Notice(s) of Violation

Alcohol & Marijuana Control Office
550 W. 7th Ave, Suite 1600
Anchorage, AK 99501

Date: 1/25/2017
Number AB17-0051

Notice of Violation

(3AAC 304.525)

Licensee	License Number	Type of License
Pakalolo Supply Company, Inc	**10230**	**Standard Marijuana Cultivation Facility**
D.B.A. **Pakalolo Supply Company**	**How Delivered** **Via e-mail receipt to**	**Law Enforcement Agency** **Fairbanks Police Department**
Street or P.O. Box **3264 Riverview Drive**	**City, State** **Fairbanks, AK**	**Zip** **99709**

This is a notice to you as licensee that an alleged violation has occurred. If the Alcoholic Beverage 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 received an Accusation and Notice of your right to an Administrative Hearing.

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

VIOLATION:

Pakalolo Supply Company – License #10230 sent in numerous batches to Canntest, LLC for retesting without requesting Marijuana Board approval.
Reference METRC Packages: 1A40203000000C9000000042, 1A40203000000C9000000060, 1A40203000000C9000000063, 1A40203000000C9000000083

On 1/6//17 during a conversation at the testing facility Canntest, LLC it was mentioned that they did approximately two retests for Pakalolo Company Inc. and the retesting had the Marijuana Board's approval. The Marijuana Board advised there was no petition or record of consideration to retest the above samples. AMCO also did not receive any requests for a retest of prior failed marijuana tests.

Your attention is directed to

3 AAC 306.660. Failed materials; retests (a) If a sample tested by a marijuana testing facility does not pass the required tests based on the standards set out in 3 AAC 306.645, the marijuana establishment that provided the sample shall (1) dispose of the entire harvest batch or production lot from which the sample was taken; and (2) document the disposal of the sample using the marijuana establishment's marijuana inventory tracking system. (b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fail the required test. The board may approve a request to allow a batch of marijuana that fails a required test to be used to make a carbon dioxide- or solvent-based extract. After processing, the carbon dioxide- or solvent-based extract must pass all required tests. (c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a retest of marijuana or a marijuana product that failed a required test, the board may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility shall pay all costs of a retest.

You are directed to respond to the Director of the Alcohol & Marijuana Control Office in writing to this Notice of Violation within 10 days of receipt to explain what action you have taken to prevent a reoccurrence of this violation. FAILURE TO RESPOND TO THIS NOTICE OF VIOLATION WITHIN 10 DAYS WILL RESULT IN YOUR APPREARANCE, EITHER IN PERSON OR TELEPHONICALLY, BEFORE THE ABC BOARD OF DIRECTORS AT THEIR NEXT REGULARLY SCHEDULED BOARD MEETING.

***Please include your Alcohol License Number in your response.**

Sara Chambers, Acting Director
Alcohol & Marijuana Control Office
550 W. 7th Ave, Suite 1600
Anchorage, Alaska 99501

A Response is Required

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Receipt:	Violation Observed By: Kendrick Whiteman
Filed By: Kendrick Whiteman	Title: Investigator III

February 1, 2017

Ms. Sara Chambers, Acting Director

Alcohol and Marijuana Control Office

550 W. 7th Avenue, Suite 1600

Anchorage, Alaska 99501

RE: Notice of Violation #AB17-0051 for Pakalolo Supply Company, Inc. / License 10230

Dear Ms. Chamber;

On Friday, January 27, 2017, we were more than surprised to receive a Notice of Violation issued by Kendrick Whiteman of the Anchorage Enforcement office of AMCO for having 2 cannabis sample retests performed without authorization. We did not intentionally violate Marijuana Regulation 3 AAC 306.660 as cited, or conspire with the testing laboratory, CannTest, to circumvent the regulation. We fully believed the retests had been authorized, and had no reason to question the lab. We are disappointed that Mr. Whiteman did not interview us or the Fairbanks Enforcement Officer, Amanda Stonecipher, who had 2 detailed conversations with us in December about the details surrounding the sample retests.

