

Notice of Violation

(3AAC 306.805)

This form, all information provided and responses are public documents per Alaska Public Records ACT AS 40.25

Date: 9/10/19

License #/Type: 16610 Marijuana Retail Stores

Licensee: Great Northern Retail Stores, Inc

Address: 1901 W. Dimond Blvd. Anchorage, AK 99515

DBA: Great Northern Cannabis

AMCO Case #: AM191456

This is a notice to you as licensee that an alleged violation has occurred. If the Marijuana Control Board decides to act against your license, under the provisions of AS 44.62.330 - AS 44.62.630 (Administrative Procedures Act) you will receive an Accusation and Notice of your right to an Administrative Hearing.

Note: This is not an accusation or a criminal complaint.

Great Northern Cannabis has been conducting a weekly game of "Plinko" at their Dimond Blvd retail store. Customers are provided a plinko chip to drop onto the plinko board. The customer is then given a voucher corresponding to the final resting place of their plinko chip. The vouchers contain various monetary discounts on products available for sale in the retail store. The customer is then able to redeem the voucher at the point of sale.

I reviewed surveillance footage from inside the retail store and confirmed that this game was taking place on 08/13/19.

This is a violation of 3 AAC 306.770 (k)(1)(2) Signs, merchandise, advertisements, and promotions.

3 AAC 306.805 provides that upon receipt of a Notice of Violation, a licensee may request to appear before the board and be heard regarding the Notice of Violation. The request must be made within ten days after receipt of the Notice of Violation. A licensee may respond, either orally or in writing to the Notice. 3 AAC 306.810 (2)(A)(B)(C) failed, within a reasonable time after receiving a notice of violation, to correct any defect that is the subject of the notice of violation of AS 17.8 or this chapter.

IT IS RECOMMENDED THAT YOU RESPOND IN WRITING TO DOCUMENT YOUR RESPONSE FOR THE MARIJUANA CONTROL BOARD.

***Please send your response to the address below and include your marijuana license number in your response.**

Alcohol & Marijuana Control Office
ATTN: Enforcement
550 W. 7th Ave, Suite 1600
Anchorage, Alaska 99501
amco.enforcement@alaska.gov

Issuing Investigator: J. Bankowski

Received by:

SIGNATURE:



SIGNATURE:

Delivered VIA: Email

Date:



John E. Redden
General Counsel
645 G Street, Suite 100-907
Anchorage, Alaska 99501
Ph: (816) 830-6978
Em: JRedden@GreatNorthernCannabis.com

September 18, 2019

VIA HAND DELIVERY

Marijuana Control Board
Attn: Director McConnell
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501

Re: Great Northern Retail Store, Inc. (License #16610)
Response to Notice of Violation
AMCO Case #AM191456

Dear Director McConnell, and Marijuana Control Board:

Great Northern Retail Stores, Inc. dba Great Northern Cannabis ("GNC") writes in response to the Notice of Violation, AMCO Case #AM191456 ("Notice"), received from the Alcohol & Marijuana Control Office ("AMCO") on September 10, 2019. Thank you for your service and efforts enforcing the AS 17.38 - Statutes and 3 AAC 306 - Regulations. For the reasons set forth below, GNC respectfully challenges the findings of fact and legal conclusions of the Notice and requests that this matter be set for a hearing before the Marijuana Control Board at its earliest convenience.

1. Facts

GNC's W. Dimond marijuana retail store (License No. 16610) utilizes a custom Plinko¹ board to randomly distribute marijuana and marijuana product discount coupons and paraphernalia/merchandise giveaway coupons as promotional prizes on certain dates. (A photograph of the Plinko board was taken on August 16, 2019 after GNC was notified of an impending investigation and is attached hereto as Exhibit A.)

To facilitate an orderly and efficient operation of the Plinko game, GNC posts the following Rules of Plinko on a placard for participants to review while in the queue:

¹ Plinko is a game whereby a customer is provided with a hockey-puck like token and given the opportunity to drop the token onto the Plinko board. A series of pegs direct the token randomly towards a variety of termination pockets, each labeled with a different "prize." Prizes are in the form of coupons that provide discounts on purchases of marijuana and marijuana products, discounts on non-marijuana merchandise, or free non-marijuana merchandise."



