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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
10 **DEPARTMENT OF CANNABIS CONTROL**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Citation Against:

14 **MODERN LEAF CULTURE, INC.;**
15 **ROBERT MCKINLEY, OWNER**
16 **31887 Corydon Road, Ste. 120**
17 **Lake Elsinore, CA 92530**

18 **Microbusiness License No. C12-0000415-LIC**

19 Respondent.

Case No. DCC24-0000167-INV

**STIPULATED SETTLEMENT OF
CITATION AND ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Jose Mendez (Complainant), Branch Chief of the Compliance Division of the Department
24 of Cannabis Control (Department) brought the above-referenced action solely in his official
25 capacity but has since left the Department. Evelyn Schaeffer is now the Deputy Director of the
26 Compliance Division of the Department and now the Complainant in her official capacity in this
27 matter, and is represented in this matter by Rob Bonta, Attorney General of the State of
28 California, by Harinder K. Kapur, Senior Assistant Attorney General.

2. Respondent Modern Leaf Culture, Inc.; Robert McKinley, Owner (Respondent) is represented in this proceeding by attorneys Gina Austin and Tamara Rozmus, Austin Legal Group, APC, whose address is: 3990 Old Town Ave., Ste A101, San Diego, CA 92110 4640. Respondent is acting in this proceeding through Robert McKinley, Owner, and he has been designated and authorized by Modern Leaf Culture to enter into this agreement on behalf of the Respondent (hereafter "Authorized Representative").

3. On or about April 25, 2022, the Department issued Microbusiness License No. C12-0000415-LIC to Respondent with Robert McKinley as Owner. The Microbusiness License was in full force and effect at all times relevant to the violations found in Citation No. DCC24-0000167-INV, and will expire on April 25, 2025, unless renewed.

JURISDICTION

4. Citation No. DCC24-0000167-INV was issued by the Department and is currently pending against Respondent. The Citation and all other statutorily required documents were properly served on Respondent on January 30, 2024. Respondent timely filed its request for hearing to contest the Citation.

5. A true and correct copy of Citation No. DCC24-0000167-INV is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent and its current owners of record and members have carefully read, fully discussed with counsel, and understand the violations found in Citation No. DCC24-0000167-INV. Respondent and its current owners of record and members have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement of Citation and Order.

7. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the violations found in the Citation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of

documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the findings in Citation No. DCC24-0000167-INV, if proven at a hearing, constitute cause for imposing an administrative fine against Respondent.

10. For the purpose of resolving the Citation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the findings in the Citation, and that Respondent hereby gives up its right to contest those findings.

11. Respondent agrees that it is subject to fines and agrees to be bound by the Department imposition of an administrative fine as set forth in the Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Department. Respondent understands and agrees that counsel for Complainant and the staff of the Department may communicate directly with the Department regarding this stipulation and settlement, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that it may not withdraw its agreement or seek to rescind the stipulation prior to the time the Department considers and acts upon it. If the Department fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Department shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement of Citation and Order may be signed in any number of counterparts, each of which is an original and all of which taken together form one single document.

15. This Stipulated Settlement of Citation and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement of Citation and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Department may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

1. **WITHDRAWAL OF APPEAL.** Respondent's appeal of Citation No. DCC24-0000167-INV and request for administrative hearing is deemed withdrawn and any further appeal is waived.

2. **PAYMENT OF FINES.** Respondent shall pay to the Department an administrative fine in the amount of one-thousand dollars (\$1,000). Respondent shall pay to the Department the administrative fine within (30) days of the effective date of the Order.

3. The above referenced payment shall be remitted by either of the following methods:

(1) the Department of Cannabis Control's cash payment procedures; or (2) mailed to:

By U.S. Postal Service:
Department of Cannabis Control
Attn: Cashiers
P.O. Box 419106
Ranch Cordova, CA 95741-9106

By FedEx or UPS:
Department of Cannabis Control
Attn: Cashiers
2920 Kilgore Road
Rancho Cordova, CA 95670-9106

1 4. Failure to complete the payment or comply with the above terms of this Order shall
2 result in an automatic fifteen (15) day summary suspension of Respondent's Microbusiness
3 License No. C12-0000415-LIC, and Respondent waives any right to appeal the summary
4 suspension or request a hearing in the matter.

5 **ACCEPTANCE**

6 I have carefully read the above Stipulated Settlement of Citation and Order and have fully
7 discussed it with my attorneys, Gina Austin and Tamara Rozmus. I understand the stipulation
8 and the effect it will have on my Microbusiness License. I enter into this Stipulated Settlement of
9 Citation and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
10 Decision and Order of the Department of Cannabis Control.

