

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CANNABIS REGULATORY AGENCY**

In the Matter of

**Flavor Galaxy, LLC
License No.: AU-P-000373**

ENF No.: 24-00300

FORMAL COMPLAINT

The Cannabis Regulatory Agency (CRA) by and through its attorneys, Assistant Attorneys General Jeffrey W. Miller and Adam M. Leyton, files this formal complaint against Flavor Galaxy, LLC (Respondent), alleging upon information and belief as follows:

1. The CRA is authorized under the Michigan Regulation and Taxation of Marihuana Act (MRTMA), MCL 333.27951 *et seq.*, to investigate alleged violations of the MRTMA and administrative rules promulgated thereunder, take disciplinary action to prevent such violations, and impose fines and other sanctions against applicants and licensees that violate the MRTMA or administrative rules.

FACTUAL ALLEGATIONS

2. Respondent holds an active state license under the MRTMA to operate an adult-use processor establishment in the state of Michigan.

3. Respondent operated at 21015 John R Road, Hazel Park, MI 48030, at all times relevant to this complaint.

4. Following an investigation, the CRA determined that Respondent violated the MRTMA and/or administrative rules promulgated thereunder as set forth below.

5. Respondent produces marijuana pre-rolls using the brand name “Amnesia.” In or around early February 2024, the CRA received information that the consumer packaging of Respondent’s “Amnesia Watermelon Freeze Hybrid” pre-rolls indicated that the pre-rolls contained “Premium Refined Cannabis Distillate [and] Cannabis Derived Terpenes (Solvent-Free Process).”

6. A CRA regulation agent observed that information on the consumer packaging was not consistent with information in the statewide monitoring system (Metrc) for the product. According to Metrc, the product (Metrc ID 1A4050300038CFE000015107) contained shake/trim and only had safety compliance testing for raw marijuana flower and potency. Metrc did not reflect that the shake/trim was infused with cannabis distillate or cannabis-derived terpenes as stated on the consumer packaging.

7. On February 7, 2024, the CRA conducted an unannounced site visit to Respondent’s facility. During the visit, CRA regulation agents asked Respondent’s Metrc manager, RC, to explain the above-noted inconsistencies between the consumer packaging and Metrc information for the Amnesia Watermelon Freeze Hybrid products. RC stated that the information displayed on the consumer packaging was incorrect. RC further explained that the Amnesia pre-rolls contained shake/trim infused with botanical terpenes—not cannabis distillate or

cannabis-derived terpenes as displayed on the consumer packaging.

8. The regulation agents requested Respondent's records of formulation for the Amnesia Watermelon Freeze Hybrid pre-rolls. Respondent's employees could not locate any such records of formulation, and the CRA later determined that Respondent did not maintain records of formulation for this marijuana product.

9. The regulation agents also requested information regarding the botanical terpenes that Respondent stated it used in the Amnesia Watermelon Freeze Hybrid pre-rolls. The terpenes Respondent stated it used are not approved by the U.S. Food and Drug Administration (FDA) for inhalation.

10. Respondent failed to conduct safety compliance testing on the final form of the product.

11. During the February 7 inspection, CRA regulation agents observed containers of marijuana pre-rolls and shake/trim without Metrc tags in the pre-roll production room. In an adjacent room, CRA regulation agents also observed four bags of marijuana shake/trim, eight bags of infused marijuana flower, one bag of marijuana buds, and two jars of distillate without Metrc tags.

12. The CRA regulation agents observed numerous marijuana products in the main room, hallway, lab area, office area, vault, and storage room without Metrc tags. For example, Respondent had 40 untagged boxes containing approximately 519 vape cartridges in the office area. CRA regulation agents also observed untagged marijuana concentrate in the lab room. Respondent's employees could not identify what package tags in Respondent's Metrc inventory were

associated with the untagged marijuana concentrate.

13. Respondent's employees explained that the 519 vape cartridges in the office area were damaged and they were unsure how to dispose of the products. Respondent failed to maintain any records or procedures regarding the wasting of vape cartridges.

