

IN THE MATTER OF

CULTA, LLC

Respondent

License No.: G-17-00014

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BEFORE THE
MARYLAND MEDICAL
CANNABIS COMMISSION

Case Nos. 21-00263 and 22-00102

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CONSENT ORDER

Pursuant to the Natalie LaPrade Medical Cannabis Commission Act (the "Act"), codified at Md. Code Ann., Health-Gen. ("Health Gen.") § 13-3301 et seq. (2019 Repl. Vol. and 2021 Supp.), the Maryland Medical Cannabis Commission (the "Commission" or "MMCC") and **Culta, LLC** (the "Respondent"), license number **G-17-00014** enter into this Consent Order in order to resolve the Charges Under the Medical Cannabis Act issued on April 19, 2022.

The pertinent provisions of the Act and corresponding Code of Maryland Regulations ("COMAR") are as follows:

Health Gen. § 13-3313.1 Advertisements

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- (b) An advertisement for a grower, a processor, a dispensary, an independent testing laboratory, a certifying provider, or a third-party vendor may not:
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 - (2) Contain a design, an illustration, a picture, or a representation that:
 - (i) Encourages or represents the recreational use of cannabis;
 - (ii) Targets or is attractive to minors, including a cartoon character, a mascot, or any other depiction that is commonly used to market products to minors;
 - (iii) Displays the use of cannabis, including the consumption, smoking, or vaping of cannabis;
 - (iv) Encourages or promotes cannabis for use as an intoxicant
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- (c) All advertising for medical cannabis, medical cannabis products, or edible cannabis products shall include a statement that the product is for use only by a qualifying patient.

COMAR 10.62.10.08. Visitor to a Non-Public Area of the Premises.

- A. When a visitor is admitted to a non-public area of the premises of a licensee, a registered grower agent shall:

.....

- (4) Ensure that the visitor does not touch any plant or medical cannabis.

COMAR 10.62.34.03. Violation of Requirements.

- A. A licensee, registrant, agent, or employee may not violate a requirement of this subtitle or Health-General Article, §§13-3301—13-3316, Annotated Code of Maryland.
- B. A licensee, registrant, agent, or employee who violates §A of this regulation is subject to a fine of up to \$5,000 per violation. The licensee, registrant, agent, or employee may:
 - (1) Elect to pay the imposed fine; or
 - (2) Request a hearing not later than 30 days after receipt of notice of the fine.
- C. In accordance with the hearing provisions of Regulation .05 of this chapter, the Commission may deny, suspend, or revoke the license or registration of a licensee, registrant, agent, or employee who violates §A of this regulation.

COMAR 10.62.34.08 Advertising Restrictions.

- A. All advertisements for medical cannabis, medical cannabis products, edible cannabis products, and medical cannabis-related services shall comply with the requirements of Health-General Article, §13-3313.1, Annotated Code of Maryland.
- B. A licensee, registrant, agent, or employee who violates §A of this regulation:
 - (1) Is subject to a fine not exceeding:
 - (a) \$500 for a first violation;
 - (b) \$1,000 for a second violation occurring within 24 months after the first violation; and
 - (c) \$5,000 for each subsequent violation occurring within 24 months after the preceding violation; [...]

On August 23, 2022, the parties met for a case resolution conference to determine whether these matters could be resolved in lieu without a formal hearing and have agreed to the Findings of Fact, Conclusions of Law and Order set forth herein.

I. FINDINGS OF FACT

The parties agree upon the following findings of fact:

A. CASE NO. 21-00263

1. At all times relevant, Respondent was licensed to grow medical cannabis in the State of Maryland under license number G-17-00014.
2. On April 29, 2021, the Maryland Medical Cannabis Commission (the "Commission") received an emailed complaint (the "Complaint") related to Respondent's conduct at its grow facility in Cambridge, Maryland.
3. The Complaint alleges various potential allegations of the Act related to Respondent's commission and use of a music video filmed at its grow facility by a dispensary agent and rapper Gregory Myers, a.k.a. "Double G."
4. According to the Complaint,

Culta, LLC markets its medicinal cannabis as recreational marijuana and promotes a recreational marijuana culture to Maryland youth as a core part of its business model, mocking the medical character of their MMCC-authorized activities. Actions by Culta, LLC endanger public health, hurt medical patients by limiting patient access to quality cannabis medicine, and undermine the Maryland medical cannabis program.
5. The Complaint alleges, among other things, that Culta's sponsored "Roll One" ad campaign with Baltimore-based rapper and Culta brand ambassador "Double G" promotes recreational marijuana culture and targets youth. The Complaint asserts that "The MMCC licensed and regulated Culta cultivation facility, dispensary, and products are prominently featured in the Culta-sponsored music video for the artist's party song."
6. Upon review of the Complaint, the Commission initiated an investigation into the allegations.

