CORRESPONDENCE

THE STATE of ALASKA
GOVERNOR BILL WALKER

Department of Commerce, Community, and Economic Development

ALCOHOL & MARIJUANA CONTROL OFFICE
550 West 7th Avenue, Suite 1600
Anchorage, AK 99501
Main: 907.269.0350

November 2, 2018

Cut Above LLC
DBA: Cut Above LLC
Via email: cutaboveak@gmail.com

Re: Standard Marijuana Cultivation Facility Facility #16815

Dear applicant,

The AMCO Office has reviewed the documents submitted for the proposed marijuana establishment license referenced above. This letter is notice under 3 ACC 306.025(e)(2) that your application is incomplete and additional items are needed to complete the application. The additional items that need correction or resubmittal are listed below—please be sure to read the entire letter. **Please note that if the corrections and/or additional documents submitted in response to this letter are not found to be complete, your application will be returned to you in accordance with 3 AAC 306.025(e)(1), and you will need to file a new application and pay a new fee should you wish to continue pursuing licensure.**

- **Online Application**
  - Michael Smith, TMM Investments, Inc, Darren Resa, Lane Nichols, and Stephen Fidler have been listed as Affiliates on your application but must be listed as Entity Officials, per the information provided to the Division of Corporations, Business and Professional Licensing for this entity. I have rolled your application back to "New" status so that you can correct the list of officials through MyAlaska.
  - Once you resubmit your application, a new Public Notice and Advertisement Notice will be generated. Be sure to save copies of these documents for your records and other corrections.
- **MJ-01 Operating Plan**
  - Page 2, Section 3.2:
    - Expand upon your response to describe how visitors will be escorted in compliance with 3 AAC 306.710. Include the ratio of visitors to licensees, employees, or agents of the licensee.
  - Page 4, Section 3.5:
    - Provide more details regarding the policies and procedures to be followed after an unauthorized breach is alerted. Review 3 AAC 306.715(e) and include at what point AMCO is contacted.
  - Page 5, Section 3.13:
    - Please re-review 3 AAC 306.720 and expand upon your response regarding how cameras will be placed to meet the requirements. Under 3 AAC 306.720(c), any area where marijuana is grown, cured, or manufactured, or where marijuana waste is destroyed, must have a camera placement in the room facing the primary

entry door. The response provided does not show that this requirement has been met.

- **MJ-02 Premises Diagram**
  - Please number each diagram in accordance with the list on Page 1 of Form MJ-02. Only Diagram #1 has been numbered.
  - Diagram #1:
    - In color, outline and label the boundary of your licensed premises.
    - In order to clearly depict the boundaries of the restricted access areas, please outline the borders and label them as appropriate. Note that bathrooms should not be designated as a restricted access area.
    - Include a label describing the type of structure your premises is located within.
  - Diagram #3:
    - Please outline and label the areas on the lot which will be part of the licensed premises.
- **MJ-04 Cultivation Supplemental**
  - Page 3:
    - There is additional information required on this form regarding pesticides and pest control products that is not requested on the version of the form you completed. Please visit the AMCO website to download the latest version of Form MJ-04 and complete all sections on the updated Page 3. The direct link to this form is:

https://www.commerce.alaska.gov/web/Portals/9/pub/MCB/MarijuanaApplication/MJ-04.pdf

  - Page 6, Section 8.2:
    - A sample label was not included with the documents you submitted for your application.
- **MJ-07 Public Notice Posting Affidavit**
  - Because the list of officials will need to be corrected, it will be required to repost copies of your Public Notice at the location of the proposed premises and another conspicuous location for **five** days. Afterwards, complete a new MJ-07.
- **MJ-08 Local Government Notice Affidavit**
  - Provide a copy of your corrected Public Notice to your local government and then complete a new MJ-08.
- **Proof of Possession for Proposed Premises**
  - It is required to show that Cut Above LLC has right to possession of the premises. The document provided is inadequate.
- **Entity Documents**
  - The following documents are required for Cut Above LLC:
    - A copy of Cut Above LLC's Operating Agreement
  - The following documents are required for TMM Investments, Inc:
    - A copy of the corporation's Certificate of Incorporation
    - The name of each corporate officer
    - A list of all shareholders and their ownership percentage
    - A copy of the corporation's by-laws

It is very important that you submit the above corrections and/or documents in a timely manner so that AMCO staff has adequate time to review the corrections and/or additional documents which must be found to be complete within 90 days of the date of this letter.

