

**BEFORE THE CANNABIS CONTROL DIVISION  
FOR THE STATE OF NEW MEXICO**

IN THE MATTER OF:

Case No. 2023-005

C.M.F. Productions LLC,  
License No. CCD-2022-0260

Respondent.

**FINAL DECISION AND ORDER**

**THIS MATTER** having come before the New Mexico Regulation and Licensing Department (the “Department”) for consideration and decision on August 1, 2023, upon completion of an evidentiary hearing held on June 8, 2023, at Court Room 3 of the 9<sup>th</sup> Judicial District Court in Clovis, New Mexico; the State of New Mexico having been represented at the hearing by Cannabis Control Division (“Division”) Counsel, Robert Sachs (“Administrative Prosecutor”); the Respondent having been represented *pro se* by Christopher Finch and Christopher Hall; and the duly appointed Hearing Officer Max Shepherd (“Hearing Officer”) having timely submitted to the Department a written report setting forth his findings of fact, in accordance with NMSA 1978, 61-1-7(A) of the Uniform Licensing Act, the Department issues the following:

**FINDINGS OF FACT**

The Department makes these Findings of Fact based on the Hearing Officer’s report:

1. On October 18, 2022, the Division received an anonymous complaint alleging that Respondent had been sourcing cannabis from outside New Mexico, improperly inputting information into the track and trace software system called BioTrack, and improperly labeling product among other allegations.

2. On February 23, 2023, Division Investigator, William Fresquez and Division Compliance Officer, Santiago Silva went to Respondent's facility at 2001 E. 2nd Street in Clovis, New Mexico to investigate the allegations contained in the anonymous complaint.
3. When Mr. Fresquez and Compliance Officer Santiago Silva arrived at Respondent's facility on February 23, 2023, they were met by an individual identified as Travis Finch, the brother of Christopher Finch part owner of Respondent.
4. Mr. Fresquez informed Travis Finch that he was there to conduct an inspection of the facility and Mr. Finch invited Mr. Fresquez and Mr. Silva into what appeared to be the front downstairs office of the building.
5. After allowing Mr. Fresquez and Mr. Silva into the building, Mr. Travis Finch informed them that he, Travis Finch, apparently did not have the authority or necessary access to show Mr. Fresquez around the rest of the facility.
6. Travis Finch informed Mr. Fresquez that Mr. Christopher Finch was in Las Vegas, New Mexico at the time and Mr. Travis Finch then tried to call one of the owners several times with no success.
7. While speaking with Travis Finch, Mr. Fresquez testified that he saw several large mason jars of distillate oil on a desk in the front office of Respondent's facility. The jars of distillate oil did not have the required Bio Track labels.
8. Mr. Fresquez and Mr. Silva then left the Respondent's facility but remained in their vehicle outside the facility. While there Mr. Silva received a call from one of Respondent's owner informing Mr. Silva that both owners were in Las Vegas, NM and were on their way to Las Vegas, NV and would not be able to show Mr. Silva around the

Respondent's facility. Mr. Chavez told Mr. Silva that he was in Las Vegas, NM and no one would be available that day to give Mr. Silva access to the facility. Mr. Chavez then asked if Mr. Silva would agree to at time to conduct the inspection later. No agreement was reached on Mr. Silva's request to conduct an inspection of the facility at some later date/time.