B. CASE NO. 22-00102

7. During an unannounced inspection of another licensed facility, the Commission's investigator discovered that Cultra is advertising in an industry publication titled Maryland Leaf Magazine.

8. Cultra's two-page advertisement is on pages 16 and 17 of the February 2022 issue. The ad does not include a statement that the product is for use only by a qualifying patient or Medical Cannabis is for use by certified patients only.

II. COMMISSION INVESTIGATION

A. CASE NO. 21-00263

9. The Commission's investigator found the commercial advertisement on YouTube. It is titled "Double G – "Roll One" [Prod. Balloon Beats] OFFICIAL MUSIC VIDEO,"¹ and the description of the music video states:

The second single off Double G's new album which is scheduled for release in the summer, "Roll One" is the universal cannabis party track the world has longed for. It's the perfect track to roll one, light up, and smoke one to [*sic*]! Over an extremely fun, upbeat, pop-rock instrumental by Balloon Beats, "Roll One" is sure to make you MOVE... even if you don't enjoy cannabis. Give this video a thumbs up, drop a comment, make sure to subscribe, and most importantly, share this video with a friend!

****Medical marijuana is for qualifying patients only. Must be 18+ to view****

Big shoutout to Cultra for sponsoring this song/video. They bring some of the highest quality medicine that's available on the Maryland medical market. Their Dosidos 22-22 is a MUST TRY if you are an MMCC patient. Give them a follow on Instagram: @CultraIG. The video was sponsored/paid for by Cultra, LLC[.]

¹ The video was located and viewed at: <https://www.youtube.com/watch?v=INKKWKyewY8> on March 1, 2022.

10. Investigation revealed that the commercial advertisement was produced at Culta's licensed grow facility on March 10, 2021, based upon a review of Culta's surveillance video and visitor logs. The featured artist is known as Double G and was identified as Myers by Culta employees.

11. Myers is both a Maryland patient and a registered dispensary agent (number D-004538) currently working at another dispensary.

12. The advertisement video and its lyrics were posted on YouTube and contained language that one could interpret to be conveying that medical cannabis, specifically the Respondent's Cookies brand, should be shared and/or used recreationally. For example, the commercial video contains the following lyrics: ant to the Complaint's allegations:

- a) "Tonight we getting stoned. Roll one and pass it around. And don't no one let it hit the ground...That Cookies are my main cologne...."
- b) "I ain't your average smoker. I like to mix doja...Gon put your ass in a coma...."
- c) "We on that THC diet...."
- d) "Yeah my homie cage so high. He tryin' to test the hubble theory. Off a seed junkie overdose apple fritter with my toast...."
- e) "I'm feeling bernerd. So you know my lungs are staying Cookied."
- f) "I don't know about y'all but I'm hella lit."

13. The Commission's investigator noted the following observations upon review of the music video, including:

- a) Myers is seen standing on the roof of Culta grow facility wearing a shirt that reads "Stoner Mario", referencing the popular video game character by Nintendo;
- b) Myers is shown smoking a hand-rolled cannabis cigarette in a party setting, to include a game of beer pong;

- c) Myers is seen holding medical cannabis flower next to Culta's Director of Cultivation;
- d) Posters in the background contain identifiable logos of Maryland Medical Cannabis licensees, to include MPX (license no. P-17-0009); Curio (license no. D-18-00012) and Culta (license no. D-18-00019);
- e) Images in the video also include the logo of a recreational cannabis facility in Denver Colorado;
- f) Various Culta brand packages, including Culta Cookies brand, Georgia Pie, London Pound Cake, Cheetah Piss, Snow Man, and Cereal Milk are displayed on the wall in the background of the advertisement video, along with a poster of the Periodic Table of Cannabis; and
- g) "Sponsored by Culta" is displayed at the end of the video along with their Cookies brand logo; "Stoner Zone"; and a cannabis leaf.

14. The Roll One commercial was also available on music platforms such as iTunes, Soundcloud, Deezer, Spotify, Pandora, Tik Tok, Apple Music and Amazon Music. As of the date of these Charges, the Roll One YouTube video had been viewed over 13,000 times.

15. Further, there are additional YouTube music videos, such as the Double G "Roll One Studio Session x Music Video (Behind The Scenes)" wherein Myers is shown at a recording studio and while filming the video at Culta's grow facility in Cambridge, Maryland.

