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2
3 **BEFORE THE CANNABIS COMPLIANCE BOARD AND TAX COMMISSION**
4 **STATE OF NEVADA**

5 STATE OF NEVADA, CANNABIS
6 COMPLIANCE BOARD,

7 Petitioner,

CCB Case No. 2022-97

Tax Case No. 512940

8 vs.

9
10 ACC ENTERPRISES, LLC (C130,
RC130),

11 Respondent.

12 STATE OF NEVADA, DEPARTMENT
13 OF TAXATION,

14 Petitioner,

15 vs.

16
17 ACC ENTERPRISES, LLC (C130,
18 RC130),

19 Respondent.

20 **STIPULATION AND ORDER FOR SETTLEMENT OF DISCIPLINARY ACTION,**
21 **TAX ADMINISTRATIVE ACTION, AND DISTRICT COURT LITIGATION**

22 The Cannabis Compliance Board (the "CCB") and The Nevada Department of
23 Taxation (the "Department"), by and through its counsel, Aaron D. Ford, Attorney General
24 for the State of Nevada, L. Kristopher Rath, Esq., Senior Deputy Attorney General, and
25 Natasha M. Gebrael, Deputy Attorney General, hereby enter into this Stipulation and
26 Order for Settlement of Disciplinary Action ("Stipulation and Order") with Respondent
27 ACC Enterprises, LLC (hereinafter "ACC" or "Respondent"), by and through its counsel of
28 record, Adam Fulton, Esq., of Jennings & Fulton, LTD, and ACC's Receiver, William A.

1 Leonard, Jr., through his counsel, John J. Savage, of Howard & Howard Attorneys PLLC.
2 Pursuant to this Stipulation and Order, ACC and CCB (collectively, and along with the
3 Department and Strata Growth, LLC, the “Parties”) hereby stipulate and agree that CCB
4 Case No. 2022-97 (the “Administrative Action”) shall be fully and finally settled and
5 resolved upon the terms and conditions set out herein. The Parties further stipulate and
6 agree that, upon the approval of this Stipulation and Order by the CCB and the Nevada
7 Tax Commission (“NTC”), the case of *ACC Enterprises vs. State of Nevada, Department of*
8 *Taxation*, Case No. A-19-786888-J, filed in the Eighth Judicial District Court for Clark
9 County, Nevada (the “District Court Action”), shall also be dismissed with prejudice, each
10 side to bear its own attorneys’ fees and costs. The Parties further stipulate and agree that,
11 upon the NTC’s approval of this Stipulation and Order, the Administrative Case No.
12 512940 shall be withdrawn and be fully and finally resolved upon the terms and conditions
13 set forth herein.

14 PERTINENT FACTS

15 1. Respondent is a domestic limited liability company registered in the State of
16 Nevada and licensed to operate a medical cannabis cultivation facility with license
17 identification No. C130 and an adult-use cannabis cultivation facility with license
18 identification No. RC130.

19 2. On January 3, 2019, ACC filed the District Court Action against the
20 Department. At that time, the Marijuana Enforcement Division of the Department was the
21 entity licensing and enforcing Nevada’s laws and regulations for the marijuana/cannabis
22 industry. The CCB succeeded the Department as the entity licensing and enforcing
23 Nevada’s laws and regulations for the cannabis industry on July 1, 2020. The District Court
24 Action alleged, *inter alia*, that the Department had improperly rejected ACC’s applications
25 for five recreational marijuana retail store licenses and sought five causes of action/claims
26 for relief. The Department answered the District Court Action on April 25, 2019, generally
27 denying all allegations.

28 3. On February 8, 2021, the District Court entered an order granting the

1 Department summary judgment on the cause of action for Judicial Review. On April 20,
2 2021, after the Department filed a Motion for Reconsideration, the District Court entered
3 an order granting the Department summary judgment on certain additional claims, but
4 found issues of fact remained on other claims/causes of action.

5 4. In August 2020, the Department commenced an audit of ACC's business,
6 which resulted in a deficiency determination arising from underreporting of certain taxes.
7 Moreover, ACC entered into a payment plan in August of 2020 for debt owed on taxes
8 outside of the audit periods to pay: (a) a lump sum in the amount of \$411,346.94 on or about
9 August 5, 2020; and (b) monthly payments in the amount of \$7,500.00 with interest
10 accruing at a rate of .75% per month (9% annual) (the "Payment Plan") pursuant to which
11 ACC made monthly payments as of April 2022, totaling \$157,500 and of which a balance
12 remained in the total amount of \$145,645.07 (consisting of \$105,476.56 in tax and
13 \$40,168.51 in interest) ("Undisputed Tax Liability"). Pursuant to an Order Regarding
14 Petition for Re-Determination dated April 30, 2021, the Department is alleging its audit
15 determined that ACC owes \$503,275.24 (the "Disputed Tax Liability") for underpaid and/or
16 underreported back taxes, which consists of tax in the amount of \$367,446.01, penalties in
17 the amount of \$44,673.11, and interest in the amount of \$91,156.12 (as of April 30, 2021).
18 ACC is currently challenging the Disputed Tax Liability in administrative case number
19 512940 (the "Administrative Tax Case"). Additionally, on March 10, 2022, the Department
20 filed its Receivership claim in Case No. A-21-839350-P ("Claim")¹, establishing a tax
21 liability owed in the amount of \$775,752.81. The Claim included the outstanding liabilities
22 for the Undisputed Tax Liability, Disputed Tax Liability, and also for unpaid Modified
23 Business Tax for periods ending March 2020, June 2020, September 2020, December 2020,
24 March 2021, June 2021, September 2021, and December 2021 and unreported Commerce
25 Tax for 2020 and 2021. The Parties agree that this Stipulation and Order shall resolve the
26 tax issues set forth above in this Paragraph (collectively referred to as the "Tax Disputes").
27 The amount being paid to resolve the "Tax Disputes", as set forth in this Stipulation and
28

¹ The Department filed the claim but was not required to do so as set forth in this stipulation.

1 Order, shall not be construed to include and/or resolve any periods or tax obligations which
2 are not contained in the Claim or not referenced above as part of the Tax Disputes.
3 Continued accrual of tax obligations² outside of the Claim and Tax Disputes, and occurring
4 after the tax periods referenced above, shall remain the responsibility of the Receiver/ACC
5 until paid – though Strata and the Receiver may have agreed that Strata will pay these
6 ongoing tax obligations on behalf of the Receiver/receivership estate/ACC, the
7 Receiver/receivership estate/ACC remains responsible and understand that all such tax
8 returns must be timely filed with remittance. Failure to file the remaining tax returns and
9 remit the related tax will be considered a material breach and a basis for disciplinary
10 action.

11 5. On or about July 18, 2021, Howard Misle (“Mr. Misle”) died. At that time, Mr.
12 Misle was listed as the only managing member of ACC. Mr. Misle testified under oath at
13 a deposition on March 18, 2021, that he was the sole owner, operator, and manager of ACC.

14 6. The CCB conducted a routine audit and inspection of ACC’s cannabis
15 establishment on July 21, 2021, which found several regulatory violations, including a
16 failure to list multiple employees in METRC, failure to tag cannabis products, several
17 failures to comply with seed to sale tracking requirements, and a failure to meet destruction
18 log requirements.

19 7. On July 29, 2021, the CCB held an emergency meeting to consider ACC’s
20 request to grant a cannabis receiver agent card to William A. Leonard, Jr., thereby placing
21 him as a cannabis receiver over ACC, due to the fact that ACC no longer had any owner
22 with a valid cannabis establishment agent registration card, though there were employees
23 then operating ACC with valid cannabis establishment agent registration cards. At the
24 July 29, 2021, CCB meeting, the CCB voted unanimously (3-0) to approve William A.
25 Leonard, Jr. (the “Receiver” or “Mr. Leonard”) for a cannabis receiver agent card, thereby
26 placing him as a receiver over ACC. *See*, CCB Order in Case No. 2021-42.

27
28 ² ACC and the Receivership estate will continue to accrue tax obligations as the business continues to operate until the business ceases operations, e.g., wholesale marijuana tax, business tax, sales and use tax and potentially commerce tax.

1 8. On August 9, 2021, the Court ordered a stay of the District Court Action for
2 90 days, based on a stipulation of the parties to the case, due to the placement of the
3 Receiver.

4 9. On August 11, 2021, Meghan Konecne, the surviving spouse of Mr. Misle, filed
5 an application with the Eighth Judicial District Court for Court appointment of Mr.
6 Leonard as a Receiver over ACC in Case No. A-21-839350-P (the "Receivership Action"³).
7 On August 18, 2021, the Receivership Court entered an order in the Receivership Action
8 appointing Mr. Leonard as receiver over ACC (the "Receivership Order"). On August 19,
9 2021, John J. Savage, Esq., entered a notice of appearance as counsel for the Receiver in
10 the Receivership Action.

11 10. Both the CCB Order in Case No. 2021-42 and the Receivership Court's Order
12 of August 18, 2021, required the Receiver to file monthly reports regarding the status of
13 ACC's operations and the activities of the Receiver. The Receiver filed his first such report
14 on August 13, 2021. This report revealed for the first time that, contrary to the records of
15 the CCB, ACC had three members, all of which were LLCs⁴ and that the managing member
16 for each was Belmeko, LLC (owned by both Mr. Misle and his wife Meghan Konecne).
17 Furthermore, each of the Building Management LLCs also had ownership interests held
18 by multiple other individuals and entities never disclosed to the Department or CCB.

19 11. On August 23, 2021, the Receiver filed a notice in the District Court Action
20 that there was a stay of all pending litigation involving ACC based on the Receivership
21 Court's entry of the Receivership Order for ACC, unless the Receivership Court ordered the
22 stay lifted. The District Court extended its prior stay order on November 1, 2021, on
23 stipulation by the parties to the case. By minute order on May 9, 2022, the District Court
24 confirmed that the District Court Action remained stayed until such time as the
25 Receivership Court lifted this stay.

26 12. On September 13, 2021, the Receiver submitted his second report to the CCB.

27 ³ The actions taken in Case No. A-21-839350-P, shall be referred to as the actions taken by the "Receivership
28 Court".

⁴ Building Management A, LLC; Building Management B, LLC; and Building Management C, LLC, which
shall hereinafter be referenced as the "Building Management LLCs".

1 In that second report, the Receiver reported that, "Certain investors in the Building
2 Management Companies have challenged the ownership percentages in those LLCs and
3 the resulting ownership interest in ACC. Accordingly, this must be resolved before any
4 nunc pro tunc filing of a Transfer of Interest form with the CCB."

5 13. On October 14, 2021, the Court entered an Amended Receivership Order
6 primarily to clarify that the Receiver was also appointed over the Building Management
7 LLCs as affiliates of ACC, which, among other changes to the original order, also granted
8 the Receiver certain powers over the Building Management LLCs. The Receiver continued
9 to file monthly reports with the CCB and the Receivership Court and continued to report
10 on the status of the ACC ownership disputes.

11 14. On February 15, 2022, ACC submitted an Application for Transfer of Interest
12 ("TOI") to the CCB, seeking the transfer of ACC's cannabis establishment licenses (C130
13 and RC130) to Strata Growth, LLC ("Strata"), subject to the Receivership Court's approval.

14 15. In the Receiver's seventh report, filed with the Receivership Court on
15 February 16, 2022, the Receiver reported that the ownership dispute was resolved, and
16 that ACC had submitted a TOI to the CCB for sale of ACC's cannabis licenses.

17 16. On March 7, 2022, the Receiver filed with the Receivership Court a Motion for
18 Approval of Management Agreement. As set forth in said motion, the Receiver stated that
19 a management agreement with Strata was necessary for cash infusion to allow ACC to
20 continue operations due to its financial vulnerabilities while the CCB was investigating its
21 TOI application. The management agreement was also submitted for the CCB to approve,
22 which it did at its meeting on March 22, 2022. On March 23, 2022, the Receivership Court
23 ordered approval of said management agreement.

24 17. On March 24, 2022, the Receiver filed a motion with the Receivership Court
25 for approval to liquidate receivership estate assets, seeking to approve a proposed asset
26 purchase agreement with Strata. On April 28, 2022, the Receivership Court issued an
27 order authorizing the Receiver to liquidate the majority of the receivership estate assets,
28 including ACC's cannabis establishment licenses. The order specified that the transfer of

1 the cannabis establishment licenses was subject to approval of the CCB. This order further
2 approved the proposed purchase agreement with Strata as an initial Stalking Horse Bid,
3 with a bid hearing to be held on May 17, 2022.

4 18. At the bid hearing on May 17, 2022, there were no other bids for ACC's assets
5 apart from Strata's proposed purchase agreement. Therefore, on May 24, 2022, the
6 Receivership Court issued an order approving the sale of receivership assets to Strata,
7 subject to the CCB's approval.

8 19. The Receivership Court's approval of the Strata sale then allowed the CCB's
9 staff to complete its investigation of ACC's TOI, given that the buyer was now known with
10 certainty. The CCB's staff investigation, which included review of all the Receiver's reports,
11 concluded that there had been multiple transfers of interest under both the Department
12 and the CCB occurring from 2016 through February 2021, while ACC was under the control
13 of decedent Mr. Misle. On June 28, 2022, the CCB held an open meeting at which it
14 approved ACC's TOI, conditioned upon the subsequent approval of this global settlement
15 agreement by the CCB, NTC, and the Receivership Court. Said TOI will not be effective
16 until the foregoing approvals have been granted.

17 20. The Parties have engaged in good faith settlement negotiations to reach a
18 global agreement that is mutually acceptable to Respondent, CCB staff, counsel for the
19 CCB, and the Department, its counsel and the NTC, for resolution of the Administrative
20 Action, which includes the regulatory violations found during the July 21, 2022, CCB
21 inspection of the ACC cannabis establishment facility, the regulatory violations found
22 during the investigation of ACC's TOI, the resolution of the District Court Action, and the
23 resolution of the Tax Disputes as referenced in paragraph 4. The Parties agree and
24 understand that, to be effective, this Stipulation and Order must be approved by majority
25 vote of the members of the CCB and the NTC and is contingent upon all such approvals
26 and the Receivership Court's approval, and the dismissal with prejudice (each side to bear
27 their own fees and costs) of the District Court Action. This Stipulation is not effective until
28 all approvals and contingencies set forth in this Paragraph have occurred.

1 21. ACC has agreed to waive the filing and service of a formal complaint with
2 respect to its violations of the Nevada Cannabis Compliance Regulations (“NCCR”), and
3 any violations of Title 56 of NRS, and/or violations of NRS Chapters 453A and 453D, and
4 or any violations of NAC 453A and 453D, and stipulates to the discipline set forth in this
5 Stipulation and Order.

6 **ACKNOWLEDGEMENTS AND APPLICABLE LAW**

7 This Stipulation and Order is made and based upon the following acknowledgements
8 by the Parties:

9 22. ACC has entered into this Stipulation and Order on its own behalf and with
10 full authority to resolve the claims against it and is aware of ACC’s rights to contest the
11 violations pending against it. These rights include the filing and service of a disciplinary
12 complaint specifying the charges against ACC, representation by an attorney at ACC’s own
13 expense, the right to a hearing on any violations or allegations formally filed, the right to
14 confront and cross-examine witnesses called to testify against ACC, the right to present
15 evidence on ACC’s own behalf, the right to have witnesses testify on ACC’s behalf, the right
16 to obtain any other type of formal judicial review of this matter, and any other rights which
17 may be accorded to ACC pursuant to provisions of NRS Chapters 678A through 678D, NRS
18 Chapters 453A and 453D, NAC Chapters 453A and 453D, the NCCR, and any other
19 provisions of Nevada law. ACC is waiving all these rights by entering into this Stipulation
20 and Order. If the CCB rejects this Stipulation and Order, or any portion thereof, all such
21 waivers shall be deemed withdrawn by ACC.

22 23. Should this Stipulation and Order be rejected by the CCB or not timely
23 performed by ACC, it is agreed that presentation to and consideration by the CCB of such
24 proposed stipulation or other documents or matters pertaining to the consideration of this
25 Stipulation and Order shall not unfairly or illegally prejudice the CCB or any of its
26 members from further participation, consideration, adjudication, and/or resolution of these
27 proceedings and that no CCB member shall be disqualified or challenged for bias.

28 24. ACC acknowledges that this Stipulation and Order shall only become effective

1 after the CCB has approved this Stipulation and Order, the NTC has approved this
2 Stipulation and Order, the Receivership Court has approved this settlement, and the
3 District Court Action has been dismissed with prejudice.

4 25. ACC enters this Stipulation and Order after being fully advised of ACC's
5 rights and as to the consequences of this Stipulation and Order. This Stipulation and Order
6 embodies the entire agreement reached between the CCB and ACC. It may not be altered,
7 amended, or modified without the express written consent of the Parties, and all
8 alterations, amendments and/or modifications must be in writing.

9 26. In an effort to avoid the cost and uncertainty of a disciplinary hearing, ACC
10 has agreed to settle this matter. For purposes of settling this matter, ACC acknowledges
11 that the facts contained in the paragraphs in the above "Pertinent Facts" portion of this
12 Stipulation and Order are true and correct. Without waiving any constitutional rights
13 against self-incrimination, ACC further acknowledges that, if the CCB filed and served a
14 Complaint and the matter proceeded to an administrative hearing certain facts contained
15 in the "Pertinent Facts" could be found to constitute violations of Title 56 of NRS (NRS
16 Chapters 678A through 678D), NRS Chapters 453A and 453D, NAC Chapters 453A and
17 453D, and the NCCR, with penalties up to and including revocation, suspension, and/or
18 civil penalties of at least \$475,000 for C130 and RC130, if this matter went to an
19 administrative hearing.

20 27. In settling this matter, the Executive Director for the CCB and counsel for
21 CCB have considered the factors set forth in NCCR 4.030(2), including: the gravity of the
22 violations; the economic benefit or savings, if any, resulting from the violations; the size of
23 the business of the violator; the history of compliance with the NCCR and Title 56 of NRS
24 by the violator; actions taken to remedy and/or correct the violations; and the effect of the
25 penalty on the ability of the violator to continue in business. In addition, the Executive
26 Director for the CCB and counsel for the CCB have also taken into account several
27 situational factors that affected Respondent, including the fact that the violations occurred
28 under the ownership of decedent Mr. Misle, that the Respondent's licenses will be

1 transferred to new ownership should this settlement agreement be approved, and the fact
2 that ACC is one of the larger employers in Pahrump, Nevada.

3 28. To resolve the Administrative Action, and only for those purposes and no
4 other, ACC specifically admits to the following violations for licenses C130 and RC130:

- 5 a. One violation of NCCR 4.040(1)(a), for effecting a transfer of interest
6 without regulatory approval, which constitutes one Category II
7 violation.
- 8 b. One violation of NCCR 4.050(1)(a)(4), for failing to tag all plants, which
9 constitutes a Category III violation.
- 10 c. Three violations of NCCR 4.060(1)(a)(1), for failing to submit monthly
11 sales or tax reports or payments, which constitute three Category V
12 violations.

13 29. With respect to C130 and RC130, ACC further agrees to pay a civil penalty in
14 the amount of \$50,000⁵, and accept a warning for its first Category V violation, in
15 consideration for its admitted violations in Paragraph 28, above, and in consideration for
16 the CCB's agreement to resolve the Administrative Action on the terms set forth herein,
17 within the time set forth in Paragraph 35, below.

18 30. If the CCB approves this Stipulation and Order, it shall be deemed and
19 considered disciplinary action by the CCB against ACC.

20 31. All parties executing this agreement acknowledge that the CCB has
21 jurisdiction to consider and order this Stipulation and Order because ACC holds privileged
22 licenses regulated by the CCB as of July 1, 2020. ACC expressly, knowingly, and
23 intentionally waives the 21-day and/or 5- day notice requirements contained in the Nevada
24 Open Meeting Law and acknowledges that this Stipulation and Order may be presented to
25 the CCB and the NTC for their consideration and potential ratification, or approval, at the
26 CCB's next meeting on July 26, 2022, and the NTC's next meeting once Strata, ACC, and
27 the Receiver (along with their counsel) and counsel for the CCB and NTC have executed
28

⁵ To be apportioned \$25,000 to C130 and \$25,000 to RC130.

1 this Stipulation and Order, or at later CCB and NTC meetings, if necessary.

2 **STIPULATED ADJUDICATION**

3 Based upon the above acknowledgments of the Parties and their mutual agreement,
4 the Parties stipulate and agree that the following terms of discipline shall be imposed by
5 the CCB in this matter and that other pending matters shall be resolved as follows:

6 32. Violations. As to licenses C130 and RC130, ACC is found to have committed
7 one Category II violation, one Category III violation, and three Category V violations, as
8 set forth in Paragraphs 28(a) through 28(c), above.

9 33. Imposition of Civil Penalties. ACC shall pay a total civil penalty in the
10 amount of fifty thousand dollars (\$50,000) within the time set forth in Paragraph 35 below,
11 to be apportioned as set forth in Paragraph 29, above.

12 34. Formal Warning. In accordance with NCCR 4.060(2)(a)(1), the CCB hereby
13 issues a formal warning to ACC, as to its first Category V violation in the immediately
14 preceding 3 years: ACC and Strata, as transferee of ACC's licenses, shall timely submit all
15 required monthly tax and sales reports, as well as payments. Failure to do so in the future
16 will invoke additional progressive discipline and shall be considered an aggravating factor
17 in considering the amount of civil penalties and any other disciplinary action in any future
18 disciplinary actions.

19 35. Payment of Civil Penalties. ACC must pay the total civil penalty set forth in
20 this agreement within 30 days of the date of the final necessary approval of this Stipulation
21 and Order from the CCB, NTC and Receivership Court⁶. ACC acknowledges that it is
22 critical to comply with the strict requirements of the deadline for payment. ACC agrees
23 that, should it fail to make timely payment of the civil penalty, the foregoing penalties and
24 procedures will be in effect:

25
26
27 ⁶ As an example, should the CCB, the NTC and the Court approve this Stipulation and Order by August 1,
28 2022, payment would be due on and must be physically received by August 30, 2022, at 5:00 p.m., Pacific
Time. Should the 30th day fall on a weekend or holiday recognized by the State of Nevada, receipt of payment
would be due by 5:00 p.m., Pacific Time, on the next following business day.

- 1 a. CCB will allow a five-business day grace period for late payment⁷.
- 2 b. If payment is not physically received by the CCB at its Carson City office by
- 3 5:00 p.m., Pacific Time, on the last day of the grace period, ACC shall be
- 4 deemed to be in default, and shall pay all amounts due under this Stipulation
- 5 and Order, as well as an additional late payment penalty of fifty thousand
- 6 dollars (\$50,000), and shall have its licenses C130 and RC130 immediately
- 7 suspended, with such suspension remaining in place until all amounts due
- 8 under this Stipulation and Order are paid in full (inclusive of the \$50,000 late
- 9 payment penalty, for a total of \$100,000). The CCB will enter an order of
- 10 default to this effect after default and all amounts due under this subsection
- 11 shall be immediately due and payable to CCB. If all amounts due under this
- 12 section are not paid within 90 days after the date of the order of default,
- 13 licenses C130 and RC130 shall be deemed voluntarily surrendered, regardless
- 14 of the person or entity who owns them at that time. ACC and Strata agree
- 15 they cannot and will not file any petition for judicial review and/or any action
- 16 in any forum for relief from this order of default and that CCB may file any
- 17 judicial action necessary to recover the amounts owed under this subsection,
- 18 along with its attorneys' fees and costs for recovery of amounts owed.
- 19 c. ACC may petition the CCB for an extension of 30-days to pay the civil
- 20 penalty. However, for the CCB to consider any such petition, the CCB must
- 21 receive said petition no later than 5 business days prior to the payment
- 22 deadline (which does not include any grace period). The CCB is not required
- 23 to grant such a petition. In such a petition, ACC must demonstrate to the
- 24 satisfaction of the CCB that there are extraordinary and unusual
- 25 circumstances necessitating the extension requested. The CCB may delegate
- 26 the decision as to whether to grant such a petition to the CCB Chair.
- 27

28 ⁷ If a check or other form of payment is returned for insufficient funds, or otherwise rejected, the failed payment will not be considered a payment and no additional time beyond the five-business day grace period will be granted for payment.

1 d. If an extension is granted under Paragraph 35(c), there shall be no grace
2 period on the new payment date. If ACC does not pay and/or the CCB does
3 not physically receive payment, by the new payment date, the provisions and
4 penalties of Paragraph 35(b) apply.

5 36. Plan of Correction. Respondent represents and warrants that it has submitted
6 and put in place a plan of correction, which CCB staff has approved, that will remedy and
7 prevent the recurrence of the violations set forth in this Stipulation and Order. In
8 summary, the plan of correction includes the following: (1) For untagged plants,
9 Respondent destroyed the plants that could not be reconciled with METRC records and re-
10 tagged the plants that could be validated in METRC; (2) With respect to seed-to-sale
11 tracking issues with harvested cannabis and cannabis product, Respondent updated its
12 policies and procedures to ensure that, on receipt of finished cannabis, its employees place
13 the cannabis into approved packaging for wholesale or retail distribution and product
14 labels and METRC tags will be affixed to each item at that time. The Packaging
15 Supervisor/Manager will be responsible for overseeing this process and monitor the process
16 to ensure all cannabis and cannabis product is properly tagged in compliance with seed-to-
17 sale tracking requirements; (3) As to the timely payment of taxes: (a) the prior bookkeeper
18 for ACC has been released and a new bookkeeper retained; (b) the bookkeeper and general
19 manager will be jointly responsible for ensuring compliance with tax reporting and
20 calendar reminders have been set up for deadlines; (c) the general manager will update the
21 accounts payable accountant weekly regarding monthly sales to ensure funds are ready
22 and available to pay taxes; (4) As to transfers of interest, Strata will put in place policies
23 and procedures to ensure that no ownership interests will be transferred or altered without
24 prior approval of the CCB. Respondent further represents and warrants that it is now, as
25 of the date it has executed this Stipulation and Order, operating in full compliance with
26 NRS Title 56 and NCCR and is current with the filing of State tax returns and the
27 remittance related thereto, with the exception of the Tax Dispute, and will remain current
28 while it is operating and will timely file all final tax returns with remittances.

1 37. Dismissal of District Court Action. After the CCB and NTC have approved
2 this agreement, and within 14 days of the Receivership Court approving this settlement
3 and approving the lifting of the stay on the District Court Action, counsel for ACC, counsel
4 for the Receiver, and counsel for the Department shall execute and file a stipulation and
5 order to dismiss the District Court Action, which shall state as follows:

6 It is hereby stipulated, by and between the parties hereto, and by the Receiver
7 appointed over ACC, by and through their respective undersigned counsel of
8 record, that the stay of this case is lifted, and that all of Plaintiff's claims and
9 causes of action against Defendant in the above captioned matter are
dismissed with prejudice, each side to bear their own attorneys' fees and costs.
This case is dismissed, with prejudice.

10 This resolution of the District Court Action shall not include a return of any application
11 fees for the 2018 applications at issue in the District Court Action.

12 38. Resolution of the Tax Disputes. ACC, Strata, and the Department all
13 mutually agree to settle and resolve the Tax Disputes, as defined in Paragraph 4 above. To
14 resolve the Tax Disputes, pursuant to Strata's purchase agreement with ACC, Strata shall
15 pay to the State of Nevada, Department of Taxation, the total amount of \$450,000.00 (four-
16 hundred fifty-thousand dollars) ("Agreed Amount"), which shall include any penalties or
17 interest accrued for late payment as follows: Strata will begin making monthly payments
18 in the amount of \$12,500.00 for 36 months, until the \$450,000.00 is paid in full, beginning
19 30 days after the date the Receivership Court approves this Stipulation and Order. Interest
20 on the Agreed Amount will accrue, at the rate set forth in NRS 360.417, from the date the
21 NTC verbally approves this Stipulation and Order until the Agreed Amount is paid in full.
22 To avoid additional interest, the Agreed Amount can be prepaid. ACC and/or Strata
23 understand and agree that a new Payment Agreement will need to be executed, Personal
24 Guarantees will need to be executed and personal and business financial information will
25 need to be provided to the Department by completing the Department's standard forms,
26 and that liens will be recorded to secure the payment of the amount being paid through
27 such payment plan. ACC/Receiver and Strata further understand and agree to their
28 continued reporting and remitting obligations for all State taxes under the applicable

1 Nevada Revised Statutes, including but not limited to Chapter 363B, Chapter 372, Chapter
2 372A, and Chapter 363C. ACC and Strata further understand and agree that payment of
3 the Agreed Amount resolves only the Tax Disputes defined in Paragraph 4 herein and does
4 not resolve any tax obligations accrued or accruing outside of the liabilities stated in the
5 Claim or the Tax Disputes and agree that such unresolved tax obligations will be timely
6 reported and paid.

7 39. ACC and Strata understand and agree that the payments required under
8 Paragraphs 33, 35, and 38 shall have priority over any claims by any creditors of ACC
9 and/or Strata and that the respective amounts owed by each must be paid to the State of
10 Nevada prior to the payment of their other creditors. ACC and Strata further agree that it
11 shall not be necessary or required for the CCB and/or the Department to make any creditor
12 claims in the Receivership Action to obtain payment for any and all amounts owed to the
13 State of Nevada under this Stipulation and Order, as ACC and Strata intend to pay these
14 amounts as soon as possible in accordance with the terms set forth herein. The Parties
15 agree to waive the notice requirements set forth in NRS 241.034, as the parties desire that
16 this Stipulation and Order be submitted to the NTC for approval.

17 40. Contingency if Approval Denied. If approval of this Stipulation and Order is
18 denied by the CCB and/or NTC, ACC and counsel for the CCB and the Department agree
19 to resume settlement negotiations in good faith and attempt to reach an agreement to
20 amend this Stipulation and Order and resubmit an amended Stipulation and Order to the
21 CCB and/or NTC to review for approval at a subsequent regularly scheduled CCB and/or
22 NTC meeting. If such an agreement cannot be reached, the Parties agree to proceed with
23 the Administrative Action, which shall include the filing and service of a disciplinary
24 complaint and a disciplinary hearing before the CCB or its assigned hearing officer. Should
25 the Administrative Action proceed for the reasons set forth in this Paragraph, CCB
26 preserves all its claims and arguments in the Administrative Action as set forth in its
27
28

1 Complaint (to be filed⁸) and ACC preserves all its defenses and arguments it may assert.
2 An unapproved Stipulation and Order shall not be admissible as evidence or referenced in
3 argument at any disciplinary hearing in CCB Case No. 2022-97 or any other matter
4 involving the CCB, or the Department, including the Administrative Tax Case and any
5 administrative cases involving the Modified Business Tax and/or Commerce Tax.

6 41. Contingency if Approval Conditioned. If the CCB and/or NTC approves this
7 Stipulation and Order, but said approval is contingent on certain conditions, the Parties
8 will undertake further good faith negotiations to include said conditions in an amended
9 stipulation and order for execution by the CCB Chair and/or the Executive Director for the
10 Department. If ACC does not agree to the certain conditions imposed by the CCB and/or
11 NTC, the Parties will undertake additional negotiations and attempt to reach an
12 agreement to amend this Stipulation and Order and resubmit an amended stipulation and
13 order to the CCB and/or NTC to review for approval at the next regularly scheduled
14 meeting. If such an agreement cannot be reached, the Parties agree to proceed with the
15 Administrative Action, which shall include the filing and service of a disciplinary complaint
16 and a disciplinary hearing before the CCB or its assigned hearing officer. Should the
17 Administrative Action proceed for the reasons set forth in this Paragraph, the CCB
18 preserves all its claims and arguments in the Administrative Action as set forth in its
19 Complaint (to be filed⁹) and ACC preserves all its defenses and arguments it may assert.
20 An unapproved Stipulation and Order shall not be admissible as evidence or referenced in
21 argument at any disciplinary hearing in CCB Case No. 2022-97 or any other matter
22 involving the CCB or the Department, including the Administrative Tax Case and any
23 administrative cases involving the Modified Business Tax and/or Commerce Tax.

24 42. Closure of Disciplinary Action and Administrative Tax Case No. 512940. Once
25

26 ⁸ Should the CCB proceed with a disciplinary complaint, said complaint will not be limited to the violations
27 set forth in this settlement agreement and the CCB reserves its rights to include additional regulatory
violations in any such disciplinary complaint.

28 ⁹ Should the CCB proceed with a disciplinary complaint, said complaint will not be limited to the violations
set forth in this settlement agreement and the CCB reserves its rights to include additional regulatory
violations in any such disciplinary complaint.

1 this Stipulation and Order has been approved by all necessary entities and is fully
2 performed by ACC and Strata, the Administrative Action and Administrative Tax Case will
3 be closed and final.

4 43. Communications with CCB and NTC Members. ACC understands that this
5 Stipulation and Order will be presented to the CCB and NTC in open session at a duly
6 noticed and scheduled CCB and NTC meetings. ACC understands that the CCB and the
7 NTC have the right to decide in their own discretion whether or not to approve this
8 Stipulation and Order. The CCB and Department's counsel, which is the Nevada Attorney
9 General and its staff attorneys, will recommend approval of this Stipulation and Order. In
10 the course of seeking CCB acceptance of this Stipulation and Order, counsel for CCB may
11 communicate directly with individual CCB members. In the course of seeking NTC
12 approval of this Stipulation and Order, counsel for Department and NTC may communicate
13 with individual members of the NTC and may communicate with the NTC via a NRS
14 241.015(3)(b)(2) meeting. ACC acknowledges that such communications may be made or
15 conducted *ex parte*, without notice or opportunity for ACC to be heard on its part until the
16 public CCB and NTC meetings where this Stipulation and Order is discussed, and that
17 such contacts and communications may include, but may not be limited to, matters
18 concerning this Stipulation and Order, the Administrative Action, the Administrative Tax
19 Case, the Tax Disputes and any and all information of every nature whatsoever related to
20 these matters. ACC agrees that it has no objections to such *ex parte* communications. The
21 CCB and Department agree that ACC and/or its counsel may appear at the CCB meeting
22 and the NTC meeting where this Stipulation and Order is discussed and, if requested,
23 respond to any questions that may be addressed to ACC and/or the Nevada Attorney
24 General's staff attorneys. ACC agrees that, should the CCB decline to approve this
25 Stipulation and Order, ACC will not contest or otherwise object to any CCB member, and/or
26 CCB appointed hearing officer, hearing and adjudicating the Administrative Action based
27 on the aforementioned *ex parte* communications with anyone from the Nevada Attorney
28 General's Office. Similarly, should the NTC decline to approve this Stipulation and Order,

1 ACC will not contest or otherwise object to any NTC member, and/or Department
2 administrative law judge, hearing and adjudicating the Administrative Tax Case, or any
3 other administrative tax case related to matters referenced herein, or appeals of the same
4 to the NTC, based on the aforementioned *ex parte* communications with anyone from the
5 Nevada Attorney General's Office.