Respectfully,

TJ Zielinski, Occupational Licensing Examiner
For,
Erika McConnell, Director
marijuana.licensing@alaska.gov

From:	Marijuana Licensing (CED sponsored)
To:	Conrad Schwartz
Cc:	Marijuana Licensing (CED sponsored)
Subject:	Incomplete Application - Cut Above LLC License #16815
Date:	Friday, November 02, 2018 10:01:15 AM
Attachments:	16815 Incomplete Notice.pdf image001.png

Good morning,

Your application for your marijuana establishment license has been reviewed, and at this time is considered incomplete. See the attached notice regarding corrections, additional documents, and/or resubmittals that need to be addressed in your application.

Please make sure to read the entire letter. If the submitted corrections are not found to be complete, your application will be returned to you in accordance with 3 AAC 306.025(e)(1), and you will need to file a new application and pay a new fee should you wish to continue pursuing licensure. Essentially, we will accept corrections one time within your 90-day deadline period. Feel free to call or email if you need clarification on any items from the Incomplete Notice.

Let us know if you require copies of any documents that were submitted.

If you have any questions or concerns, please address them to marijuana.licensing@alaska.gov.

Sincerely,

TJ Zielinski
Occupational Licensing Examiner
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From:	Marijuana Licensing (CED sponsored)
To:	Conrad Schwartz
Cc:	Marijuana Licensing (CED sponsored)
Subject:	RE: Incomplete Application - Cut Above LLC License #16815
Date:	Tuesday, November 27, 2018 10:51:18 AM
Attachments:	image001.png

Good morning,

That is correct, Form MJ-07 and MJ-08 will require notarization. If you are just submitting the pages that need corrections for the other forms (such as Form MJ-01), you will not need to have your signature notarized again, but if you resubmit the entire form then the signatures will require notarization again.

Sincerely,

TJ Zielinski

Occupational Licensing Examiner
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From: Conrad Schwartz <cutaboveak@gmail.com>
Sent: Tuesday, November 27, 2018 10:41 AM
To: Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: Re: Incomplete Application - Cut Above LLC License #16815

Hey TJ,. I'm preparing all the updated documents. What all needs to be notarized? I assume MJ-07 and MJ-08. Do I have to notarize anything else??

On Fri, Nov 2, 2018, 10:01 AM Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov wrote:

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550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From:	Marijuana Licensing (CED sponsored)
To:	Conrad Schwartz
Cc:	Marijuana Licensing (CED sponsored)
Subject:	RE: Incomplete Application - Cut Above LLC License #16815
Date:	Tuesday, November 27, 2018 12:13:38 PM
Attachments:	image001.png

That should not be necessary, but you can certainly have that form re-notarized if you would like.

Sincerely,

TJ Zielinski
Occupational Licensing Examiner
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

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Sent: Tuesday, November 27, 2018 11:13 AM
To: Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: Re: Incomplete Application - Cut Above LLC License #16815

So does the MJ-04 need notarized because of the updated revision? I filled out an outdated one originally and there is 1 additional question regarding pesticides

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> 550 West 7th Avenue, Suite 1600
> Anchorage, Alaska 99501

From:	Marijuana Licensing (CED sponsored)
To:	Conrad Schwartz
Cc:	Marijuana Licensing (CED sponsored)
Subject:	RE: Incomplete Application - Cut Above LLC License #16815
Date:	Thursday, November 29, 2018 10:13:51 AM
Attachments:	image001.png

Good morning,

Under 3 AAC 306.020(b)(9), a current and valid title, lease, or other documentation that shows the licensee has sole right to possession of the proposed premises is required. The document that you provided states that C and S Enterprises, LLC WILL be leasing the premises to Cut Above LLC once the license application is approved, but this does not show current right of possession. So yes, a current lease is one way to show proof of possession. If you do use a lease, note that it must be legally binding and also contain the following:

- Acknowledgement from the landlord/lessor that the premises will be used as a marijuana establishment.
- A disclaimer that the landlord/lessor will not take possession of or remove marijuana from the premises, and that AMCO will be contacted in the event that this is necessary (typically under the "Default" section of the lease).

Sincerely,

TJ Zielinski
Occupational Licensing Examiner
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From: Conrad Schwartz <cutaboveak@gmail.com>
Sent: Thursday, November 29, 2018 9:48 AM
To: Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: Re: Incomplete Application - Cut Above LLC License #16815

I see that my proof of possession was not acceptable. What do I need to show proof of possession exactly? Do you want to see a Lease Agreement?

On Tue, Nov 27, 2018 at 12:13 PM Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov> wrote:

> That should not be necessary, but you can certainly have that form re-notarized if you would like.
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> 550 West 7th Avenue, Suite 1600
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> **Sent:** Tuesday, November 27, 2018 10:41 AM
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From:	Marijuana Licensing (CED sponsored)
To:	Conrad Schwartz
Cc:	Marijuana Licensing (CED sponsored)
Subject:	RE: Incomplete Application - Cut Above LLC License #16815
Date:	Thursday, November 29, 2018 1:44:41 PM
Attachments:	image001.png

Hello Conrad,

No. You may still want to consult professional legal counsel to ensure that your Operating Agreement was properly drafted (if you haven't already), but we do not require anything regarding marijuana in the document.