16. Upon review of this video, the Commission's investigator observed the following:

- a) Image of Myers preparing to consume a hand rolled cannabis cigarette with images of Culta logos in the background;
- b) Beer pong image with what appears to be half full bottle of an alcoholic beverage, Culta logos on drink insulators;
- c) Unidentified male passing a hand rolled cannabis at the "Party" (as described by Myers in text messages obtained by the investigator);
- d) Display of Culta's Cookies logo along with Stoner Zone/cannabis leaf image.

17. Following discussions between the Commission's investigators and Cultra's compliance staff, an additional video that appeared on Cultra's website was immediately removed.

18. The Commission's investigator also reviewed video surveillance footage from Cultra's grow facility on the date the music video was recorded, and he observed the following:

- a) Myers, video crew, Cultra grow representative, and two other unidentified individuals enter grow room #3 in Suite B;
- b) Myers is seen touching medical cannabis plant(s) and then smelling his fingers; and
- c) Another Cultra grow agent is seen touching a medical cannabis plant with ungloved hands.

19. On May 20th, 2021, a Cultra representative forwarded screenshots of text messages to the Commission's investigator which showed messages between Cultra's Director of Marketing ("DOM") and Myers. The text messages reflect the following conversations:

- a) The DOM and Myers discuss collaborating for the video to be released on 420 (April 20th, 2021), a term some perceive to reference the recreational use of cannabis;
- b) The DOM advises that the video should not depict people smoking medical cannabis, but Myers asserts his position that it is okay as long as it is a patient's own medicine;
- c) The DOM advises Myers that Cultra Vice President of Compliance and Safety stated "We can't show consumption of any kind, no matter if it's on our corporate website or our social media."
- d) On March 15th, 2021, the DOM asks Myers "How's the party go [*sic*]." Myers responds "Party was great man! Everything went well. The majority of people got hand sanny, cup sleeve and lighter. They were happy!" The cup sleeves and lighters can be seen in the Roll One music video. The cup sleeves and lighters display the Cultra name and logo;

- e) Myers and the DOM discuss payment to Myers for the video, and Myers advises the Roll One video is available on all platforms, such as YouTube, Apple music, Amazon music, Tik Tok, Pandora and Spotify.

20. During the investigation, the investigator also reviewed 16 of Cultra's flower packages. He noted that the packaging contained URLs that, when visited by the Commission's investigator, did not contain an age gate or the statutorily required statement that medical cannabis is intended for use only by a qualifying patient. Health Gen. §§ 13-3313.1(c) and 13-3313.1(d). However, Cultra does not own, manage or operate any of the URLs that was printed on the packaging at the time of the investigation and has since removed them from the referenced packaging.

21. The investigator also noticed that some of the packaging resembles that of commercially available products and could thus be attractive to minors. However, further investigation revealed that Commission staff had mistakenly granted prior approval of Respondent's packaging.

B. CASE NO. 22-00102

22. The Commission's investigator reviewed the print and online versions of the February 2022 Maryland Leaf publication.

23. Cultra's two-page print advertisement does not include a statement that the product is for use only by a qualifying patient or that medical cannabis is for use by certified patients only, in violation of Health Gen. §§ 13-3313.1(c) and 13-3313.1(d)(2).

III. MITIGATING FACTORS

24. Following the Commission's investigation, Respondent took prompt action to identify the employee that it deemed responsible for the incidents described herein and subjected the responsible party to internal disciplinary procedures in accordance with Cultra policy.

25. At all times referenced herein, all visitors were under the constant direct visual supervision of one or more Cultra employees.

26. Notwithstanding, Cultra's facility visitor protocols were enhanced to include a new form, advising each visitor of Cultra's policies and COMAR restrictions, which must be read and agreed to by each visitor by the responsible employee.

27. Cultra further timely submitted a Plan of Correction to the Commission following receipt of a Letter of Non-Compliance for some of the advertising violations described herein.

IV. CONCLUSIONS OF LAW

28. The depictions in Respondent's sponsored Double G music video of individuals using cannabis, including the consumption, smoking, or vaping of cannabis and promoting recreational use, to include the display of video games and other items attractive to minors, as set forth herein, use are violations of Health Gen. §§ 13-3313.1(b)(2)(i) - 13-3313.1(b)(2)(iii).

29. Respondent also violated Health Gen. §§ 13-3313.1(b)(2)(iv) by encouraging and/or promoting cannabis for use as an intoxicant in its sponsored Double G music video.

30. Respondent's print ads, which fail to include a statement that the product is for use only by a qualifying patient or that medical cannabis is for use by certified patients only, are also in violation of Health Gen. §§ 13-3313.1(c)

31. Respondent's packaging of the products referenced herein bear resemblance to trademarked products, characteristic of product-specialized packaging of any commercially available candy, snack, baked good or beverage and would be violations of COMAR 10.62.29.01B and COMAR 10.62.29.01C.(1) butfor MMCC's mistaken approval of the same.

