

IN THE MATTER OF
FORWARDGRO, LLC

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BEFORE THE NATALIE M.
LAPRADE MEDICAL
CANNABIS COMMISSION

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PRE-CHARGE CONSENT ORDER

Background

On or about July 2, 2018, the Natalie M. LaPrade Medical Cannabis Commission (the “Commission”) received a complaint (the “Complaint”) from the Maryland Ethical Cannabis Association, Inc. alleging that ForwardGro LLC, a Maryland Limited liability company (the “Respondent” or “ForwardGro”) used certain unauthorized crop protection agents in its cultivation practices. At all times material to the Complaint, the unauthorized crop protection agents that were used at ForwardGro were prohibited under applicable statutes and regulations.

Based upon the Complaint, as well as the results of the Commission’s subsequent investigation of the Complaint, on November 8, 2018, the Commission conducted a case resolution conference (“CRC”) with the Respondent in an attempt to reach a resolution of these matters prior to the issuance of formal charges. Subsequently, in lieu of instituting formal proceedings against Respondent in accordance with the Md. Code Ann., Health-Gen. § 13-3301 *et. seq.* (2014 Repl. Vol.), the Commission and Respondent have agreed to resolve this matter as set forth in this Consent Order, and agree to the following Findings of Fact, Conclusions of Law, and Order.

I. FINDINGS OF FACT

The Commission finds that:

1. At all times relevant hereto, Respondent was licensed to grow medical cannabis in the State of Maryland. Respondent obtained its Maryland medical cannabis grower's license on or about May 17, 2017, under license number G-17-00001.
2. On or about July 2, 2018, the Commission received the Complaint alleging that the Respondent used certain unauthorized crop protection agents in its cultivation practices. The Complaint included three (3) affidavits from former employees who worked in Respondent's cultivation facility prior to July 2018.
3. As of July 7, 2018, the Maryland Department of Agriculture began permitting the use of some, but not all, of the unauthorized crop protection agents used at Respondent's facility. At all times material to the Complaint and the Commission's investigation, they were prohibited under applicable statutes and regulations.
4. Based on the Complaint, the Commission initiated its investigation into the application of unauthorized crop protection agents.
5. During the course of the investigation, the Commission discovered additional compliance violations.
6. A substantial portion of the investigation involved the interviews of seventeen (17) witnesses, which included former and current employees, managers, and owners of ForwardGro.

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7. The Commission conducted two inspections (July 3, 2018 and July 9, 2018) at Respondent's facility (the "Facility"), procured random samples from various locations at the Facility to test for the presence of unauthorized crop protection agents, obtained Standard Operating Procedures ("SOPs") relevant to cultivation processes, and procured documents and other items related to the purchase and use of unauthorized crop protection agents.

8. The investigation revealed that powdery mildew and unwanted insects were problems at the Facility. The investigation further revealed that Respondent's SOPs included an Integrated Pest Management system to deal with unwanted pests, but those SOP's did not address the use of any crop protection agents.

9. Subsequent to November 8, 2018, Michael F. McCarthy, the former Chief Executive Officer of Respondent resigned and Gary L. Mangum became the acting Chief Executive Officer.

A. Use of Unauthorized Crop Protection Agents

10. The investigation revealed the use of certain unauthorized crop protection agents to treat medical cannabis plants at the Facility.

11. At all times material to the Complaint, all crop protection agents were prohibited from use on medical cannabis in Maryland.

12. Respondent's greenhouses at the Facility were inspected on July 3, 2018 and July 9, 2018 by the Maryland Department of Agriculture ("MDA"). On July 3, 2018,

the MDA took samples at the Facility. On July 9, 2018, the MDA took further samples from the facility.

13. The MDA sent these samples for analysis.

14. On or about October 9, 2018, based on additional information received during its investigation regarding the use of unauthorized crop protection agents, the Commission placed an administrative hold on Respondent's medical cannabis products pending investigation (the "Administrative Hold").

B. Failure to Ensure Employees' Use of Personal Protective Equipment

15. The investigation revealed that Respondent's employees who engaged in the spraying of unauthorized crop protection agents at the Facility did not utilize appropriate personal protective equipment as required by state and federal regulations.

16. Respondent's employees who were not informed of the spraying of unauthorized crop protection agents, but were otherwise exposed to the spraying of crop protection agents, did not utilize personal protective equipment or observe safety protocols as required by state and federal regulations.

C. Security Failures

17. In August 2017, a number of cannabis plants were taken outside of the secured area within Respondent's cultivation facility.