14. CRA regulation agents compared information from Metrc to the physical inventory onsite to determine whether Respondent was accurately tracking products. Products in Respondent's Metrc inventory could not be located in Respondent's physical inventory. As an example, Metrc showed 1,836 eaches for "Lemon Drop" marijuana vape cartridges (Metrc IDs 1A4050300038CFE000019072, 1A4050300038CFE000022228, and 1A4050300038CFE000014483) in Respondent's inventory, but only 787 eaches of the product were onsite. Respondent's employees could not locate the missing 1,049 eaches. Further, the employees could not determine which Metrc package the 787 eaches located onsite belonged to.

15. On February 8, 2024, a CRA regulation agent reviewed Respondent's Metrc inventory for package adjustments based on eaches. Between January 26, 2023, and February 8, 2024, Respondent made 2,634 package adjustments including:

- a. Respondent created a net positive adjustment of 234 vape cartridges in Package 1A4050300038CFE0000000004. Respondent stated the adjustments were due to entry errors.
- b. Respondent removed 1,315 pre-rolls from Package 1A4050300038CFE000014862 on December 13, 2023, and indicated that the adjustment was due to entry error.

- c. Respondent added 1,200 pre-rolls on December 13, 2023, and then removed 800 pre-rolls in Package 1A4050300038CFE000016485 for a net positive adjustment of 400 pre-rolls. The stated reason was “entered incorrectly” and “miss count in production.”
- d. Respondent removed 2,700 infused pre-rolls from Package 1A4050300038CFE000009556 on November 21, 2023. The stated reason was “entered incorrectly.”
- e. Respondent added 1,000 pre-rolls on October 3; 10 pre-rolls on November 22; 100 pre-rolls on November 28, and another 100 pre-rolls on November 29, 2023, to Package 1A4050300038CFE000009682. The reason for each adjustment was listed as “miss count in production.”

16. A second review of Respondent’s Metrc inventory showed package adjustments based on grams, kilograms, or pounds. Between January 13, 2023, and February 7, 2024, Respondent made 2,644 package adjustments including:

- a. Respondent created a net positive adjustment of 13,900 grams of house shake for Package 1A40503000038CFE000007798. Respondent removed 5,400 grams on September 1, 2023. Respondent added 8,100 grams on September 5, 2023. Respondent added 5,800 grams on September 12, 2023. And, Respondent added 5,400 grams on September 13, 2023.
- b. Respondent added 773 grams of shake/trim to Package 1A405030000AFC9000017240 on July 28, 2023, which Respondent indicated was due to information being “entered incorrectly.” Respondent then added another 3,798 grams to the same package on August 23, 2023, due to a “miss count in production.”
- c. Respondent added 377 grams of shake/trim to Package 1A45030000AFC9000017242 on May 26, 2023, due to an entry error. On August 24, 2023, Respondent added 4,865 grams of shake/trim due to a “miss count in production.”
- d. Respondent added 2,470 grams of marijuana buds to Package 1A405030000240F5000019735 on September 27, 2023, due to an entry error. On October 5, 2023, Respondent added 1,085 grams due to a “miss count in production.” Respondent added 1,547 grams on October 6, 2023, and stated this adjustment was due to a “miss

count in production.” Respondent added 1,400 grams on October 10, 2023.

- e. Respondent added 2,000 grams of distillate to Package 1A405030000380E1000002868 on October 25, 2023. Respondent stated this was caused by an entry error. Respondent added a further 4,951 grams of distillate on October 26, 2023. Again, Respondent claimed the addition was due to entry error.

17. An additional review of Respondent’s Metrc information revealed that Respondent added marijuana product to 51 separate packages of pre-rolls after the packages had been sampled by a licensed laboratory for compliance testing. The amount of material added after testing equates to an estimated 13,453 additional pre-rolls that could not be traced back to a specific package in Metrc. Respondent’s Metrc information also revealed additions to 155 separate packages of vape cartridges after the packages had been sampled by a licensed laboratory for compliance testing. Based on the timing of these adjustments, the additional pre-rolls and vape cartridges were not available to the laboratory during the sampling events for compliance testing.