14. After CPD had obtained the search warrant, Mr. Fresquez and Mr. Silva were asked to accompany the CPD officers to Respondent's facility as the officers executed the search warrant.
15. During the execution of the warrant Mr. Silva observed a large number of jars or distillate oil and bags of cannabis flowers in a closet in Respondent's facility, and other cannabis products in duffle bags. None of the products had the required BioTrack labels attached. Some of those products were clearly labeled as manufactured in Oklahoma.
16. Mr. Chavez and Mr. Christopher Finch arrived at Respondent's facility while Mr. Silva was still assisting the CPD in executing the search warrant. At this point Mr. Silva concluded that Mr. Chavez had in all probability not really been in Las Vegas, NM as he had told Mr. Silva about an hour and a half early during their phone conversation since Las Vegas, NM is at least three (3) hours from Clovis by automobile.
17. Mr. Silva identified cannabis products in Respondent's facility that clearly indicated by their labels that they had been produced in Oklahoma.
18. Mr. Silva identified cannabis products found in Respondent's facility that were noteworthy because none of these cannabis products had the labels on them that are required by the Cannabis Regulation Act ("the Act") or rules promulgated thereto.
19. Mr. Silva identified jars of distillate oil found at Respondent's facility.

20. Mr. Silva identified cannabis products found at Respondent's facility that again did not have labeling as required by the Act or rules promulgated thereto.
21. The Division generated reports using BioTrack prior to inspecting Respondent's facility on the 23rd. The reports show what Respondent had entered into BioTrack as on-hand inventory, including that Respondent had CO2 oil hash in its inventory.
22. Respondent should not have had CO2 hash oil in inventory without proof that Respondent had purchased the product from a licensee with a class IV license. Respondent had no such evidence of purchase.
23. Using BioTrack reports, the Division identified that Respondent should have had a substantially greater quantity of product than what was reported by the CPD. Inventory gaps entered by a licensee into BioTrack and actual inventory amounts is of concern because it is a manner by which a licensee can include out-of-state or illicit market product into its operation.
24. Respondent's BioTrack report showed that plants should have been growing on the premise in question. However, during the inspection of Respondent's facility on the 23rd no plants were seen.
25. When a licensee harvests plants it is required to enter information related to the harvest in the BioTrack system. Respondent had made no such entry.
26. Mr. Silva identified 30 to 40 jars of distillate oil on the premises on the February 23rd. The jars appeared too large to have been prepared for testing.
27. Respondent employs Christopher Hall. Mr. Hall testified that the out of state cannabis products were products that he had manufactured in another state and brought to New Mexico to be shown to Respondent as a demonstration of his expertise in cannabis

manufacturing, i.e., as part of his job interview resume, and to be given to potential buyers of as examples of what cannabis products Respondent could produce.

28. Mr. Hall testified that he had brought cannabis products across state lines legally because he had a medical marijuana card. Mr. Hall did not explain how possession of a medical marijuana card authorized or allowed him to bring cannabis products across state lines and into New Mexico to demonstrate his expertise in manufacturing cannabis products.
29. The quantity and packaging of the cannabis products brought to New Mexico by Mr. Hall are inconsistent with demonstrating one's ability or produce a cannabis product or possessing with intent to distribute as samples.

#### CONCLUSIONS OF LAW

The Department adopts the Hearing Officer's Conclusions of Law below:

1. The Division has jurisdiction over Respondent and the subject matter of this proceeding pursuant to the Cannabis Regulation Act, NMSA 1978, §§ 26-2C-1 to -42 (2021), (the "Act"), and in particular, NMSA 1978, § 26-2C-6; NMSA 1978, § 26-2C-8; and the Uniform Licensing Act, NMSA 1978, §§ 61-1-1 to 37 ("ULA").
2. In New Mexico, the standard of proof applied in administrative hearings, with few exceptions, is a preponderance of the evidence. *Foster v. Board of Dentistry of State of New Mexico*, 103 N.M. 776, 714 P.2d 580 citing *State Department of Motor Vehicles v. Gober*, 85 N.M. 457, 513, P.2d 391; and *Seidenberg v. New Mexico Board of Medical Examiners*, 80 N.M. 135, 452 P.2d 469 (1969).
3. The Division has the burden of proving the charges against the Respondents by a preponderance of the evidence. See, *Foster v. Bd. of Dentistry*, 103 N.M. 776, 777, 714 P.2d 580, 581 (1986).