Sincerely,

TJ Zielinski
Occupational Licensing Examiner
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From: Conrad Schwartz <cutaboveak@gmail.com>
Sent: Thursday, November 29, 2018 12:46 PM
To: Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: Re: Incomplete Application - Cut Above LLC License #16815

Is there anything specifically that has to do with marijuana that needs to be in our operating agreement? We have a fairly generic operating agreement. Is there any special requirements that I could be over looking?

On Thu, Nov 29, 2018 at 10:20 AM Conrad Schwartz <cutaboveak@gmail.com> wrote:

> Thanks TJ, I will be submitting all of our documents late tonight for you to have in the morning. Making our November 30th timeline.
>
> -Conrad
>
> On Thu, Nov 29, 2018 at 10:13 AM Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov> wrote:
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Let us know if you require copies of any documents that were submitted.

If you have any questions or concerns, please address them to marijuana.licensing@alaska.gov.

Sincerely,

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Occupational Licensing Examiner
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550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From:	Marijuana Licensing (CED sponsored)
To:	Conrad Schwartz
Cc:	Marijuana Licensing (CED sponsored)
Subject:	RE: Incomplete Application - Cut Above LLC License #16815
Date:	Wednesday, December 05, 2018 9:50:58 AM
Attachments:	image001.png

Good morning,

I have finished reviewing the revisions you submitted and see that most of the needed corrections have been made, but some additional revisions will be necessary before the application can be deemed complete. These revisions will be detailed below:

1. **Form MJ-02: Premises Diagram**
   On Diagram #3, the legend does not identify what the orange outline depicts.

2. **Form MJ-07: Public Notice Posting Affidavit**
   This form was signed and notarized before the posting period was completed. You will not need to repost your Public Notice, but please complete, sign and notarize a new MJ-07.

3. **Form MJ-08: Local Government Notice Affidavit**
   In Section 2 – Certification, the year was omitted from the "Date Submitted".

4. **Proof of Possession for Proposed Premises**
   The document that was provided is not a legally binding lease, and does not contain the required disclaimers noted in my email on November 29, 2018. I am not able to answer questions about drafting a lease, so you may need to seek professional legal counsel. As a reminder, the required items are:
   - Acknowledgement from the landlord/lessor that the premises will be used as a marijuana establishment.
   - A disclaimer that the landlord/lessor will not take possession of or remove marijuana from the premises, and that AMCO will be contacted in the event that this is necessary.

Note that if the subsequent revisions are inadequate for your application to be deemed complete, your application will be returned to you and it will be necessary to file a new application if you wished to continue pursuing licensure. Let me know if you have any questions or need copies of any documents.

Sincerely,

TJ Zielinski
Occupational Licensing Examiner
Alcohol & Marijuana Control Office
550 West 7th Avenue, Suite 1600
Anchorage, Alaska 99501

From: Conrad Schwartz <cutaboveak@gmail.com>
Sent: Sunday, December 02, 2018 11:48 PM
To: Marijuana Licensing (CED sponsored) <marijuana.licensing@alaska.gov>
Subject: Re: Revised Application (1 of 2)

I just wanted to make a note here that if you need any of this in a different format that's not a problem.

Look forward to hearing from you soon

On Fri, Nov 30, 2018, 1:41 AM Conrad Schwartz <cutaboveak@gmail.com wrote:

> Okay, reviewing the letter you sent me.
> 1. Updated Online Application from Affiliates to Officials
> 2. Saved new public notices and used them to complete other requirements
> 3. Updated MJ-01 page 2 Section 3.2 in regard to number of visitors to licensees
> 4. Updated MJ-01 page 4 Section 3.5 in regards to when to contact AMCO incase of a breach
> 5. Updated MJ-01 page 5 Section 3.13 in regards to where cameras will be mounted
> 6. Numbered all diagrams in accordance with the list on Page 1 of Form MJ-02
> 7. Outlined and labeled the boundary of the licensed premises in Diagram 1. Outlined the borders of the restricted access areas. Labeled Type of Structure.
> 8. Outlined and labeled the areas on the lot which will be part of the licensed premises.
> 9. Updated the new Page 3 of MJ-04 in regards to pesticides.
> 10. Included a sample label of wholesale marijuana in text format.
> 11. Updated MJ-07 with reference to the new list of officials and gave proper public notice
> 12. Updated MJ-08 with my local government and gave proper notice.
> 13. Gave a proper proof of possession for Cut Above LLC to possess 1520 Raven Lake Street for Marijuana Cultivation