18. During the follow-up site visit, CRA regulation agents discovered additional examples of inconsistencies between Respondent’s onsite inventory and Metrc inventory. For example, Metrc showed that 380 grams of marijuana bud under ID 1A4050300038CFE000021159 should be onsite, but CRA regulation agents determined that Respondent’s physical inventory equaled 855.2 grams of shake/trim and pre-roll eaches.

19. CRA regulation agents also observed the following Metrc tags related to vape cartridges during the follow-up visit:

Package Tag Number		
1A4050300038CFE000020280	1A4050300038CFE000021080	
1A4050300038CFE000020284	1A4050300038CFE000019576	
1A4050300038CFE000020289	1A4050300038CFE000019588	
1A4050300038CFE000020305	1A4050300038CFE000019589	
1A4050300038CFE000021046	1A4050300038CFE000019591	
1A4050300038CFE000021051	1A4050300038CFE000019602	
1A4050300038CFE000021052	1A4050300038CFE000019607	
1A4050300038CFE000021053	1A4050300038CFE000019611	
1A4050300038CFE000021055	1A4050300038CFE000019615	
1A4050300038CFE000021056	1A4050300038CFE000021089	
1A4050300038CFE000021057	1A4050300038CFE000021093	
1A4050300038CFE000021058	1A4050300038CFE000021096	
1A4050300038CFE000021059	1A4050300038CFE000021097	
1A4050300038CFE000021060	1A4050300038CFE000021102	
1A4050300038CFE000021071	1A4050300038CFE000021103	
1A4050300038CFE000021078	1A4050300038CFE000021105	
1A4050300038CFE000021079	1A4050300038CFE000021106	
	1A4050300038CFE000021107	
	1A4050300038CFE000021113	
	1A4050300038CFE000021119	
		Package Tag Number
		1A4050300038CFE000020381
		1A4050300038CFE000019070
		1A4050300038CFE000019072

20. Metrc showed that Respondent should have a total of 3,725 vape cartridges on site under the above tag numbers; however, regulation agents only observed 53.

21. CRA regulation agents also investigated a package of “Strawberry Shortcake” vape cartridges with an associated Metrc tag of 1A40503000038CFE000021083. According to Metrc, 50 vape cartridges were onsite. However, Respondent’s employees could not locate the products.

22. CRA regulation agents investigated several boxes labeled as OS designating the products as “Orange Soda.” Respondent’s employee stated that there was only one active Metrc tag for “Orange Soda.” However, Metrc showed three active tags for the product. The employee stated he was unaware there was three active packages and that he would not be able to determine if the product went to a different Metrc ID.

23. Respondent had untagged boxes containing a total of 3,190 vape cartridges in three areas on the production floor. The boxes were labeled “OG” and had been untagged for approximately three weeks according to one of Respondent’s employees. This employee stated that the product belonged to one Metrc package. However, Metrc indicated that two active Metrc packages existed for the product. Respondent’s employees were unable to indicate which of the two active Metrc package tags were associated with the product within the boxes.

24. CRA regulation agents also observed six jars of distillate onsite. When previously observed on February 7, 2024, these jars did not have Metrc tags. Respondent’s employees indicated that they were instructed to affix the last distillate tag they used to the jars after the first inspection, even though the employees could not associate the tags with the product and some of the jars contained a mixture of multiple products.

25. On February 13, 2024, Respondent did not have a production log to track production of its marijuana products. Further, Respondent had no traceable, physical records of distillate packages used to create its vape cartridges.

26. Respondent’s Metrc manager, RC, admitted that he entered information received from other employees regarding the quantity of products produced and the source package used to create the products into Metrc without verifying the information.

27. A review of Respondent’s Metrc information revealed that Respondent transferred 10 packages of inhalable compound concentrates to its employees as

internal product samples on February 20, 2024. However, eight of these packages had not undergone safety compliance testing and two had failed testing for the residual solvent ethanol.