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1. Must be at Least 21 to Participate
2. No Purchase Necessary
3. Participants Must Agree to a Hand Stamp
4. One Play Per Day
5. Prizes Subject to Change and Availability

(A photograph of the Rules of Plinko placard was taken on August 16, 2019 after GNC was notified of an impending investigation and is attached hereto as Exhibit B.)

On Thursday August 15, 2019, AMCO Criminal Justice Technician Jason Davies emailed GNC "requesting video of 8/13/2019 from the hours of 4:00pm to 8:00pm for Great Northern Cannabis, #16610. We need video of the main entrance, the area where Plinko is being played and the marijuana retail store for over 21. Please comply with in (sic) 24 hours."

On Friday August 16, 2019, GNC hand delivered the requested video footage to Enforcement Officer James Hoelscher at the AMCO office located 550 W. 7th Ave., Ste. 1600, Anchorage, AK 99501.

2. Alleged Violations

The Notice alleges:

Great Northern Cannabis has been conducting a weekly game of "Plinko" at their Dimond Blvd retail store. Customers are provided a plinko chip to drop onto the plinko board. The customer is then given a voucher corresponding to the final resting place of their plinko chip. The vouchers contain various monetary discounts on products available for sale in the retail store. The customer is then able to redeem the voucher at the point of sale.

I reviewed surveillance footage from inside the retail store and confirmed that this game was taking place on 08/13/19.

This is a violation of 3 AAC 306.770 (k)(1) [and] (2)[.] Signs, merchandise, advertisements, and promotions.

The Notice is attached hereto as Exhibit C.

AMCO
SEP 18 2019

GNC Reply to AMCO Case No. AM191456

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GreatNorthernCannabis.com

907.929.9333 • 645 G Street, Suite 100-907 • Anchorage, Alaska 99501



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3. Law

The Notice alleges that GNC is in violation of 3 AAC 306.770(k)(1) and (2). Signs, merchandise, advertisements, and promotions:

3 AAC 306.770 (k)(1) and (2)

(k) A licensed marijuana establishment may not encourage the sale of marijuana or a marijuana product

(1) by using giveaway coupons for marijuana or a marijuana product as promotional materials;

(2) by conducting games or competitions related to the consumption of marijuana or a marijuana product;

4. Argument

A. GNC did not encourage the sale of marijuana or a marijuana product by using giveaway coupons for marijuana or a marijuana product as promotional materials in violation of Section 3 AAC 306.770 (k)(1).

On Tuesday, August 13, 2019, GNC utilized a custom designed Plinko game board to randomly distribute discount coupons and paraphernalia/merchandise giveaways to participants as promotional prizes within its W. Dimond retail store. The randomly distributed coupons varied by product and discount; however, none of the marijuana or marijuana product discount coupons provided for the "giveaway" or distribution of free marijuana or marijuana product. Discount coupons, unless specific to a non-marijuana item (e.g., t-shirt, rolling papers, etc.), required a participant to make a purchase to which a price discount could be applied. (Examples of the discount coupons are attached as Exhibit D.) As a result, no marijuana or marijuana products were "given away".

"Giving away," or providing marijuana or marijuana products to customers at no charge, is the only conduct prohibited in this self-limiting regulation. Promotional activities that encourage customers to come to a store and buy a product are merely one type of marketing activity, and while the regulations place a number of time, place and manner restrictions on the marketing approaches, marketing in general is not prohibited, nor is this specific type of marketing. Indeed, previous AMCO guidance (reflected in generally-accepted industry practice) allows for all manner of promotional activities to support the sale of marijuana and marijuana products, including special sale pricing, discounts, and customer loyalty programs.



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Accordingly, while GNC did distribute “discount coupons” to incentivize the sale of marijuana to Plinko participants by potentially lowering the price of certain marijuana items, GNC is not in violation of Section 3 AAC 306.770 (k)(1) because the discount coupons were not “giveaway coupons”.

B. GNC did not encourage the sale of marijuana or a marijuana product by conducting games or competitions related to the consumption of marijuana or a marijuana product in violation of Section 3 AAC 306.770 (k)(2).

