

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

3 STATE OF NEVADA, CANNABIS
4 COMPLIANCE BOARD,

Case No. 2020-007

5 Petitioner,

6 vs.

7 MM DEVELOPMENT COMPANY
8 LLC,

9 Respondent.

10
11 **COMPLAINT FOR DISCIPLINARY ACTION**

12 The Cannabis Compliance Board of the State of Nevada (the "CCB"), by and through
13 counsel, Aaron D. Ford, Attorney General of the State of Nevada, L. Kristopher Rath, Esq.,
14 Senior Deputy Attorney General, and Ashley A. Balducci, Esq., Senior Deputy Attorney
15 General, having a reasonable basis to believe that RESPONDENT MM DEVELOPMENT
16 COMPANY LLC ("MM Development" or "Respondent") has violated provisions of Chapters
17 453A and 453D of the Nevada Revised Statutes ("NRS") and Chapters 453A and 453D of
18 the Nevada Administrative Code ("NAC"), hereby issues its Complaint, stating the CCB's
19 charges and allegations as follows:

20 **JURISDICTION**

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

23 ID	License/Certificate	Last Issued / 24 Renewed	Address
25 RD006	Recreational Dispensary 62474301567586344896	7/1/2020	2548 West Desert Inn Road Las Vegas, NV 89109
26 D006	Medical Dispensary 27491416302051455778	7/1/2020	2548 West Desert Inn Road 27 Las Vegas, NV 89109

28 2. During all relevant times mentioned in this Complaint, MM Development is

1 and was registered as a domestic corporation in the State of Nevada. Robert A. Groesbeck
2 is the President, Director, and Point of Contact of MM Development.¹

3 3. Laws 2019, c. 595, § 240, eff. July 1, 2020, states, in pertinent part, as follows:

4 1. The administrative regulations adopted by the Department of Taxation
5 pursuant to chapters 453A and 453D of NRS governing the licensing and
6 regulation of marijuana establishments and medical marijuana
7 establishments remain in force and are hereby transferred to become the
8 administrative regulations of the Cannabis Compliance Board on July 1, 2020.
9 On and after July 1, 2020, these regulations must be interpreted in a manner
10 so that all references to the Department of Taxation and its constituent parts
11 are read and interpreted as being references to the Cannabis Compliance
12 Board and its constituent parts, regardless of whether those references have
13 been conformed pursuant to section 244 of this act at the time of
14 interpretation...

15 3. Any action taken by the Department of Taxation or its constituent parts
16 pursuant to chapter 453A and 453D of NRS governing the licensing and
17 regulation of marijuana establishments and medical marijuana
18 establishments before July 1, 2020, remains in effect as if taken by the
19 Cannabis Compliance Board or its constituent parts on and after July 1, 2020.

20 4. Effective July 1, 2020 and pursuant to NRS 678A.350, the CCB superseded
21 the Department in enforcing Nevada's laws and regulations for the cannabis industry.

22 5. As set forth below, the events at issue in this CCB Complaint occurred prior
23 to July 1, 2020, when MM Development was licensed pursuant to NRS Chapters 453A and
24 453D and NAC Chapters 453A and 453D. Therefore, MM Development is subject to the
25 jurisdiction of the CCB and subject to discipline pursuant to NRS 678A through 678D and
26 the relevant provisions of NRS Chapters 453A and 453D and NAC 453A and 453D.
27 Violations are referenced herein to the statutes and regulations in effect at the time each
28 said violation occurred.

6. Pursuant to NRS 678A.500 and 678A.510(1), the CCB's Executive Director
has transmitted the details of the suspected violations of MM Development to the Attorney
General and the Attorney General has conducted an investigation of the suspected

¹ Larry Scheffler is listed as President; Leighton Koehler is listed as Secretary; William Vargas is listed as Treasurer; William Vargas, Leighton Koehler, and Larry Scheffler are listed as Directors.

1 violations to determine whether they warrant proceedings for disciplinary action. The
2 Attorney General has recommended to the Executive Director that further proceedings are
3 warranted, as set forth in this CCB Complaint. The Executive Director has transmitted
4 this recommendation and information to the CCB. Pursuant to NRS 678A.510(2)(b), the
5 CCB has voted to proceed with appropriate disciplinary action under NRS 678A.520
6 through 678A.600, and has authorized service of this CCB Complaint upon Respondent
7 pursuant to NRS 678A.510(1).

8 **FACTUAL ALLEGATIONS**

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

10 8. On March 12, 2020, Nevada Governor Steve Sisolak issued a Declaration of
11 Emergency to facilitate the State's response to the COVID-19 pandemic.