From the date CannTest opened its doors on October 24, 2016 until the date of our failed test on November 14, 2016, we had submitted 15 prior samples that had all passed. Those previous samples came from the same grow room as the failed sample on slightly different harvest schedules. When questioned about the failed test, we were informed by Mark Malagodi of CannTest that it had been a borderline failure, and our subsequent examination of the harvest batch showed only clean healthy flower and trim. This was so early in both the industry's development, and the lab's operations, there were questions whether the sample had been contaminated in transport or more likely at the lab. It was agreen that a new sample should be submitted. At that early date, and still currently, there was no procedure in place at AMCO or appropriate forms, or even an FAQ for requesting a retest – only the regulation that has been cited. We were told that Mr. Malagodi attempted to contact parties at AMCO, then was able to reach an MCB member who agreed that based on laboratory handling procedures being in question, a retest was appropriate. We were told to send in the second sample which we did on December 8, 2016, and it passed the retest. We had no reason to question if the lab had obtained appropriate authorization to request the second sample based on questions about lab procedures – both CannTest and us believed we had met that requirement.

On December 8, 2016, at the same time we submitted the second sample above, we had another sample of a different strain fail the lab test. Mr. Malagodi informed us again that it was a marginal failure with just a trace amount of contaminant. This time he expressed reservations about whether the sample had been handled properly at the lab, and offered to retest the remaining amount of the original sample at no charge. We questioned that retesting the same sample which had failed would have a different result, and it did not. Mr. Malagodi told us we could submit a second sample based on his questioning the accuracy of his lab equipment presumably on the same premise the previous retest had been done. We did so on December 27, 2016, and the new sample failed also. Following the regulations, we destroyed that harvest batch as recorded in Metrc.

At no time did we have reason to believe that CannTest was not acting as they should have. In the absence of any directives, procedures, or applications from AMCO for the handling of retests, we believed that CannTest followed the guidelines they had been given, and had received the appropriate authorization for the retests based on verifying laboratory procedures, handling, and equipment accuracy. We full believe that CannTest acted correctly with the required permission, or they would have refused to accept additional samples for retesting, and would have instructed us on the process to filow to submit a request for a retest.

Prior to our receiving the results back on the December 27th sample, we were contacted by Amanda Stonecipher asking us about the circumstances of our submitting samples for retesting. She is always thorough, and knows the regulations very well, She regularly monitors our usage of Metrc, and uses us as an example to other cannabis facilities struggling to use the inventory system properly. Ms. Stonecopher agreen that we had acted in good faith, and had operated under the belief the lab had received the proper authorization from an MCB member. Apparently due to the high volume of test sample failures resulting in the loss of significant quantities of cannabis product, Ms. Stonecipher was receiving multiple inquiries about the process to request retesting. She contacted us again in early January to review the details of the 2 retests we had done. It was our impression that the lack of clear guidelines or an established process were causing problems for the Enforcement Division who were holding meetings on the topic. She again stated that there was not any attempt to violate or circumvent the regulations by our company. She informed us that we should not attempt to have any further samples retested again until AMCO addressed this matter. Since then we have been informed about recommendations being submitted to the MCB to clean up the retesting process by delegating this authority to the Director and appropriate AMCO staff.

We hope the MCB will see the wisdom of simplifying an expedient system to having retests performed. The Board itself only meets every 2-3 months which alone makes it non-viable to be the entity to authorize retests. In addition, the Board's agenda are always so full that to discuss individual retesting requests would be impractical and continually being bumped to subsequent meetings. Finally, there is absolutely no reason to deny a request to have most retests done as the primary goal of testing by the industry and regulatory bodies is to have accurate data for the safety of the consuming public. I recommend the Board also address the rights of cultivation and manufacturing facilities to submit samples to more than one laboratory, and how to resolve significant discrepancies in the test results, or if one lab failed a sample and another passed it. With the high value of our products, we should have the right to pay for multiple tests and compare the different laboratories. It is up to the Board to decide how to resolve major differences in test results, and to delegate the authority to the AMCO to make timely decisions in these cases.

