Matanuska Law
LLC

April 09, 2020
Sent via email and U.S. Postal Service

Alcohol and Marijuana Control Office
marijuana.licensing@alaska.gov
550 West 7th Ave., Suite 1600, Anchorage, AK 99501

HNP, Inc. d/b/a The Next Degree
6570 W. Trevett Cir. #2, Wasilla, AK 99623

HNP, Inc. d/b/a Green Degree
6570 W. Trevett Cir. #3, Wasilla, AK 99623

Cc: Kerby@greendegree.net
Cc: Alaskalawyer55@gmail.com

Re: Objections to License #23988 (Green Degree, Standard Marijuana Cultivation Facility) and License #23989 (The Next Degree, Marijuana Product Manufacturing Facility)

To Chair and Members of the Board,

Matanuska Law LLC represents Mr. Robert Mays III, the majority owner of Alaska Frontier Cannabis LLC ("AFC") with 75% membership interest. Pursuant to 3 AAC 306.065, Mr. Mays objects to licenses #23988 and #23989 submitted by Mr. Kerby Coman on behalf of HNP, Inc. (doing business as Green Degree and the Next Degree, respectively). Mr. Coman wholly owns HNP, Inc., but he is also a member of AFC, with 25% membership interest. Mr. Coman has been the manager of AFC since January 18, 2019. These new licenses should be <u>denied</u> because (1) pursuant to 3 AAC 306.080(a)(5), Mr. Coman's actions over the past year demonstrate that he will not comply with applicable regulations of the Marijuana Control Board (herein referred to as "MCB") and Alaska law (the Revised Alaska Limited Liability Act, AS § 10.50. et. seq.); (2) the new licenses would directly compete with AFC and violate Mr. Coman's fiduciary duties to AFC and his obligations under AFC's operating agreement (that has been submitted and approved by MCB and must be followed according to MCB regulations); and (3) because of Mr. Coman's mismanagement of AFC, there are outstanding questions over which entity or individual has the right to occupy the land at 6570 W. Trevett. Cir., Wasilla, Alaska.

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1. **Mr. Coman has seriously violated MCB regulations and applicable law in his operations of various marijuana establishments.**

Mr. Coman has been acting manager of AFC since January of 2019. Since that time, he has excluded Mr. Mays from operation of the business, refused to provide him relevant information, provided him false or fraudulent information, and has resorted to physical violence to remove Mr. Mays from AFC's land and to keep him from being actively involved in AFC's operation. Mr. Coman then operated AFC in ways that indicate unlawful self-dealing and misappropriation of company assets; in direct violation of MCB regulations and the representations he made on various MCB applications and documents. While Mr. Mays will likely pursue civil legal action to address Mr. Coman's oppressive conduct, he respectfully requests that this board also investigate Mr. Coman's misconduct and to take enforcement action pursuant to MCB regulations and AS § 17.38.131.

Attached hereto is **Exhibit 1**, AFC's Wholesale Transfer (summary). All of the eight transfers over the last year have been from AFC to Green Degree. Mr. Coman had no authority to transfer AFC's assets to a company in which he has a direct ownership and financial interest (Green Degree). Before any such transfer occurred, Mr. Coman was required to get Mr. Mays approval. Not only did Mr. Coman fail to acquire approval by Mr. Mays, but he actively hid his activities from Mr. Mays and attempted to keep him out of AFC's operation. These transfers are the epitome of self-dealing and misappropriation of company assets in violation of AFC's operating agreement and the Revised Alaska Limited Liability Act (see AS §§ 10.50.135, 10.50.140, 10.50.145., 10.50.150). Each marijuana establishment must operate in accordance with its operating plan, which includes an operating agreement that was submitted to and approved by the board. See 3 AAC 306.703. In clearer terms, his acts are against the law. These transfers are also blatant evidence of fraud and Mr. Coman's misuse of the Metrc system.

On March 20, 2020, 17.2468 pounds of Mr. Clean Flower was transferred from AFC to Green Degree in the amount of $51,710.03. On the same day, March 20, 2020, 17.2468 bounds of Mr. Clean Flower was transferred from AFC to Green Degree in the amount of $2,163,417.08. When tracking the package number associated with the second transfer of Mr. Clean Flower (1A40203000060E1000001239), Mr. Coman caused this package to bounce back and forth between AFC and Green Degree at least five times. **Exhibit 2** shows that Mr. Clean Flower was transferred from AFC to Green Degree on March 19, 2020, at 5:28PM (report date March 20, 2020). The next day at 9:24AM, the package was transferred back to AFC from Green Degree. Less than thirty minutes later, at 9:57AM, the package was transferred again from AFC to Green Degree. Then on March 27, 2020, the package was transferred back to AFC at 8:24AM. At 8:31AM (a mere seven minutes later) the package was again sent from AFC to Green Degree. Valuing 17.2468 pounds of Mr. Clean Flower at $51,710.03 and $2,162,417.08 on the same day and then repeatedly shifting that package back and forth between AFC and Green Degree is strong evidence of Mr. Coman's fraudulent misrepresentations on Metrc, to Mr. Mays, and to this board.