11 **12/20/24**

12 DATED: _____

13 
14 MODERN LEAF CULTURE, INC, ROBERT
MCKINLEY, OWNER
Respondent

15 I concur with this stipulated settlement.

16
17 DATED: _____

18 
19 GINA AUSTIN, ESQ.
AUSTIN LEGAL GROUP APC
Attorney s for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement of Citation and Order is hereby respectfully submitted for consideration by the Department of Cannabis Control.

DATED: January 2, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California

Harinder Kapur

HARINDER K. KAPUR
Senior Assistant Attorney General
Attorneys for Complainant

SA2024801407
CCS Stipulated Settlement and Disciplinary Order.docx

Exhibit A

Citation No. DCC24-0000167-INV



CITATION, FINE and ORDER OF ABATEMENT
Business and Professions Code, § 26031.5
California Code of Regulations, Title 4, §§ 17802-17804

Case Number: DCC24-0000167-INV

Date Issued	January 30, 2024
Issued To	Robert McKinley, Owner & Chief Executive Officer
Address of Service	10717 E. Pierce Ln., Spokane, WA 99206
Date and Method of Service	January 30, 2024 – Via Certified Mail
License Number	C12-0000415-LIC

Business and Professions Code section 26031.5 provides the Department of Cannabis Control (Department) the statutory authority to issue a citation, including fines and orders of abatement, to a licensee or unlicensed person for any act or omission that violates or has violated any provision of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) or any regulation adopted pursuant thereto. You are being issued this citation for the following violations of MAUCRSA (Bus. & Prof. Code (BPC), § 26000 et seq.) and the Department's regulations. (Cal. Code Regs. (CCR), tit. 4, § 15000 et seq.)

VIOLATION	VIOLATION DATE(S)	AMOUNT OF FINE PER DAY	TOTAL AMOUNT OF FINE FOR VIOLATION
1. Business and Professions Code section 26039.3; California Code of Regulations, title 4, section 17801.5, subdivision (g)	11/11/2023 & 11/13/2023	\$10,000 per transaction	\$20,000

Violation 1.

CCR, title 4, section 17801.5, subdivision (g) prohibits a licensee or product owner from removing from embargo, selling, or disposing of any cannabis or cannabis products under embargo without written permission of the Department or a court. Each item removed, sold, or disposed of without written permission of the Department or a court constitutes a separate violation of the MAUCRSA.

On November 9, 2023, the Department placed cannabis products under embargo pursuant to BPC section 26039.3. The basis for placing these items under embargo was that the Department found or had probable cause to believe the cannabis or cannabis products were adulterated or the sale of the embargoed items would violate the MAUCRSA.

The Department issued an initial notice of embargo to Modern Leaf Culture, Inc. (Licensee) on November 9, 2023, by email indicating that "WEST COAST CURE – BISCOTTI" 1g Disposable Vape Pens, METRC item UID # 1A4060300009223000131704 from Batch No. 1A4060300009222000010348, were under embargo and could not be sold, disposed of, or removed without written permission from the Department or a court. On November 20, 2023, the Department sent to the Licensee a follow up email that informed the Licensee that embargoed cannabis products had been sold or adjusted and reiterated that the cannabis products placed under embargo may not be sold, disposed of, or removed without written permission of the Department or a court.

On January 25, 2024, Department staff conducted a review of Licensee's California Cannabis Track and Trace (CCTT) account, which reflected that Licensee had sold the embargoed product on November 11 and 13, 2023. Additionally, on January 25, 2024, Licensee owner and DRP Robert McKinley was contacted and confirmed that there are 2 additional units of the embargoed cannabis products remain in their quarantine inventory and also confirmed that both the Initial Embargo Notice and Embargo Follow Up email from the Department had been received by Robert McKinley, the Licensee's Owner. The Department did not authorize or approve Licensee to sell or dispose of the embargoed items, nor to remove the embargoed items from embargo. As a result, the Licensee failed to comply with the Department's November 9, 2023, embargo and violated the requirements of BPC section 26039.3 and CCR, title 4, section 17801.5, subdivision (g).

ADMINISTRATIVE FINE ASSESSED

Pursuant to Business and Professions Code section 26031.5, the Department may assess a fine not to exceed ten thousand dollars (\$5,000) per violation by a licensee or thirty thousand dollars (\$30,000) per violation by an unlicensed person. Each day of violation shall constitute a separate



violation.