In regards to the Notice of Violation for our company, Pakalolo Supply Company, Inc., we respectfully ask you, the Director, to rescind it, and remove it from our company's record. We sincerely gbelieve we did not violate, but did act in compliance with 3 AAC 306.660(c) at the direction of the testing laboratory as they were authorized by an MCB member. In the event you cannot, or will not, rescind the NOV, we request to appear, or have our representative appear, before the Director to be heard regarding the Notice of Violation per 3 AAC 304.525(b), as listed on page 2 of the NOV. I would also like to ask you in your consideration of this response to ask Sarah Oates and your AMCO staff about the history of our company before putting this blemish on our record. We have always been at the forefront of this industry – we were the first marijuana license issued in the State of Alaska, and made the first legal commercial retail sale in the state on October 28, 2016. Cynthia Franklin told me we were the guinea pigs for every new step this new industry took. This applies again as we are the first facility to have samples retested. There was no process in place, and only the vague language of the regulation. We know we acted in good faith as did Canntest and the MCB member. Amanda Stonecipher investigated and showed appropriate common sense in deciding no intentional violation occurred, and used the situation to advance setting in place a better, more efficient system. We have always operated by the book, and will continue to do so. There is much to be improved as we progress in the development of this new industry.

Thank you for your consideration of this response. We look forward to hearing from you at your earliest convenience.

Respectfully yours,

Cole Hollister

Howard Cole Hollister

President/CEO

Pakalolo Supply Company, Inc.

3264 Riverview Drive

Fairbanks, AK 99709

chollister@hollisterenterprises.com

Tracking Number: 70132250000096176788

Delivered

Updated Delivery Day: Saturday, February 4, 2017

Product & Tracking Information

Postal Product:

Features:
Certified Mail™

DATE & TIME	STATUS OF ITEM	LOCATION
February 4, 2017 , 12:01 pm	Delivered, Left with Individual	FAIRBANKS, AK 99709

Your item was delivered to an individual at the address at 12:01 pm on February 4, 2017 in FAIRBANKS, AK 99709.

February 4, 2017 , 4:40 am	Arrived at Unit	FAIRBANKS, AK 99709
February 3, 2017 , 3:11 pm	Departed USPS Facility	ANCHORAGE, AK 99530
February 2, 2017 , 9:17 pm	Arrived at USPS Facility	ANCHORAGE, AK 99530

Available Actions

Track Another Package

Tracking (or receipt) number

Track It

Manage Incoming Packages

Track all your packages from a dashboard.
No tracking numbers necessary.

Sign up for My USPS ›

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(3AAC 304.525)

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Street or P.O. Box	City, State	Zip
3264 Riverview Drive	Fairbanks, AK	99709

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 Number: AB17-0051

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***Please include your Alcohol License Number in your response.**

Sara Chambers, Acting Director
Alcohol & Marijuana Control Office
550 W. 7th Ave, Suite 1600
Anchorage, Alaska 99501

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Receipt:	**Violation Observed By:** **Kendrick Whiteman**
Filed By: Kendrick Whiteman	**Title: Investigator III**

Hamilton, Joe (CED)

From: Hoelscher, James C (CED)
Sent: Tuesday, March 21, 2017 10:43 AM
To: Hamilton, Joe (CED)
Subject: FW: Retesting of Cannabis Samples

FYI

From: Chambers, Sara C (CED)
Sent: Friday, March 17, 2017 11:42 AM
To: Hoelscher, James C (CED)
Cc: Stonecipher, Amanda M (CED); Bankowski, Joe (CED)
Subject: FW: Retesting of Cannabis Samples

James, please see Mr. Hollister's response below. If I can assist, please let me know.

Sara Chambers
Acting Division Director

Alaska Alcohol and Marijuana Control Office
Main Office Phone: (907) 269-0350
https://www.commerce.alaska.gov/web/amco/

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From: Cole Hollister [mailto:chollister@hollisterenterprises.com]
Sent: Friday, March 17, 2017 10:27 AM
To: Chambers, Sara C (CED)
Subject: RE: Retesting of Cannabis Samples

Hi Sara,

That's how things go sometimes. Those darn legislators probably wouldn't understand if you told them you had to have a phone conference with some pot grower!

It would have been nice to have had the hearing with the Director the NOV was issued under, but we can work it out with Ms. McConnell. Please ask James to allow her some time to get a feel of the place, and once he has brought her up too speed on the NOV situation, he can contact me to schedule a call.

Thanks for your responsiveness. I hope you are moving on to a new duty that you are really looking forward to. Good luck.

Regards,

Cole Hollister

Sent from my GCI smartphone.

