agreement, the Parties expressly agree, consent, and assent that such Court  
12 shall not construe this Agreement or any provision hereof against any Party as its drafter  
13 for purposes of interpreting any ambiguity or uncertainty in this Stipulation and Order.


14 33. Time is of the Essence. Time is of the essence in the performance of all terms of  
15 this Stipulation and Order.

16 34. Severability. If any portion of this Stipulation and Order, or its application thereof  
17 to any person or circumstance, is held to any extent to be invalid, illegal, or unenforceable  
18 as a matter of law, all remaining clauses of this Stipulation and Order and its application  
19 thereof shall be not affected and shall remain enforceable to the fullest extent permitted by  
20 law.

21 35. Counterparts and Copies. This Stipulation and Order may be executed in  
22 counterparts, each of which, when so executed and upon delivery to counsel of record for  
23 the Parties and/or the Parties, shall be deemed an original ("Counterparts"). This  
24 Stipulation and Order is considered fully executed when Counterparts of this Stipulation  
25 and Order have been signed by all the Parties and/or their counsel; such Counterparts  
26 taken together shall be deemed to be the Agreement. This Stipulation and Order may be  
27 executed by signatures provided by electronic facsimile or email, which signatures shall be  
28 binding and effective as original wet ink signatures hereupon. All fully signed copies of this

1 Stipulation and Order are duplicate originals, equally admissible in evidence.

2 IN WITNESS WHEREOF, this Stipulation and Order has been signed by the Parties  
3 and attested by their duly authorized representatives as of the date(s) so indicated. The  
4 Effective Date of this Stipulation and Order shall be the date it is ordered by the CCB.

5   
6 Joseph Foley  
7 Respondent

Date: 9/22/22

8 

Date: 9/22/22

9 CHARLES GIANELLONI (Bar No. 12747)  
10 3833 Howard Hughes Pkwy., Ste #100  
11 Las Vegas, Nevada 89169  
12 702-784-5200  
13 Attorney for Respondent

14 

Date: 9/22/22

15 ASHLEY A. BALDUCCI (Bar No. 12687)  
16 Senior Deputy Attorney General  
17 MICHAEL D. DETMER (Bar No. 10873)  
18 Senior Deputy Attorney General  
19 Attorneys for the Cannabis Compliance Board

20 **ORDER**

21 WHEREAS, on 27<sup>th</sup> day of Sept, 2022, the Nevada Cannabis  
22 Compliance Board approved and adopted all the terms and conditions set forth in the  
23 Stipulation and Order for Settlement of Disciplinary Action with Joseph Foley.

24 IT IS SO ORDERED.

25 SIGNED AND EFFECTIVE this 27<sup>th</sup> day of Sept, 2022.

26 STATE OF NEVADA,  
27 CANNABIS COMPLIANCE BOARD

28 By:

  
HON. MICHAEL L. DOUGLAS, CHAIR