Upon information and belief, Mr. Coman is also allowing employees of his other entities (mainly GD Services Company and the others doing business as Green Degree) to consume marijuana on AFC's land. Further, Mr. Coman has indicated on every application submitted to MCB that he

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will maintain copies of all MCB records on site. When Mr. Mays requested all AFC records, he was not provided any MCB documents, applications, or correspondence. Mr. Mays inspection occurred on March 5, 2020. An operating plan change (along with a premises diagram change, discussed below) were notarized on March 4, 2020, yet not provided to Mr. Mays during his inspection. Nor were any older documents, such as the applications submitted on behalf of AFC in April of 2019.

According to AS § 17.38.010(b)(2), "[i]n the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that . . . legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana." Mr. Mays has recently retained counsel and began his investigation into Mr. Coman's misconduct, but even a preliminary review of Metrc and Mr. Coman's actions over the last year call into question whether Mr. Coman is a "legitimate taxpaying business [person]" or a "criminal actor."

2. **These new licenses will cause Mr. Coman's other entity, HNP, Inc., to be on the same land as and to directly compete with AFC in violation of Mr. Coman's fiduciary duties, AFC's operating agreement, MCB regulations, and Alaska law.**

Section 5.8 of AFC's operating agreement states that "no Manager may enter into any business or investment activity that is competitive with the business of the Company unless the activity was approved in advance by action of the Members. No manager may use any property or assets of the Company other than for the operation of the Company's business." AFC is licensed as a Standard Marijuana Cultivation Facility (License # 14396) and part of its assets is the right to use the land on which it sits. License # 23988 (Green Degree) attempts to put a Standard Cultivation Facility directly adjacent to AFC on the same land. License # 23989 (Next Degree) attempts to put a Marijuana Product Manufacturing Facility also adjacent to AFC and on the same land.

Mr. Mays was not aware that Mr. Coman was pursuing other licenses on AFC's land that directly compete with AFC until he reviewed the agenda for the April 2-3, 2020, MCB meeting. Thus, Mr. Coman did not get approval in advance by the other member of AFC to compete with AFC or to use AFC's assets (its land) for personal gain. Each marijuana establishment must operate in accordance with its operating plan, which includes an operating agreement that was submitted to and approved by the board. See 3 AAC 306.703. Mr. Coman, through these new licenses, is asking the board to allow him to disregard the operating plan of another marijuana establishment in which he is an owner and manager in violation of Alaska law and MCB regulations.

3. **AFC was occupying the portion of the land on which the new licenses attempt to operate until Mr. Coman reduced AFC's licensed premises to accommodate his new licenses. Mr. Coman has been operating AFC's licensed premises with a right to possess the licensed premises at all times, in violation of 3 AAC 306.015.**

At the April 2-3, 2020, meeting, this board approved an operating plan change (along with a premises diagram change) for AFC, which reduced AFC's licensed premises to one building on the land. Before this time, AFC was operating out of the building and various hoop houses and connexes that were constructed directly adjacent to that building. See the April 2019 request for

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amendments to its operating plan and changes to licensed premises, the diagram attached to that request as **Exhibit 3**. Had Mr. Coman not reduced AFC's licensed premises, the premises for his new licenses and AFC's licensed premises would have overlapped and encroached on each other.

AFC has a lease on the land along with an option to purchase the land. See **Exhibit 4**. Mr. Coman has been operating AFC, throughout 2019, according to the diagram in **Exhibit 3**, yet the lease purports only to give AFC the right to occupy a single building called the "bath house," which is colored yellow in the diagram. Pursuant to 3 AAC 306.015(c), "[a] marijuana establishment must have a right to possession of its licensed premises at all times, and may not lease its licensed premises to another person for any reason." In support of licenses #23988 and #23989, Mr. Coman has submitted leases between Green Land Group LLC and HNP, Inc. (both entities owned by Mr. Coman) regarding the area around the bath house from which AFC has been operating for the last year. Either (1) Mr. Coman has been operating AFC's licensed premises without a lease covering all of that area in direct violation of MCB regulations (as another example of his unwillingness to comply with the MCB) or (2) AFC's lease (**Exhibit 4**) covers the entire portion of the licensed premises and now Mr. Coman is attempting to acquire new licenses on the land in violation of AFC's lease—neither option should be condoned by this board.

In sum, AFC is currently investigating misconduct by Mr. Coman in his role as manager and member of AFC. This investigation has led to indications that Mr. Coman is fraudulently representing values in Metrc, manipulating transfers, hiding information from Mr. Mays, and engaging in self-dealing. Mr. Coman's violations of AFC's operating agreement contradicts MCB regulations that require compliance with operating plans. 3 AAC 306.703. Mr. Coman has also obscured AFC's rights to its licensed premises both when he expanded the premises and, again, when he reduced the licensed premises at the most recent meeting. More inconsistent documents from Metrc, affidavits, or other records can be provided by Mr. Mays upon request by this board. In light of the above allegations, Mr. Mays respectfully requests to be heard at any meeting to address licenses #23988 and #23989, asks that this board deny licenses # 23988 and #23989, and that this board also investigate Mr. Coman's misconduct and take appropriate enforcement action.

Sincerely,
MATANUSKA LAW LLC

/s/ Kristina Hallock
By: Kristina Hallock

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