Notice(s) of Violation

Jana D. Weltzin
Licensed in Alaska & Arizona
3003 Minnesota Blvd., Suite 201
Anchorage, Alaska 99501
Phone 630-913-1113
Main Office 907-231-3750
JDW, LLC
jana@jdwcounsel.com

March 29, 2017

Sent Via Electronic Mail & Hand-Delivered

RE: Response to RCFC, LLC License No. 10005 NOV dated 3/16/2017 ~ Received by Licensee on 3/20/2017

Dear Marijuana Control Board:

I am writing you on behalf of my client RCFC, LLC, license number 10005 in response to violation case number 17-0118. The brief summary of the situation that prompted the violation is as follows: On March 12, 2017 a licensee of Einstein Labs (license number 10510) came from Anchorage to RCFC, LLC facility and picked up 1726 grams of marijuana trim and transported the same directly back to Einstein Labs' manufacturing licensed premises in Anchorage.

On March 20, 2017, RCFC, LLC designated licensee, Mike Emers, received NOV case number 17-0118 stating the following allegation violated 3 AAC 306.750(a)(1):

> On 3-16-2017 a review of METRC manifests noted that you allowed Einstein Labs, a product manufacturing lab facility, to pick up product and transport it back to Einstein Labs in Anchorage on 3-12-2017. This type of transport is prohibited. **Your attention is directed to 3 AAC 306.750: Transportation, specifically (a)(1).**

See NOV dated 3/16/2017 (emphasis in the original). 3 AAC 306.750(a)(1) provides:

> 3 AAC 306.750. Transportation. (a) a marijuana establishment shall transport marijuana as follows: (1) a marijuana cultivation facility may transport marijuana to another marijuana cultivation facility, a marijuana product manufacturing facility, a marijuana testing facility, or a retail marijuana retail store.

RCFC did not transport marijuana to any entity – the cited regulatory provision only addresses whom a cultivator can transport to. Subsection (a)(1) only states whom a cultivator can transport to, it does not address what type of licensee can pick up from a cultivation licensee. Subsections (b) –(f) of the same provision discusses the responsibilities of the originator of the marijuana (in this specific situation RCFC) and Mr. Emers complied with all the obligation set forth in subsection (b)-(f) – a trip manifest was properly prepared, preparation and packaging met regulation standards, Mr. Emers verified that the person doing transport had a valid handler card, and the transaction was properly recorded in Metrc.

RECEIVED
MAR 29 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

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Moreover, the interpretation that a marijuana product manufacturer may not transport the marijuana trim it purchased for its own business operations is faulty in and of itself. The definition of a marijuana product manufacturing facility in the regulations refers to AS 17.38.900(14) to define a manufacturing facility, which states:

> (14) "marijuana product manufacturing facility" means an entity registered to **purchase marijuana**; manufacture, prepare, and package marijuana products; and sell marijuana and marijuana products to other marijuana product manufacturing facilities and to retail marijuana stores, but not to consumers;

Alaska Stat. Ann. § 17.38.900 (West)(emphasis added). The interpretation by AMCO enforcement is that a registered licensed entity, who is entitled to purchase marijuana trim, may not legally transport the same and requires that a manufacturing company must entrust a third party (who has not had background checks nor may be even employed by the manufacturing company) to handle and transport its property to its facility. At the February, 2017 MCB meeting, the board made clear to the public that it did not agree with this policy and voted to adopt regulations to be put out for public comment that specifically allow for licensee to licensee transport. Mr. Emers listened to the whole MCB meeting as well as many other licensees. It was clearly indicated that licensee to licensee transport should not be prohibited.

Accordingly, we request this NOV case number 17-0118 be dismissed and removed from RCFC's record entirely.