18. At that time, Respondent did not have any security measures in place to prevent unauthorized access to these plants as required by the Commission's regulations.

19. At that time, Respondent failed to have the area where these plants had been relocated properly monitored by a video surveillance recording system as required by the Commission's regulations.

II. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Commission concludes that Respondent Forward Gro, LLC used certain unauthorized crop protection agents, failed to ensure that employees utilized personal protection equipment and observe safety protocols, and failed to implement required security measures, in violation of Md. Code Ann., Health-Gen. § 13-3301 *et. seq.* (the "Act") (2014 Repl. Vol.), and COMAR 10.62.10.03, 10.62.10.04, 10.62.10.07, 10.62.11.02, 10.62.11.03, 10.62.12.08, 10.62.15.01.

III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law by the Commission, it is hereby:

ORDERED that Respondent will pay a monetary fine of **ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$125,000.00)** in full, by money order or cashier's check made payable to the Commission and delivered personally or by certified mail to the Commission within **THIRTY (30) DAYS** of the effective date of this Consent Order. Failure to pay this monetary fine in full within **THIRTY (30) DAYS** of the effective date of this Consent Order shall constitute a violation of this Consent Order; and be it further

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ORDERED that Respondent shall ensure that Michael F. McCarthy, the former Chief Executive Officer of Respondent having been replaced by Gary Mangum, will divest all of his ownership interest in ForwardGro within **THIRTY (30) DAYS** of the effective date of this Consent Order; and be it further

ORDERED that Respondent shall dispose of all medical cannabis product produced prior to May 31, 2018, and which is currently held in Respondent's inventory, under proper green waste disposal methods as specified in COMAR 10.62 within **THIRTY (30) DAYS** of the effective date of this Consent Order; and be it further

ORDERED that any medical cannabis product produced by Respondent in June 2018, and held in Respondent's inventory shall be held by Respondent solely for Respondent's use if and when Respondent (or a wholly-owned affiliate) obtains a medical cannabis processing license from the Commission and solely for future processing under such processing license, if and when permitted by the Commission; and be it further

ORDERED that Respondent shall make a public announcement that it will accept any returns of Respondent's flower and pre-roll medical cannabis product currently subject to the Administrative Hold and Respondent shall issue a refund to the purchaser of such medical cannabis product, if not previously refunded, within **TEN (10) DAYS** of Respondent's acceptance of each such return. Following Respondent's receipt of such medical cannabis product presented for return, Respondent shall destroy such returned medical cannabis product within **FIVE (5) DAYS** of Respondent's acceptance of each

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such return under proper disposal methods as specified in COMAR 10.62; and be it further

ORDERED that Respondent shall attach to every individual package of any flower or pre-roll medical cannabis product produced prior to July 1, 2018 and offered for sale an advisory notice stating as follows: **“ALL FORWARDGRO LLC MEDICAL CANNABIS PRODUCT THAT WAS PRODUCED PRIOR TO JULY 1, 2018 MAY HAVE BEEN EXPOSED TO CERTAIN UNAUTHORIZED CROP PROTECTION AGENTS, THE HEALTH EFFECTS OF WHICH ARE NOT KNOWN”**; and be it further

ORDERED that Respondent’s Maryland medical cannabis grower’s license number G-17-00001 is placed on **PROBATION** for a period of **TWO (2) YEARS** beginning on the effective date of this Consent Order, subject to the following terms and conditions:

1. The Respondent’s status as a medical cannabis grower be listed in the Commission’s computer records and website as being on **“PROBATION”**;
2. For the pendency of Respondent’s probation, Respondent shall be subject to **TWENTY-FOUR (24) MONTHS** of enhanced inspections by the Commission and/or its designee(s), to include monthly self-reporting compliance checklists to be completed as reasonably directed by the Commission’s Bureau of Enforcement and Compliance;
3. Within **NINETY (90) DAYS** of the effective date of this Consent Order, Respondent shall ensure the placement of a new head grower

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to be pre-approved reasonably and promptly by the Commission's Bureau of Enforcement and Compliance;