12 9. On May 28, 2020, Nevada Governor Steve Sisolak issued Declaration of
13 Emergency Directive 021 ("Directive 021") to remain in effect through June 30, 2020, unless
14 terminated or extended by a subsequent Directive promulgated pursuant to the
15 Declaration of Emergency. Section 36 of Directive 021 ordered:

16 SECTION 36: Cannabis dispensaries shall continue to operate under the
17 Phase One conditions set forth in Section 22 of Directive 018.

18 10. Nevada Governor Steve Sisolak previously issued Declaration of Emergency
19 Directive 018 ("Directive 018") on May 7, 2020. Section 22 of Directive 018 ordered as
20 follows:

21 SECTION 22: Section 3 of Directive 016 is hereby amended to provide that in
22 addition to curbside or home delivery, licensed cannabis dispensaries may
23 additionally engage in retail sales on an in-store basis, effective May 9, 2020,
24 pursuant to guidance that shall be issued by the Department of Taxation in
25 conjunction with the Cannabis Compliance Board, and subject to all local
26 ordinances or municipal code. Retail cannabis dispensaries must continue to
27 abide by measures promulgated by NV OSHA to minimize the risk of spread
28 of COVID-19 including social distancing and sanitation measures. All retail
cannabis dispensaries are encouraged to permit their employees to work from
home to the maximum extent practicable.

11. On May 7, 2020, the Department/CCB issued "Marijuana Enforcement
Division/Cannabis Compliance Board Guidance for Limited In-store Retail Sales" that

1 provided, in part, as follows:

2 Per the Governor's emergency directive issued today, the Department of
3 Taxation in conjunction with the Cannabis Compliance Board will allow
4 medical dispensaries and retail marijuana stores to re-open with limited in-
5 store access beginning **Saturday, May 9th**. *Facilities must adhere to the*
6 *protocols listed below.* (Emphasis added.) All establishments are still subject
7 to all local ordinances or municipal codes. *Any non-compliance will result in*
8 *immediate disciplinary action.* (Emphasis added.)

9 Instructions for limited in-store sales within the facility:...

10 2. Employees who interact with the public are required to wear face coverings
11 and disposable gloves at all times.

12 3. Facilities must turn away any customer refusing to wear a face covering...

13 [https://tax.nv.gov/uploadedFiles/taxnvgov/Content/Home/Features/CCB%20](https://tax.nv.gov/uploadedFiles/taxnvgov/Content/Home/Features/CCB%20Limited%20In-Store%20Guidance%20(005).pdf)
14 [Limited%20In-Store%20Guidance%20\(005\).pdf](https://tax.nv.gov/uploadedFiles/taxnvgov/Content/Home/Features/CCB%20Limited%20In-Store%20Guidance%20(005).pdf)

15 12. In response to the Department's guidance and request, MM Development
16 submitted and the Department approved a Standard Operating Procedure titled Retail
17 Operating Guidelines that provided, in part, as follows:

18 a.) Personal Protective Equipment Plan:

19 i. All Employees that will be interacting with the customer will be
20 required to wear masks and gloves. New personal protective
21 Equipment will be provided to each employee at the beginning of each
22 shift, and all customer-approached counter surfaces will be sanitized
23 between customer interactions.

24 ii. Face coverings shall be required for all customers within the facility.
25 Immediately upon entry, security and employees at the check-in desk
26 shall offer customers a courtesy face-mask and inform them that face
27 masks are required in the facility. Customers who refuse to comply will
28 be required to depart the premises...

13. On June 24, 2020, Nevada Governor Steve Sisolak issued Declaration of
Emergency Directive 024 ("Directive 024") effective at 11:59 p.m. on Thursday, June 25,
2020. Section 5 of Directive 024 ordered:

SECTION 4: For the purposes of this Directive, "face covering" is defined as
covering that fully covers a person's nose and mouth, including without

1 limitation, cloth face masks, surgical masks, towels, scarves, and bandanas.
2 This Directive shall not be construed to require the public to wear medical-
3 grade masks, including masks rated N95, KN95, and their equivalent or
4 better.

5 SECTION 5: Individuals not exempted by this Directive or guidance issued by
6 the Nevada Health Response shall be required to cover their nose and mouth
7 with a mask or face covering when in a public space, whether publicly owned
8 or privately owned where the public has access by right or invitation, express
9 or implied, whether by payment of money or not....

10 SECTION 8:...State licensing boards are hereby directed to enforce all
11 provisions of this Directive against licensees and establishments within their
12 purview and impose disciplinary measures against licensees who violate this
13 Directive...

14 SECTION 10: Pursuant to NRS 414.060(3)(f), I hereby authorize all local, city,
15 and county governments, and state agencies to enforce this Directive and
16 regulations promulgated thereunder, including but not limited to, suspending
17 licenses, revoking licenses, penalties for...conduct which may injuriously
18 affect the public health, safety, or welfare; conduct that may be detrimental
19 to the public peace, health, or morals; or any other applicable ordinance or
20 requirement for such a license.