28. During the investigation, the CRA also determined that Respondent processed marijuana products using the brand name “Presidential.” However, Respondent had not received approval of a licensing agreement from the CRA prior to using the “Presidential” brand name on its marijuana products.

COUNT 1

Respondent’s actions as described above demonstrate a violation of MCL 333.27961(f), which states that no marijuana establishment may sell or otherwise transfer marijuana that was not produced, distributed, and taxed in compliance with the MRTMA.

COUNT 2

Respondent’s actions as described above demonstrate a violation of Rule 420.103(3), which states that a marijuana processor must accurately enter all transactions, current inventory, and other information into the statewide monitoring system as required in the rules.

COUNT 3

Respondent’s actions as described above demonstrate a violation of rule 420.112a(2), which states that a licensee shall submit a complete, unredacted, signed copy of a licensing, management, or other agreement to the agency for review and approval prior to performance under the agreement.

COUNT 4

Respondent’s actions as described above demonstrate a violation of Rule 420.206(11), which states that all non-marijuana inactive ingredients must be clearly listed on the product label and that inactive ingredients, other than botanically derived flavonoids, terpenoids, and terpenes that are chemically identical to the terpenes derived from the plant *Cannabis sativa* L., must be approved by the FDA for the intended use, and the concentration must be less than the maximum concentration listed in the FDA Inactive Ingredient database for the intended use.

COUNT 5

Respondent's actions as described above demonstrate a violation of Rule 420.206(12), which states that a marijuana business producing marijuana products shall maintain records of formulation and make them available to the agency upon request.

COUNT 6

Respondent's actions as described above demonstrate a violation of Rule 420.210(1), which states that except for designated consumption establishments or temporary marijuana events licensed under the MRTMA, a marijuana business must not have marijuana products that are not identified and recorded in the statewide monitoring system.

COUNT 7

Respondent's actions as described above demonstrate a violation of Rule 420.210(2), which states that except for a designated consumption establishment or temporary marijuana event licensed under the MRTMA, a marijuana business must not have any marijuana product without a batch number or identification tag or label pursuant to the rules, and that a licensee shall immediately tag, identify, or record as part of a batch in the statewide monitoring system any marijuana product as provided in the rules.

COUNT 8

Respondent's actions as described above demonstrate a violation of Rule 420.210(3), which states that a licensee shall not reassign or subsequently assign a tag to another package that has been associated with a package in the statewide monitoring system.

COUNT 9

Respondent's actions as described above demonstrate a violation of Rule 420.211(8), which states that a licensee shall maintain accurate and comprehensive records regarding marijuana product waste, and marijuana plant waste that accounts for, reconciles, and evidences all waste activity related to the disposal.

COUNT 10

Respondent's actions as described above demonstrate a violation of Rule 420.212(1), which states that all marijuana products must be stored at a marijuana business in a secured limited access area or restricted access area and must be identified and tracked consistently in the statewide monitoring system under the rules.

COUNT 11

Respondent's actions as described above demonstrate a violation of Rule 420.212(2), which states that all containers used to store marijuana products for transfer or sale between marijuana businesses must be clearly marked, labeled, or tagged, if applicable, and enclosed on all sides in secured containers; that secured containers must be latched or locked in a manner to keep all contents secured within; and that each secured container must be identified and tracked in accordance with the acts and the rules.

COUNT 12

Respondent's actions as described above demonstrate a violation of Rule 420.303a(1), which states that a producer shall give a marijuana product a new package tag anytime the marijuana product changes form or is incorporated into a different product.

COUNT 13

Respondent's actions as described above demonstrate a violation of Rule 420.303a(2), which relevantly states that a producer of a marijuana product in its final form shall have the sample tested and shall not transfer or sell a marijuana product to a marijuana sales location until after test results entered into the statewide monitoring system indicate a passed result for all required safety tests.