-------- Original message --------
From: "Chambers, Sara C (CED)"
Date:03/17/2017 9:46 AM (GMT-09:00)
To: Cole Hollister
Cc: "Hoelscher, James C (CED)" , "Bankowski, Joe (CED)" , "Stonecipher, Amanda M (CED)" , "Dinegar, Harriet C (LAW)"
Subject: RE: Retesting of Cannabis Samples

Good morning, Mr. Hollister:

I have been scheduled for a hearing in front of the legislature's House Resources Committee at 1:00 today. It is not something I can reschedule, or I would do so in order to keep our appointment.

Since I am not available after the hearing today, and since I will not be in the position of director on Monday, I would like to suggest that Chief Hoelscher work with Director McConnell to hold the conference with you next week. I will be available as a resource should she request it.

Thank you for your understanding. It is our agency's priority to honor your request, and I want to ensure that you receive this conference as soon as possible.

Sincerely,

Sara Chambers

Acting Division Director

Alaska Alcohol and Marijuana Control Office

Main Office Phone: (907) 269-0350
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From: Cole Hollister [mailto:chollister@hollisterenterprises.com]
Sent: Tuesday, March 14, 2017 11:11 AM
To: Chambers, Sara C (CED)
Subject: RE: Retesting of Cannabis Samples

Good morning Sara,

Yes, I am available and planning on our phone conference on Friday at 1 pm.

Thanks for confirming.

Cole Hollister

Sent from my GCI smartphone.

-------- Original message --------
From: "Chambers, Sara C (CED)"
Date:03/14/2017 9:39 AM (GMT-09:00)
To: Cole Hollister
Cc: thollister@pakalolosupplyco.com, khollister@pakalolosupplyco.com, "Hoelscher, James C (CED)"
Subject: RE: Retesting of Cannabis Samples

Greetings, Cole. Yes, this is a regulations change, not a delegation. The proposed regulations are as follows:

> (b) If a sample of marijuana fails a required test, any marijuana plant trim, leaf, and other usable material from the same plants automatically fail the required test. The board **or director** may approve a request to allow a batch of marijuana that fails a required test to be used to make a carbon dioxide or solvent-based extract. After processing, the carbon dioxide or solvent-based extract must pass all required tests.

> (c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a retest of marijuana or a marijuana product that failed a required test, the board **or director** may authorize a retest to validate the test results. The marijuana cultivation facility or a marijuana product manufacturing facility shall pay all costs of a retest.

If you would like to request board approval of a retest, please work with Chief Hoelscher to ensure that is placed on the board's April 4 & 5 agenda.

Please confirm that you still wish to meet this Friday at 1:00 to discuss the NOV.

Many thanks,

Sara Chambers

Acting Division Director

Alaska Alcohol and Marijuana Control Office

Main Office Phone: (907) 269-0350
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From: Cole Hollister [mailto:chollister@hollisterenterprises.com]
Sent: Monday, March 13, 2017 5:15 PM
To: Chambers, Sara C (CED)
Cc: Cole Hollister; thollister@pakalolosupplyco.com; khollister@pakalolosupplyco.com
Subject: RE: Retesting of Cannabis Samples

Hi Sara,

Thank you again for getting back to me so quickly. I have rescheduled a conflict I had on Friday, so I will be free to talk to you and James at 1pm.

Regarding the retesting, I must have misunderstood what occurred at the MCB February 2nd meeting. I thought the Board had delegated authority to the Director right then to deal with matters related to failed cannabis samples. That is why I was applying to you for permission to submit the samples I had described in my email to the other Anchorage testing facility. If I could not have them retested, I requested permission to sell the failed harvest batches to a manufacturing facility. Based on what you wrote back to me in your email below, do I understand correctly that you were not granted or delegated the immediate authority to deal with failed samples by the Board? Instead it has been proposed as an actual change in the regulations to provide the Director that authority, and it has to now go through the full process you described ?

Assuming that I am correct that the Director does not yet have the authority to deal with failed samples, can you please tell me if there is any existing process or procedure for my company to follow to apply to the Board at their April meeting to have my failed samples either retested, or to allow us to sell them to a manufacturing facility to make an extract?

Thank you for taking time out of your very busy schedule to communicate with me.

Sincerely,

Cole Hollister

President/CEO

Pakalolo Supply Company, Inc.