21 14. Video footage from Saturday, June 27, 2020, provided by MM Development,
22 showed an employee walking through the dispensary's showroom floor without a face
23 covering at 11:34 a.m. and a customer talking on his cell phone and completing a
24 transaction without wearing his face covering at 2:00 p.m.

25 VIOLATIONS OF LAW

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

27 16. As to license RD006 and certificate D006, Respondent MM Development
28 violated NAC 453D.905(3)(d)(8) by allowing activity which violates the laws of this State.
Specifically, MM Development allowed an employee to walk on the showroom floor of
dispensary without a face covering and a customer to talk on his cell phone and complete a
transaction without wearing his face covering in violation of Section 5 of Nevada Governor
Steve Sisolak's Declaration of Emergency Directive 024, Section 5, which mandated a mask
or face covering when in a public space, whether publicly owned or privately owned where
the public has access by right or invitation, express or implied, whether by payment of

1 money or not. These two acts constitute Category III violations, which carries a civil penalty
2 of \$2,500 for the first violation and a civil penalty of \$5,000 or a suspension for not more
3 than 10 days of a license for the second violation.

4 DISCIPLINE AUTHORIZED

5 Pursuant to the provisions of NRS 678A.600, NAC 453A.332, NAC 453D.312, NAC
6 453D.405, NAC 453D.900, and NAC 453D.905, the CCB has the discretion to impose the
7 following disciplinary actions:

- 8 1. Suspend the license and certificate of MM Development;
- 9 2. Impose a civil penalty of not more than \$35,000 for each separate violation of
10 Chapter 453D on the license and certificate of MM Development; and
- 11 3. Take such other disciplinary action as the CCB deems appropriate.

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

13 RELIEF REQUESTED

14 Based on the foregoing, counsel for the CCB respectfully requests the CCB impose
15 civil penalties against MM Development in the amount of \$7,500. CCB reserves its rights
16 to seek additional costs incurred as this matter proceeds through hearing and rehearing, if
17 applicable.

18 NOTICE TO RESPONDENT

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

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

- 27 (a) Must state in short and plain terms the defenses to each claim asserted.
- 28 (b) Must admit or deny the facts alleged in the complaint.

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

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

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

9 **Failure to answer or to appear at the hearing constitutes an admission by**
10 **the respondent of all facts alleged in the Complaint. The Board may take action**
11 **based on such an admission and on other evidence without further notice to the**
12 **respondent. NRS 678A.520(3).**

13 The Board shall determine the time and place of the hearing as soon as is reasonably
14 practical after receiving the respondent's answer. The Board shall deliver or send by
15 registered or certified mail a notice of hearing to all parties at least 10 days before the
16 hearing. The hearing must be held within 45 days after receiving the respondent's answer
17 unless an expedited hearing is determined to be appropriate by the Board, in which event
18 the hearing must be held as soon as practicable. NRS 678A.520(4).

19 Respondent's answer and Request for Hearing must be either: mailed via registered
20 mail, return receipt; or delivered in person; or emailed to:

21 Tyler Klimas, Executive Director
22 Cannabis Compliance Board
23 555 E. Washington Avenue, Suite 4100
24 Las Vegas, Nevada 89101
25 tklimas@ccb.nv.gov

26 If served by email, Respondent must ensure that it receives an acknowledgement of receipt
27 email from CCB as proof of service.

28 As the respondent, you are specifically informed that you have the right to appear
and be heard in your defense, either personally or through your counsel of choice at your
own expense. At the hearing, the CCB has the burden of proving the allegations in the

1 Complaint. The CCB will call witnesses and present evidence against you. You have the
2 right to respond and to present relevant evidence and argument on all issues involved. You
3 have the right to call and examine witnesses, introduce exhibits, and cross-examine
4 opposing witnesses on any matter relevant to the issues involved.

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

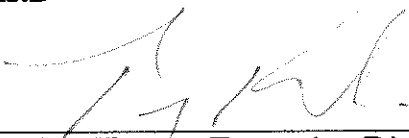
8 If the respondent does not wish to dispute the charges and allegations set forth
9 herein, within 30 days of the service of this Complaint, Respondent may pay the civil
10 penalties and costs set forth above in the total amount of \$7,500 to:

11 Tyler Klimas, Executive Director
12 Cannabis Compliance Board
13 555 E. Washington Avenue, Suite 4100
14 Las Vegas, Nevada 89101


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

17 DATED: July 21, 2020.

18 STATE OF NEVADA, CANNABIS COMPLIANCE
19 BOARD

20 By: 
21 Tyler Klimas, Executive Director
22 555 E. Washington Avenue, Suite 4100
23 Las Vegas, Nevada 89101
24 (702) 486-2300

25 AARON D. FORD
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27 By: 
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