Sincerely,

Jana D. Weltzin

RECEIVED
MAR 29 2017
ALCOHOL MARIJUANA CONTROL OFFICE
STATE OF ALASKA

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

Date: 3-16-17
Case Number: 17-0118

Notice of Violation

(3AAC 306.805)

Licensee	License Number	Type of License
RCFC, LLC.	10005	Standard Marijuana Cultivation Facility
D.B.A. Rosie Creek Farm 2659 Livingston Loop	How Delivered Certified USPS 7013 2250 0000 9617 5156	Law Enforcement Agency Alaska State Troopers
Street or P.O. Box P.O. Box 181	City, State Ester, AK	Zip 99725

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.

On 3-16-17 a review of METRC manifests noted that you allowed Einstein Labs, a product manufacturing lab facility, to pick up product and transport it back to Einstein Labs in Anchorage on 3-12-17. This type of transport is prohibited.

Your attention is directed to 3AAC306.750: Transportation, specifically (a)(1)

You are directed to respond to the Director of the Marijuana Control Board 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 APPEARANCE, EITHER IN PERSON OR TELEPHONICALLY, BEFORE THE MARIJUANA CONTROL BOARD AT THEIR NEXT REGULARLY SCHEDULED BOARD MEETING.

***Please include your Marijuana Establishment License Number in your response.**

Alcohol & Marijuana Control Office
ATTN: Enforcement Unit
550 W. 7th Ave, Suite 1600
Anchorage, Alaska 99501

A Response is Required

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. A Licensee shall respond, either orally or in writing, to the Notice.

Receipt:	Violation Observed By: FRH0
Filed By: F.R. Hamilton	Title: Investigator III

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

Date: 1/24/16
Number AB17-0045

Notice of Violation

(3AAC 306.805)

Licensee	License Number	Type of License
Michael Emers	10005	Standard Marijuana Cultivation Facility
D.B.A.	**How Delivered**	**Law Enforcement Agency**
Rosie Creek Farm	Email	Alaska State Troopers
Street or P.O. Box	**City, State**	**Zip**
2659 Livingston Loop	Fairbanks, AK	99709

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 received an Accusation and Notice of your right to an Administrative Hearing.

VIOLATION: On January 19th, 2017 Rosie Creek Farm initiated transport manifest #0000017201 in Metrc for two 4g packages (test samples) to be transported to Canntest, LLC in Anchorage. The route to be traveled read as follows: Farm to Parks Highway, to Geist Road, to Johansen Expressway, meet with Black Rapids LLC (License #10027) at Walmart. Time of departure1/19/17 at1:30pm; time of arrival 1/19/17 2:00pm. Grant Anderson of Black Rapids LLC was listed as the sole person transporting the product.

Further investigation revealed that Emers drove the product to Walmart where he met with Anderson in the parking lot and the two packages were given to Anderson. I located a second manifest, #0000017301, which originated from Black Rapids LLC and included two of their own 4g test sample packages. This is the manifest that then accompanied manifest #17201 above, however there is nothing explaining this connection on either manifest. Manifest #17301 time of departure is not until 1/20/17 at 5:00am. There is nothing to account for the whereabouts of Emers' two packages from manifest #10027 once they were given to Anderson 15 hours earlier.

Metrc does not allow untested marijuana, including test samples, to be transferred between licensees other than directly from a cultivator to a testing facility. The "transfer" between Emers and Anderson was therefore not recorded in Metrc. Black Rapids LLC cannot represent itself while concurrently representing Rosie Creek Farm as its agent (transporter in this case).

Your attention is directed to 3 AAC 306.435 Marijuana inventory tracking system, 3 AAC 306.455 Required laboratory testing, 3 AAC 306.750 Transportation

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

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***Please include your Marijuana Establishment 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

3 AAC 306.805 provides that upon receipt of a Notice of Violation, a licensee may request to appear before the Director and be heard regarding the Notice of Violation. The request must be made within ten days after receipt of the Notice and the Director must grant an appearance within ten days after receipt of a request. A Licensee shall respond, either orally or in writing, to the Notice.

Receipt:	Violation Observed By: J. Bankowski
Filed By:	Title: Investigator III