4. The Division followed all the notice and hearing requirements of the ULA, and in particular the notice and opportunity to be heard requirements at NMSA 1978, §§ 61-1-3, Opportunity for licensee or applicant to have a hearing; §61-1-4, Notice of contemplated board action; request for hearing; notice of hearing; and §61-1-8, Rights of persons entitled to hearing.
5. These proceedings were held pursuant to the ULA, as invoked in NMSA 1978, § 26-2C-8 of the Cannabis Regulation Act, and the standard of evidence required under the ULA is that, “the hearing office may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent people in the conduct of serious affairs”, NMSA 1978, § 61-1-11(A).
6. Respondent appeared at the hearing pursuant to the Request for Hearing submitted to the Division as offered in the Notice of Contemplated Action.
7. Based on a review of the testimony and Exhibits admitted in this case, the Division has proven the following violations of the Act by a preponderance of the evidence:
  - a. 26-2C-37 NMSA 1978, Illegal Sourcing of Cannabis, states that all cannabis and cannabis products shall be derived from sources in New Mexico. In this case the evidence clearly established that the Respondent had in its possession a large quantity of distillate oil and finished cannabis products, see Exhibits 5, 6, 10,11, and 12. In addition, Mr. Hall admitted and the labeling on the packaging established that the product had been produced in Oregon or Oklahoma. Mr. Hall testified that he had brought the cannabis products to New Mexico from out of state. The quantity and professional packaging of the cannabis products in Exhibits 5 and 6 do not support Mr. Hall’s statements that the products were

merely brought as samples. Moreover, Mr. Finch admitted that he was aware of and accepted the existence of these out-of-state cannabis products on Respondent's premises and, therefore, accepted responsibility for their presence in New Mexico. Even if the products had been brought over for purposes of samples, no exists no exception to NMSA 1978, §26-2C-37 that except samples from the intrastate requirements.

b. 16.8.3.9 NMAC states that unless otherwise provided, cannabis finished products shall meet the minimum labeling requirements of this section. The jars of distillate oils pictured in Exhibits 10, 11, and 12 appear to be finished products and as such should have been labeled under 16.8.3.9 NMAC. Therefore, the evidence clearly establishes that Respondent violated rule 16.8.3.9 NMAC by not having labeled the distillate oils jars in Exhibits 10, 11, 12.

c. 16.8.7.8 NMAC imposes mandatory track and trace requirements on all licensees. The evidence clearly established that there was a significant discrepancy between the cannabis inventory observed by Compliance Officers Silva and Salazar on Respondent's premises and the inventory that the Respondent had entered into its BioTrack account. See Exhibits 25, 26, 27, 28, 29, and 30. Also see testimony of Compliance Officer Silva in ¶¶s 25-32 and 36 above. The evidence of these discrepancies constitutes a violation of 16.8.7.8 (B) (C) and (D) NMAC.

d. 16.8.2.13 NMAC sets forth the extensive rules that a licensee must adhere to when the licensee intends to transport cannabis products. This rule was written to cover transportation by a licensee of wasted cannabis plants or transportation of

In conclusion, the Division has proven by a preponderance of the evidence that Respondent has violated NMSA 1978, § 26-2C-37, out-of-state product; 16.8.3.9 NMAC failure to properly label products; 16.8.7.8 NMAC failure to properly track and trace products; 16.8.2.13(A) NMAC, failure to properly document attempted transport of product; and 16.8.2.20 NMAC, failure to timely grant Division's representatives' access to Respondent's premises.

Consequently, Respondent is subject to discipline or penalties under NMSA 1978, 26-2C-8(4) and 16.8.12.11(A)(2) NMAC.

### ORDER

IT IS THEREFORE ORDERED that Respondent's license, CCD-2022-0260 is **REVOKED**, effective fourteen (14) calendar days from the receipt of this order via certified mail.