The full amount of the fine must be paid within thirty (30) days of the date of service of this citation, unless the citation is contested. To ensure the payment is credited, indicate on your payment the case number provided at the top of this citation. Payment made by check, money order or cashier's check may be made payable to "DCC" or "California Department of Cannabis Control." Payment shall be made by one of the following methods:

In person: at one of our office locations with exact cash, cashier's check, money order, or a personal or business check

- To schedule an in-person payment appointment, email us:
payments@cannabis.ca.gov
- Or call us at: 1-844-61-CA-DCC (1-844-612-2322)

By mail: cashier's check, money order, personal or business check

- U.S. Postal Service: PO Box 419106, Rancho Cordova, CA 95741
- FedEx or UPS: 2920 Kilgore Road, Rancho Cordova, CA 95670

Failure to pay the full amount of the administrative fine within thirty (30) days from the date of service of the citation, unless you appeal the citation, is a separate violation and may result in additional action by the Department. Licenses shall not be renewed or granted if fines are not paid and unpaid fines will be added to license renewal fees.

In the instant matter, an administrative fine(s) in the total amount of \$20,000 is assessed against Modern Leaf Culture, Inc in accordance with Business and Professions Code section 26031.5.

ORDER OF ABATEMENT

Pursuant to Business and Professions Code section 26031.5, a citation may include an order of abatement and fix a reasonable time for abatement of the violation. You are ordered to:

1. Immediately cease and desist from violating California Code of Regulations, title 4, section 17801.5, subdivision (g). The Licensee shall comply with the Department's November 9, 2023 embargo by terminating any further sale or disposal of the embargoed items without prior Department approval.

You must abate the violation(s) and provide evidence of abatement to the Department no later than February 14, 2024. Failure to abate the violation(s) within the time allowed, unless the violation is being appealed, shall constitute a separate violation and may result in denial of an application for licensure or renewal of a license, disciplinary action, or further administrative or civil proceedings. If you are unable to complete the correction within the time provided because of conditions beyond your control after the exercise of reasonable diligence, you may request an extension of time in which to correct the violation. The request shall be made in writing and submitted to the Department, at ann.kuhn@cannabis.ca.gov, within the time set forth for abatement. The time to abate or correct may be extended for good cause.

APPEALING THE CITATION

To appeal the citation, you may request an informal conference with the Department, or request a formal hearing to contest the citation before an Administrative Law Judge, or both. Requests must be submitted in writing in accordance with the timeframes specified below or the right to a hearing is waived. If a hearing is not requested, payment of a fine will not constitute an admission of the violation charged.

INFORMAL CONFERENCE

You may request an informal conference with the Department regarding the acts or omissions found in the citation in accordance with California Code of Regulations, title 4, section 17803, subdivision (b). During an informal conference, you may present evidence supporting an adjustment to the citation and/or fine(s). The Department may affirm, modify, or dismiss the citation, including any fines assessed or orders of abatement issued. The informal conference may also resolve any matters relating to the citation through a settlement agreement.

To request an informal conference, your request must be in writing and submitted to the Department at ann.kuhn@cannabis.ca.gov, within 15 calendar days from service of this citation. The informal conference may be conducted by telephone, through a virtual platform, or in person, at the Department's Headquarters, located at 2920 Kilgore Road, Rancho Cordova, California 95670. The informal conference will be held within 15 calendar days from receipt of the written request by the Department.

Requesting an informal conference does not stay or toll the running of the 30-day period for you to request a formal hearing to contest the citation before an Administrative Law Judge. You should request an informal conference as soon as possible if you would like to allow time to hold the

conference prior to the deadline for contesting the citation as the time to contest a citation does not stop if you request an informal conference.

At the conclusion of the informal conference, a written decision stating the reasons for the decision will be mailed to you within 15 calendar days from the date of the informal conference, which shall be deemed a final order. If the citation is dismissed, any request for a formal hearing shall be deemed withdrawn. If the citation is affirmed or modified, you may either withdraw the request for a formal hearing or proceed with the hearing. If the citation is modified, the original citation shall be considered withdrawn and a new citation issued. A request for a formal hearing on the new citation must be submitted to the Department in writing within 30 calendar days of issuance of the new citation.

CONTESTING THE CITATION

You have a right to contest the finding of a violation before an Administrative Law Judge by requesting a formal hearing. To request a formal hearing, your request must be in writing and submitted to the Department within 30 calendar days from service of the citation. If a request is not received by the Department within 30 calendar days, the right to a hearing is waived, and the citation becomes a final order of the Department and is not subject to review by any court. The hearing shall be held pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). Written requests for a hearing to contest the finding of a violation must be emailed to appeals@cannabis.ca.gov or submitted in hard copy by mail or delivery to:

U.S. Postal Service	FedEx or UPS
Department of Cannabis Control Legal Affairs Division PO Box 419106 Rancho Cordova, CA 95741	Department of Cannabis Control Legal Affairs Division 2920 Kilgore Road Rancho Cordova, CA 95670

The Department may seek recovery of the reasonable costs of investigation and enforcement pursuant to Business and Professions Code section 26031.1 at the formal hearing on the citation or as part of any stipulated settlement.