3264 Riverview Drive

Fairbanks, AK. 99709

(907) 322-9575

From: Chambers, Sara C (CED) [mailto:sara.chambers@alaska.gov]
Sent: Monday, March 13, 2017 3:53 PM
To: Cole Hollister
Cc: thollister@pakalolosupplyco.com; khollister@pakalolosupplyco.com; Hoelscher, James C (CED)
Subject: RE: Retesting of Cannabis Samples

Greetings, Mr. Hollister. A legislative hearing has been scheduled for 1:00 this Wednesday, so I will need to move our hearing to Friday at 1:00. Please confirm that you will be available at this time.

Please also know that the regulations pertaining to retesting have been reviewed by the board and are likely to be adopted at the April meeting, at which time they will be forwarded to the Department of Law for review. Once filed with the Lt. Governor's office, they will become effective in 30 days. So, they are a ways from requiring board approval as is currently stated in regulation:

> 3 AAC 306.660. Failed materials; retests (c) If a marijuana cultivation facility or a marijuana product manufacturing facility petitions for a retest of marijuana or a marijuana product that failed a required test, the board may authorize a retest to validate the test results.

Sincerely,

Sara Chambers

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From: Cole Hollister [mailto:chollister@hollisterenterprises.com]
Sent: Friday, March 10, 2017 4:28 PM
To: Chambers, Sara C (CED)

Cc: Cole Hollister; thollister@pakalolosupplyco.com; khollister@pakalolosupplyco.com
Subject: RE: Retesting of Cannabis Samples

Hello Ms. Chambers;

In my email of several days ago I mentioned that I had another matter to bring to you. This is it.

As you know from reviewing my response letter to the NOV my company received, we had a number of samples fail the test results due to the presence of aspergillus fumigatus. All of our testing to date has been performed by CannTest as the sole provider that was available to us. We are aware that many other growers have also had failed test results over the past 5-6 months. In each our cases, CannTest told us that we had barely been over the threshold for measureable contaminants. And, as indicated in our letter, even CannTest was questioning the possibility of in-house contamination and/or their methodology.

That was the history behind us when we submitted 15 more samples to CannTest for testing on January 31, 2017. Four of the 15 of these new samples failed for the same reasons as before, minimal traces of aspergillus. This time it was even more frustrating than the previous incidents that led to our NOV. This is because we were willing to pay for and submitted multiple samples of one of the failed strains just to see if we would have any of them fail. 2 out of 6 samples of Headband we submitted failed. We grow all of our plants in 4' x 4' grow beds similar to the attached photo. All of the failed samples were grown in the same Flower room, ***and*** in the very same grow beds as the samples that passed. It is very frustrating to spend 3 months nurturing these plants along then have them rejected, and devastating financially. We very much want to put out a very high quality and **safe** product. However, we are not certain that we aren't, and that we aren't getting false results back from CannTest.

Unfortunately, we had received our NOV by this same time, and in my discussion with James Hoelscher, I was made aware that the matter of establishing some type of guidelines and procedures for the retesting of samples was going to be part of his presentation to the MCB at their February 2nd meeting. So, we wanted to wait to see how the board decided to resolve establishing a method of handling retesting. We think that delegating the authority for the

retesting of samples, and disposal of failed harvest batches, to the Director was the correct action by the MCB.

We have waited to give your office some time to establish the handling of requests regarding failed samples. What we would like is to ask you for authority to resubmit new random samples of the harvest batches of both strains that failed to AK Green Labs to compare to, and verify, the results we received from CannTest. If the results come back with the samples passing, we ask permission and clearance to market those harvest batches that do pass. In the event that any of the samples fail again, or if you do not authorize us to have them retested, we ask permission and clearance to sell the failed harvest batches to a licensed manufacturing facility. Regardless of your decision, we have already instituted more rigorous sanitizing and handling processes in our grow facility, and will be expending significant resources on upgraded air handling systems.

There is one additional item we would like to ask you about. In the near future we would like to submit random samples from new harvest batches to each of the 2 testing facilities to compare the results. We feel this will be very interesting for us to see how it would turn out. We can see no reason that the State would object to our spending the extra money to have multiple tests conducted. We assume we would be allowed to market our product with whichever test result was more favorable. This would not be practical on a regular basis, but very valuable to us on a random basis to compare the labs.

We appreciate your time, and look forward to hearing back from you at your earliest convenience with permission to have our harvest retested.

Respectfully,

Cole Hollister

President/CEO

Pakalolo Supply Company, Inc.

3264 Riverview Drive

Fairbanks, AK. 99709

(907) 322-9575