IT IS FURTHER ORDERED that the Respondent must comply with the following conditions:

- A. Respondent shall immediately cease all commercial cannabis activity defined by the Act, except as necessary to transfer or sell any legally acquired, produced, or manufactured cannabis or cannabis product and to waste any cannabis or cannabis product within the remaining fourteen (14) calendar days prior to revocation.
- B. No later than the date of revocation, Respondent shall surrender their license by certified mail to the Division. All certified mail shall be sent to 2550 Cerrillos Rd., P.O. Box 25101, Santa Fe, NM 87504, ATTN: Cannabis Control Division. All email correspondence shall be sent to Division Counsel, Robert Sachs at [Robert.Sachs@rld.nm.gov](mailto:Robert.Sachs@rld.nm.gov).
- C. This Order constitutes a final decision for purposes of initiating any contemplated judicial review pursuant to the provisions of the Uniform Licensing Act, NMSA 1978, 61-1-17 and NMSA 1978, 39.3-1.1. An aggrieved party has the right to judicial review of this Order by filing a notice of appeal under Rule 1-074 NMRA within thirty (30) days of the date of filing the final decision. Any pleadings filed with the district court must be served on the Division's Counsel, Robert Sachs, at 1209 Camino Carlos Rey, Santa Fe, NM 87505, ATTN: Cannabis Control Division, and via email at [Robert.Sachs@rld.nm.gov](mailto:Robert.Sachs@rld.nm.gov).



IT IS FURTHER ORDERED that failure to comply with the terms of this Order may result in additional disciplinary action. If Respondent's non-compliance constitutes acts that are prohibited under the Department's statute or rules, the Department may initiate a new disciplinary action and refer that matter for administrative prosecution, seek an injunction in District Court, or pursue other remedies as provided by law.

IT IS SO ORDERED.

/s/ Clay Bailey  
Deputy Superintendent Clay Bailey  
Designee of Superintendent Linda Trujillo  
New Mexico Regulation and Licensing Department

8/4/2023

Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed by certified mail on the date below to:

C.M.F. Productions LLC.  
2001 E. 2<sup>nd</sup> Street  
Clovis, NM 88101

Certified No.: 7022 1670 0002 1180 5785  
Date: August 4, 2023

C.M.F. Productions LLC.  
1212 W. Yucca  
Clovis, NM 88101

Certified No.: 7022 1670 0002 1180 5792  
Date: August 4, 2023

I hereby certify that a true and correct copy of the foregoing was e-mailed to:

C.M.F. Productions LLC.  
Christopher Finch  
Respondent  
[CMF.BELLADONNALLC@gmail.com](mailto:CMF.BELLADONNALLC@gmail.com)

Max Shepherd  
Hearing Officer  
E-mail: [max.shepherd@comcast.net](mailto:max.shepherd@comcast.net)

Robert Sachs, CCD  
Administrative Prosecutor  
Email: [Robert.sachs@rld.nm.gov](mailto:Robert.sachs@rld.nm.gov)

*Victoria Kaniatobe*

\_\_\_\_\_  
Victoria Kaniatobe  
Hearing Clerk  
2550 Cerrillos Rd. Santa Fe, NM 87505

*August 4, 2023*

\_\_\_\_\_  
Date:

### Rights of Respondent Upon Receipt

A person aggrieved by a final decision may appeal the decision to district court by filing in district court a notice of appeal within thirty days of the date of filing of the final decision. The appeal may be taken to the district court for the county in which the agency maintains its principal office or the district court of any county in which a hearing on the matter was conducted. When notices of appeal from a final decision are filed in more than one district court, all appeals not filed in the district court in which the first appeal was properly filed shall be dismissed without prejudice. An appellant whose appeal was dismissed without prejudice pursuant to the provisions of this subsection shall have fifteen days after receiving service of the notice of dismissal to file a notice of appeal in the district court in which the first appeal was properly filed.

*See, NMSA 1978, Sections 61-1-17 and 39-3-1.1.*