COUNT 14

Respondent's actions as described above demonstrate a violation of Rule 420.304(2)(f) and (g), which relevantly state that a marijuana business shall not interfere or prevent a laboratory collecting samples of marijuana from complying with all of the following requirements:

- (f) The laboratory shall develop a statistically valid sampling method and have it approved by the agency to collect a representative sample from each batch of marijuana product. The laboratory shall have access to the entire batch for the purpose of sampling.

- (g) An employee of the marijuana business from which marijuana product test samples are collected shall be physically present to observe the laboratory employee collect the sample of marijuana product for testing and shall ensure that the sample increments are taken from throughout the batch.

COUNT 15

Respondent's actions as described above demonstrate a violation of Rule 420.305(6), which relevantly states if a sample collected pursuant to R 420.304 or provided to a laboratory pursuant to the rules does not pass the required safety tests, the marijuana business that provided the sample shall destroy the entire batch from which the sample was taken and document the destruction of the sample using the statewide monitoring system.

COUNT 16

Respondent's actions as described above demonstrate a violation of Rule 420.403(1), which relevantly states that a producer shall package and properly label marijuana-infused products before sale or transfer.

COUNT 17

Respondent's actions as described above demonstrate a violation of Rule 420.507(2), which states that a licensee may not advertise a marijuana product in a way that is deceptive, false, or misleading, or make any deceptive, false, or misleading assertions or statements on any marijuana product, sign, or document provided.

COUNT 18

Respondent's actions as described above demonstrate a violation of Rule 420.509(7), which states that a licensee shall have internal product samples tested pursuant to R 420.304 and R 420.305 before transfer to its employees.

THEREFORE, based on the above, the CRA gives notice of its intent to impose fines and/or other sanctions against Respondent's license, which may include the suspension, revocation, restriction, and/or refusal to renew Respondent's license.

Under MCL 333.27957(1)(c) and Rule 420.704(2), any party aggrieved by an action of the CRA suspending, revoking, restricting, or refusing to renew a license, or imposing a fine, shall be given a hearing upon request. A request for a hearing

must be submitted to the CRA in writing within 21 days after service of this complaint. Notice served by certified mail is considered complete on the business day following the date of the mailing.

Respondent also has the right to request a compliance conference under Rule 420.704(1) and R 420.808(4). A compliance conference is an informal meeting at which Respondent has the opportunity to discuss the allegations in this complaint and demonstrate compliance under the MRTMA and/or the administrative rules.

Hearing and compliance conference requests must be submitted in writing by one of the following methods, with a copy provided to the assistant attorneys general named below:

By Mail: Department of Licensing & Regulatory Affairs
Cannabis Regulatory Agency
P.O. Box 30205
Lansing, Michigan 48909

In Person: Department of Licensing & Regulatory Affairs
Cannabis Regulatory Agency
2407 North Grand River
Lansing, Michigan 48906

By Email: CRA-LegalHearings@michigan.gov

If Respondent fails to timely respond to this formal complaint, a contested case hearing will be scheduled to resolve this matter.

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Questions about this complaint should be directed to the undersigned
assistant attorneys general.

Respectfully submitted,

/s/ Jeffrey W. Miller
Jeffrey W. Miller (P78786)
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Dated: May 10, 2024

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GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

MARLON I. BROWN, DPA
DIRECTOR

In the Matter of

Flavor Galaxy, LLC
License No.: AU-P-000373

ENF No.: 24-00300

PROOF OF SERVICE

I hereby certify that on _____, I mailed a copy of the
Formal Complaint dated _____ in the above captioned case
by certified mail (return receipt requested) to:

Flavor Galaxy, LLC
29500 Telegraph Road
Suite 200
Southfield, Michigan 48034

Flavor Galaxy, LLC
21015 John R Road
Hazel Park, Michigan 48030

Courtesy Copy to attorney via email:

Denise Pollicella
denise@pollicella.net

Marvin Karana
marvin@karanalaw.com

Departmental Technician
Cannabis Regulatory Agency
Department of Licensing & Regulatory
Affairs

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