4. The Respondent shall ensure an expanded role for its Compliance Officer in the management and operation of Respondent's business reporting directly to the Chief Executive Officer and Chief Operating Officer and, within **THIRTY (30) DAYS** of the effective date of this Consent Order, shall create revised Compliance Officer Job Description and create enhanced compliance Standard Operating Procedures to be pre-approved reasonably and promptly by the Commission's Bureau of Enforcement and Compliance;
5. Within **THIRTY (30) DAYS** of the effective date of this Consent Order, Respondent shall implement new Standard Operating Procedures for logging sprays; new Standard Operating Procedures on employee safety; enhanced Standard Operating Procedures pertaining to vendor and purchase controls; enhanced Standard Operating Procedures on Metrc; enhanced Standard Operating Procedures on security, as pre-approved reasonably and promptly by the Commission; and ensure all staff receive formal training on the new SOPs promptly following such approval. Training records will be maintained and available for review by the Commission.
6. Respondent shall fully comply with its previously proffered, and accepted, whistleblower policy, anonymous reporting, compliance audit checklist and self-reporting policy;
7. Respondent is responsible for any and all of its costs associated with the compliance of the terms and conditions set forth in this Consent Order and be it further

ORDERED that Respondent, and any wholly-owned affiliate of Respondent, shall be in full compliance with the terms of this Consent Order for **TWELVE (12)**

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CONSECUTIVE MONTHS from the effective date of this Consent Order before being considered by the Commission to be eligible for any additional license authorized to be issued by the Commission. Respondent may, however, petition the Commission no fewer than **SIX (6) MONTHS** from the effective date of this Consent Order with documentation and evidence showing that Respondent has made significant measurable progress in improving its commitment to compliance with the Consent Order, for the Commission to consider whether Respondent (or its wholly-owned affiliate) may be eligible for any additional license at that time, in the Commission's sole discretion, which shall not be subject to challenge or appeal; and be it further

ORDERED that Respondent's violation of the Commission's regulations or Respondent's Standard Operating Procedures that is reasonably likely to result in a risk of diversion of medical cannabis or risk to public health is a violation of this Consent Order; and be it further

ORDERED that if Respondent violates any of the terms and conditions of this Consent Order, the Commission, in its discretion, after notice and an opportunity for an evidentiary hearing before the Commission may impose any other disciplinary sanction which the Commission may have imposed in this case under Md. Code Ann., Health-Gen. § 13-3301 *et. seq.* including an additional probation, suspension, revocation, and/or monetary fine, said violation being proven by a preponderance of the evidence; and be it further

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ORDERED After the conclusion of **TWO (2) YEARS** from the date of this Consent Order, the Respondent may submit a written petition to the Commission requesting termination of probation. After consideration of the petition, the Commission may terminate the Respondent's probation through an order if the Respondent has fully and satisfactorily complied with all of the terms and conditions of probation and this Consent Order.

ORDERED that this Consent Order is a **PUBLIC RECORD** pursuant to Md. Code Ann., Gen. Prov., §§ 4-101, *et seq.* (2014).

12-18-18
Date

SIGNATURE ON ORIGINAL DOCUMENT

Brian Lopez
Chairman
Natalie M. LaPrade Maryland
Medical Cannabis Commission

CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and, on behalf of ForwardGro, LLC, accept and submit to the foregoing Consent Order and its conditions. I acknowledge that I sign this Consent Order on behalf of ForwardGro, LLC and I attest that I have authority to bind ForwardGro, LLC by my signature. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which ForwardGro, LLC would have had the right to legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on ForwardGro, LLC's behalf, to introduce testimony and evidence on ForwardGro, LLC's behalf, and to all other substantive and procedural protections provided by law. I waive these rights on behalf of ForwardGro, LLC, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

I sign this Consent Order, as an authorized officer of ForwardGro, LLC after having an opportunity to consult with an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, terms, and effect of this Consent Order.

A handwritten signature in blue ink, appearing to read "Gary L. Mangum", is written over a horizontal line.

Gary L. Mangum

Chief Executive Officer, ForwardGro, LLC

License number G-17-00001

NOTARIZATION

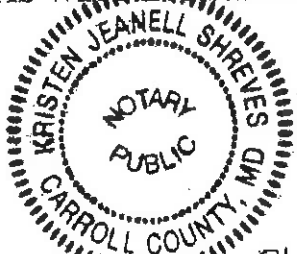
STATE: Maryland.

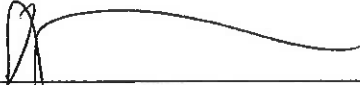
CITY/COUNTY: Carroll County

I HEREBY CERTIFY that on this 17 day of December, 2018, before me, Notary Public of the State and City/County aforesaid, **Gary Mangum** personally appeared, and made oath in due form of law that signing the foregoing Consent Order was the voluntary act and deed of **Gary Mangum**, as the Chief Executive Officer of, and an authorized representative of, **ForwardGro, LLC**.

AS WITNESSETH my hand and notarial seal.

SEAL





Notary Public

My Commission Expires: 7/21/2021