32. Respondent's packaging of the products referenced herein in packaging that could reasonably mislead someone to believe the package contains anything other than a medical cannabis finished product; and bears any cartoon, color scheme, image, graphic or feature that might make the package attractive to children and would be violations of COMAR 10.62.29.01C.(2) and COMAR 10.62.29.01C.(4) butfor MMCC's mistaken approval of the same.

33. Respondent's sponsorship of a music video in its cultivation facility wherein participants are seen handling medical cannabis are violations of COMAR 10.62.10.08.

34. Respondent's admission of visitors to non-public areas of its premises, as set forth herein, and allowing those visitors to touch medical cannabis is a violation of COMAR 10.62.10.08.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, by an affirmative vote of a quorum of the Commission, it is hereby

ORDERED that within 90 days of this Order, Respondent shall pay a FINE to the Commission's Compassionate Use Fund in the amount of \$30,000 in monthly, proportional installments or as a single consolidated fine for the violations above; and it is further

ORDERED that Respondent's Maryland medical cannabis grower's license number G-17-00014 be placed on **PROBATION** for a period of 12 months beginning on the effective date of this Consent Order, during which time Respondent shall:

- a) Discontinue its use of the packaging that was the subject of this matter² upon depletion of the same or December 31, 2022, whichever is earlier;
- b) No later than November 15, 2022, submit to BEC staff for review and approval Respondent's revised packaging for those packages referenced in this matter³;
- c) Submit all of its proposed advertising material to Cultra's Compliance team for approval prior to publishing it in any form;
- d) In the event of a multi-media production, the final product must be reviewed and approved by Cultra's compliance team before publication to the public;
- e) Ensure that it complies with all regulatory requirements relating to the advertising of medical cannabis, medical cannabis products, or edible cannabis products;
- f) Develop a Commission-approved standard operating procedure for music videos and print ads produced on Respondent's behalf within 30 days of the date of this Order, and
- g) Recognize that any new violations committed during the probationary period may result in an increased sanction; and it is further

ORDERED that if Respondent's fine has been paid in full, Respondent may submit a written petition to the Commission requesting that the probation be terminated no fewer than six

² The specific packaging is referenced in the administrative charges in this matter and were shared with Respondent's counsel during informal discovery.

³ The revised packaging must receive written approval from BEC staff prior to Respondent uploading the same to METRC.

(6) months from the effective date of this Consent Order provided Respondent can demonstrate compliance with the terms and conditions herein and is neither under investigation nor has received disciplinary action during probation related to the same allegations set forth herein; and it is further

ORDERED that Respondent shall be responsible for the costs associated with complying with this Order; and it is further

ORDERED that this Consent Order is a PUBLIC DOCUMENT pursuant to Md. Code Ann., Gen. Prov. §§ 4-401 et seq. (2014).

10/17/2022

Date



Tiffany Randolph, Chair

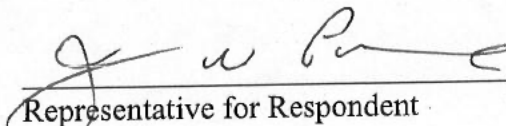
CONSENT

I, James Pilchard am the VP- Risk Mgmt of Culta, LLC and have legal authority to enter into this agreement on behalf of Culta, LLC (hereinafter "Respondent"). Respondent acknowledges that it has had the opportunity to seek advice of counsel in this matter. By this Consent, Respondent agrees and accepts to be bound by this Consent Order and its conditions and restrictions. Respondent waives any rights it may have had to contest the Findings of Fact and Conclusions of Law.

Respondent acknowledges the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which the Respondent would have had the right to counsel, to confront witnesses, to give testimony, to call witnesses on its own behalf, and to all other substantive and procedural protections as provided by law. Respondent acknowledges the legal authority and the jurisdiction of the Commission to initiate these proceedings and to issue and enforce this Consent Order. Respondent also affirms that it is waiving its right to appeal any adverse ruling of the Commission that might have followed any such hearing.

I sign this Consent Order with authority on behalf of Respondent after having had the opportunity to consult counsel, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order. I voluntarily sign this Consent Order and understand its meaning and effect.

09/23/22
Date


Representative for Respondent

NOTARY

STATE OF Maryland

CITY/COUNTY OF: Wicomico

I HEREBY CERTIFY that on this 23rd day of September 2022, before me, a Notary Public of the State and County aforesaid, personally appeared James P. Lichard on behalf of Colta, LLC, and gave oath in due form of law that the foregoing Consent Order was his voluntary act and deed.

AS WITNESS, my hand and Notary Seal.

Michelle M. Vamos
Notary Public

My Commission Expires:

