

BEFORE THE CANNABIS CONTROL DIVISION
FOR THE STATE OF NEW MEXICO

IN THE MATTER OF:

High Valley Cannabis Co. LLC,
100 Arch Angel Way
Chaparral NM, 80081
License Nos. CCD-2022-0915, CCD-MICB-
2022-0187

Case No.: 2023-009

Respondent(s).

NOTICE OF CONTEMPLATED ACTION

TAKE NOTICE that the Superintendent of the Regulation and Licensing Department (“Department”) and the Cannabis Control Division (“Division”) is contemplating taking disciplinary action against the license held by High Valley Cannabis Co. LLC (“Respondent”). The Department and the Division have before them sufficient evidence that, if not rebutted or satisfactorily explained at a formal hearing, will justify the Department and the Division revoking, suspending, issuing fines, or taking other disciplinary action against the Respondent’s license. If Respondent does not request a hearing within twenty days after service of this Notice of Contemplated Action (“Notice”), the Department and the Division will proceed to take the action contemplated in this Notice, and such action will be final and not subject to judicial review. Respondent may also request a settlement conference to determine whether a compromise of the penalty may be reached.

APPLICABLE LAW

1. Respondent is licensed pursuant to the Cannabis Regulation Act (“CRA”), NMSA 1978, Sections 26-2C-1 to -42 (2021), and as such is subject to the jurisdiction of the Department and Division. The Department and Division have jurisdiction over this disciplinary action pursuant to the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 61-1-1 to -36 (1957, as amended through 2021).
2. This Notice is based upon the following alleged statutory or regulatory violation(s):

VIOLATION #1: Unauthorized Consumption of Cannabis

RULE CITATION OF VIOLATION: 16.8.2.8(D) NMAC

DESCRIPTION OF VIOLATION #1 AS IT PERTAINS TO RULE:

Licensees shall prohibit the consumption of cannabis or cannabis products on or within the licensed premises unless a cannabis consumption area has been approved by the division. Respondent advertised cannabis consumption events at their premise without

having a cannabis consumption license. Consumption paraphernalia was found in Respondent's facility with residue of cannabis that had been consumed.

VIOLATION #2: Operating without Proper Local Permits

RULE CITATION OF VIOLATION: 16.8.2.8(A) NMAC

DESCRIPTION OF VIOLATION #2 AS IT PERTAINS TO RULE:

Licensees are required to comply with all applicable state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, including, but not limited to, construction and building codes, operation of a cannabis establishment, zoning, building and fire codes, and business or professional licensing. Respondent failed to acquire the required permit from Colfax County as required by the County's ordinance. Respondent additionally failed to acquire a building permit and a building final from the Construction Industries Division.

VIOLATION #3: Inaccurate Inventory Reconciliation

RULE CITATION OF VIOLATION: 16.8.2.40(K) NMAC

DESCRIPTION OF VIOLATION #3 AS IT PERTAINS TO RULE:

Licensees are required to conduct an inventory reconciliation at least once a month to ensure physical inventory matches the retailer's inventory records. Licensees are additionally required to document such reconciliations and make sure records available upon the Division's request. Respondent had no records of inventory reconciliation upon the request of the Division.

VIOLATION #4: Inaccurate Sales Records

RULE CITATION OF VIOLATION: 16.8.2.40(L) NMAC

DESCRIPTION OF VIOLATION #4 AS IT PERTAINS TO RULE:

Licensees shall maintain an accurate record of every sale of cannabis and cannabis products made to a customer, including the total amount paid for the sale including the individual prices paid for each cannabis or cannabis product purchased and any amount paid for cannabis excise tax. Respondent was listing all sales as being medical, even adult-use sales, thereby showing that no tax was being collected.

VIOLATION #5: Lack of Employee Badges

RULE CITATION OF VIOLATION: 16.8.2.10(K) NMAC

DESCRIPTION OF VIOLATION #5 AS IT PERTAINS TO RULE:

Licensees are required to have employee identification badges for all agents, officer, or other persons acting for or employed by a licensee. Respondent did not have any employee identification badges.

VIOLATION #6: Improperly Giving Away Cannabis

RULE CITATION OF VIOLATION: 16.8.2.40(J)(1) NMAC

DESCRIPTION OF VIOLATION #6 AS IT PERTAINS TO RULE:

Licensees shall not provide free cannabis to any person except for medical patients under very specific circumstances. Respondent had a sign posted on its premises stating that it was giving away a “free dab with any purchase.”

SUMMARY OF THE EVIDENCE AGAINST RESPONDENTS

3. The general nature of the evidence before the Division is as follows:
 - a. Division generated documents related to the inspection and investigation;
 - b. Photographs taken while conducting the site inspection and investigation;
 - c. Documentation from other state and local governmental agencies showing violations of local ordinances and state rules; and
 - d. Testimony from Division representatives involved in the inspection and investigation.

RIGHTS AND OBLIGATIONS OF RESPONDENT

4. **Unless Respondent requests a formal hearing, the evidence before the Division is sufficient to justify the Division in taking the contemplated action.**
5. The formal hearing, if requested, will be conducted pursuant to the ULA as provided by Section 61-1-8. Section 61-1-8 provides that:
 - A. A person entitled to be heard under the Uniform Licensing shall have the right to be represented by counsel or by a licensed member of his own profession or occupation, or both; to present all relevant evidence by means of witnesses and books, papers, documents and other evidence; to examine all opposing witnesses who appear on any matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request therefor to the Division or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the Division or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.
 - B. Upon written request to another party, any party is entitled to:
 - (1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and
 - (2) inspect and copy any documents or items which the other party will or may

introduce in evidence at the hearing. The party to whom such a request is made shall comply with it within ten days after the mailing or delivery of the request. No request shall be made less than fifteen days before the hearing.

- C. Any party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules.
6. **If Respondent does not request a hearing in this matter, the Division will take the contemplated action by default. See § 61-1-4(D)(3). If no hearing is requested, this disciplinary action will not be subject to judicial review. See § 61-1-4(E).**
7. To request a hearing in this matter Respondent must deposit in the mail a certified return receipt requested letter addressed to the Division containing a request for a hearing within twenty days after services of this notice. See § 61-1-4(D)(3). A written request for a hearing should be sent to the following address:

Robert Sachs, Deputy Director of Policy
Cannabis Control Division
2550 Cerrillos Road
Santa Fe, NM 87505



Clay Bailey, Deputy Superintendent
Designee for Superintendent
Cannabis Control Division

Prepared by:

Robert Sachs
Deputy Director of Policy
Cannabis Control Division, Regulation and Licensing Department
1209 Camino Carlos Rey
Santa Fe, NM 87504
Robert.Sachs@rld.nm.gov
(505) 948-8609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed to Respondent by United States Postal Service Certified Mail, return receipt requested, on this 7th day of August 2023 to the following:

High Valley Cannabis Co. LLC,
100 Arch Angel Way
Chaparral, NM 88081

Certified Mail No: 7022 1670 0002 1180 5822
Return Receipt Requested

I hereby certify that a true and correct copy of the foregoing was e-mailed, on this 7th day of August 2023 to the following:

High Valley Cannabis Co. LLC.
Respondent
Email: highvalleycannabisco@gmail.com

By: *Victoria Kaniatobe*
Victoria Kaniatobe, Hearing Clerk
Cannabis Control Division