If you have any questions regarding this citation or the appeals process, please contact Special Investigator Ann Kuhn at ann.kuhn@cannabis.ca.gov.

Issued To: Robert McKinley
License/Case No: C12-0000415-LIC/DCC24-0000167-INV
Issued By: Jose Mendez
Date: 1/30/2024
Page 6 of 6

Date: 1/29/2024

By: _____

Jose Mendez
Branch Chief, Compliance Division
Department of Cannabis Control



Department of
Cannabis Control
CALIFORNIA

Citation
Form DCC-8107 | Revision Date: 07.19.2022

Proof of Service

(Citation Assessing Fines and Order to Abate and Pay Costs, Bus. & Prof. Code (BPC) § 26000 et seq.)

I, the undersigned, declare that at the time of service I was at least 18 years of age and not a party to this action or matter. I am employed by the California Department of Cannabis Control, with headquarters located at 2920 Kilgore Road, Rancho Cordova, California 95670.

On the date listed below, I served the following document(s):

Citation Assessing Fines and Order to Abate and Pay Costs dated 1/30/24 to the person(s) listed below as follows:

Robert McKinley, Owner & Chief Executive Officer on behalf of Modern Leaf Culture (C12-0000415-LIC) at 10717 E. Pierce Ln., Spokane, WA 99206

The documents were served by the following means:

☒ BY UNITED STATES MAIL: I enclosed the documents in a sealed envelope or package, addressed to the person(s) as listed above and (*specify one*):

☐ DIRECT DEPOSIT: I deposited it with the United States Postal Service, with postage fully prepaid.

☒ CERTIFIED MAIL: I placed it for collection and mailing, return receipt requested, Certified Receipt Number: 7020-2450-0000-6585-0914 following the Department of Cannabis Controls' ordinary business practices.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at 2920 Kilgore Road, Rancho Cordova, California 95670.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 1/30/24 in Rancho Cordova, California.

Adger,
Joshua@Cannabis

Digitally signed by Adger,
Joshua@Cannabis
Date: 2024.01.30 09:12:58 -08'00'

Office Technician
Compliance Division



**BEFORE THE
DEPARTMENT OF CANNABIS CONTROL
STATE OF CALIFORNIA**

In the Matter of the Citation Against:

MODERN LEAF CULTURE, INC.;
ROBERT MCKINLEY, OWNER31887
Corydon Road, Ste. 120
Lake Elsinore, CA 92530

Microbusiness License No. C12-0000415-LIC

Respondent.

Case No. DCC24-0000167-INV

OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Order is hereby adopted by the Department of Cannabis Control, as its Decision in this matter.

This Decision shall become effective on _____.

It is so ORDERED _____.

FOR THE DEPARTMENT OF CANNABIS
CONTROL

PROOF OF SERVICE

Case Name: **In the Matter of the Citation Against MODERN LEAF CULTURE, INC.,
ROBERT MCKINLEY, OWNER;**
Case No.: **DCC24-0000167-INV**
License No.: **C12-0000415-LIC**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Department of Cannabis Control, 2920 Kilgore Road, Rancho Cordova, CA 95670. On January 14, 2025, I served the within documents:

DETERMINATION REGARDING STIPULATE SETTLEMENT

- X VIA ELECTRONIC TRANSMISSION. Pursuant to CCP § 1010.6, I caused the document(s) to be sent to the person(s) at the Email address(es) listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- X VIA CERTIFIED MAIL by placing the envelope for collection and mailing following our ordinary business practices for collecting and transmitting mail through the United States Postal Service to the Respondent and Respondent's attorney listed below.

— Service VIA CERTIFIED MAIL to be completed upon the following business day.

To the following recipients:

Harinder Kapur (email only)
Assistant Attorney General
Cannabis Control Section
Office of Attorney General
Harinder.Kapur@doj.ca.gov

Gina Austin and Tamara Rozmus
Austin Legal Group, APC
3990 Old Town Ave, Suite A101
San Diego, CA 92110-4640
gaustin@austinlegalgroup.com
tamara@austinlegalgroup.com

I am familiar with the Department's business practices for collecting and transmitting mail through the United States Postal Service. In accordance with those practices, correspondence placed in the Department's internal mail collection system is, in the ordinary course of business, deposited in the United States Postal Service, with postage paid, on the same day. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California, and the United States of America, that the above is true and correct.

Executed on January 14, 2025, at Rancho Cordova, California.

Erroll Abrahamian