Section 3 AAC 306.770 (k)(2) does not proscribe games and competitions generally. Rather, the regulation specifically prohibits games and competitions which relate to the *consumption* of marijuana or a marijuana product.

GNC readily admits that Plinko is a game or competition designed to encourage the sale of marijuana or a marijuana product. However, in this context, Plinko was utilized to promote the *sale* of marijuana or marijuana products at GNC’s marijuana retail store licensed premises which does not have an endorsement for onsite consumption. As a result, GNC does not encourage, nor does it allow, patrons to consume marijuana or marijuana product on the licensed premises. To be clear, no marijuana or marijuana product was consumed or encouraged to be consumed in relation to Plinko, nor is there any allegation of such conduct contained in the NOV.

Further, in accord with state and local regulation, no Plinko participant, customer, employee, or licensee has ever consumed or been encouraged to consume marijuana or marijuana product on the licensed premises. As a result, the act of encouraging the consumption of marijuana or marijuana product plays absolutely no role or relation to GNC’s use of the Plinko board.

However, Plinko is related to the *sale* of marijuana or marijuana product as participants have the chance to win a discount coupon which can be applied to the future purchase of marijuana or a marijuana product. But games and competitions related to the *sale* of marijuana and marijuana products are not proscribed under Section 3 AAC 306.770 (k)(2), and are common marketing techniques.

Therefore, while GNC’s Plinko game is related to the *sale* of marijuana and marijuana products, Plinko is not related to the consumption of marijuana or marijuana product. As a result, GNC is not in violation of Section 3 AAC 306.770 (k)(2).



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5. Conclusion

As established above, GNC is not in violation of either Section 3 AAC 306.770 (k)(1) or (2). Accordingly, the Notice of Violation, Case #AM191456, has been issued in error and should be dismissed and stricken from the public record.

Thank you for your time and attention. Please do not hesitate to contact me directly if you have questions or require further information.

Respectfully,

Great Northern Cannabis, Inc.

A handwritten signature in blue ink that reads "John E. Redden".

John E. Redden
General Counsel

Enclosure(s):

- Exhibit A – Photograph of the Plinko board taken August 16, 2019
- Exhibit B – Photograph of the Rules of Plinko placard taken August 16, 2019
- Exhibit C – Notice of Violation, AMCO Case #AM191456
- Exhibit D – Examples of discount coupons issued on August 15, 2019 to Plinko participants

Exhibit A

AMCO
SEP 18 2019

AMCO
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50%
OFF
★
BUDTENDERS
CHOICE
CONCENTRATE
240

20%
OFF
★
ONE
ITEM
142

\$1
BUDTENDERS
CHOICE
0.5G
PRE-ROLL
007

\$3
ANY 0.5G
GNC
PRE-ROLL
207

\$1
BUDTENDERS
CHOICE
1.0G
PRE-ROLL
203

\$1
BUDTENDERS
CHOICE
1.0G
FLOWER
185

50%
OFF
★
ONE
ITEM
122

20%
OFF
★ ANY ★
NORTH
INFUSIONS
★ EDIBLE ★
237

\$5
ANY 1.0G
GNC
FLOWER
193

10
★
C

Exhibit B

SEP 18 2019

Great Northern
CANNABIS

RULES OF PLINKO

Rule 1

Must be at Least 21 to
Participate

Rule 2

No Purchase Necessary

Rule 3

Participants Must Agree
to a Hand Stamp

Rule 4

One Play Per Day

Rule 5

Prizes Subject to
Change & Availability

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Issuing Investigator: J. Bankowski

Received by:

SIGNATURE:



SIGNATURE:

Delivered VIA: Email

Date:

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Exhibit D

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**20%
OFF
★
YOUR
PURCHASE**

097

★ ★ ★
**FREE
GLASS
PIECE**



**\$1
ANY 1.0G
GNC
PRE-ROLL**

203

AMCO
SEP 18 2019

25%
OFF
★ ANY ★
CBD

221

★ ★ ★
FREE
HAT
★ ★ ★

20%
OFF
★
ANY
CONCENTRATE

216

AMCO

SEP 18 2019