6 44. Release. ACC and Strata, on behalf of and for their current and prior
7 directors, officers, members, managers, managing members, partners, principals,
8 employees, current and former agents, current and former attorneys, trustees, trusts,
9 settlors, accountants, advisors, consultants, insurers, reinsurers, predecessors, successors,
10 affiliates, subsidiaries, related entities, successors, direct or indirect owners, assigns, heirs,
11 receivers, and anyone else over whom they exercise influence, and/or control, hereby
12 release, now and forever, the State of Nevada, the Department (inclusive of the
13 Department's Marijuana Enforcement Division and the NTC), the CCB, and all of their
14 current and former members, staff, investigators, auditors, experts, hearing officers,
15 agents, attorneys (including the Office of the Attorney General), accountants, advisors,
16 consultants, insurers, reinsurers, predecessors, successors, related entities, successors,
17 direct or indirect owners, assigns, from any and all manner of claims, actions, causes of
18 action, charges, suits, rights, debts, dues, sums of money, accounts, reckonings, bonds, bills,
19 specialties, covenants, contracts, controversies, agreements, promises, variances,
20 trespasses, damages, judgments, executions, obligations, liabilities, and demands of any
21 kind or nature, whether arising at law or in equity, whether liquidated or unliquidated,
22 whether accrued or to accrue hereafter, whether absolute or contingent, whether foreseen
23 or unforeseen, and whether or not heretofore asserted (collectively, the "Claims and
24 Losses"), including without limitation any claim, obligation, or damages that are directly
25 or indirectly related to any facts, conduct, administration, investigations, or violations that
26 have been alleged or could have been alleged, as of the effective date of this Stipulation and
27 Order, in the Administrative Action, the Administrative Tax Case and Tax Disputes, the
28 District Court Action, and/or any litigation arising out of the foregoing, from the beginning

1 of time through and beyond the end of time (collectively, the "ACC Release"). The ACC
2 Release may be pleaded as a full and complete defense to and may be used as the basis for
3 an injunction prohibiting any action, suit, or other proceeding at law or in equity which
4 may be instituted, prosecuted, threatened, initiated, or attempted in breach of the ACC
5 Release set forth herein.

6 45. No Precedence. The Parties agree: (1) That this Stipulation and Order shall
7 not constitute a precedent for any other issues or proceedings before the CCB or the
8 Department or the NTC and/or in any other forum, other than those set forth in this
9 Stipulation and Order; (2) That this Stipulation and Order shall not be admissible in any
10 other proceeding or action with respect to proof of fact or any other matter and/or any other
11 licensee and/or cannabis establishment, or taxpayer, except proceedings brought to enforce
12 this Stipulation and Order under its terms and/or for the CCB's consideration of future
13 disciplinary action against this Respondent. Furthermore, the CCB may consider the
14 discipline imposed herein in any future disciplinary action against licenses C130 and
15 RC130, as required under NCCR 4.030(2), along with the other factors set forth in NCCR
16 4.030(2), and possible progressive discipline pursuant to NCCR 4.035 through 4.060. As
17 every case concerns different facts and details, this Stipulation does not act as precedence,
18 or persuasive authority, to bind the CCB to impose any particular penalty, to charge or
19 allege any particular violation, and/or to impose any particular disciplinary action in the
20 future for this Respondent, or any other respondent for violations of the same statutes
21 and/or regulations addressed in this Stipulation and Order. Likewise, CCB is not bound by
22 any previous settlement agreements it has approved in entering into this Stipulation and
23 Order. Similarly, this Stipulation and Order will have no precedential effect before the
24 Department or the NTC, or with regard to any matter involving the Department or NTC in
25 any other forum, as administrative bodies are not bound by stare decisis. *Desert Irr., Ltd.*
26 *v. State*, 113 Nev. 1049, 1058 (1997).

27 46. Attorneys' Fees and Costs. The Parties each agree to bear their own attorneys'
28 fees and costs.

1 47. Further Assurances. The Parties shall cooperate in executing such additional
2 documents and performing such further acts as may be reasonably necessary to give effect
3 to the purposes and provisions of this Stipulation and Order.

4 48. Voluntary and Informed Agreement. ACC, the Receiver, and Strata represent
5 that their owners, officers, directors, members, and/or managing members, who are
6 responsible for and able to legally bind their respective entities have read completely and
7 understand fully the terms of this Stipulation and Order, that such terms are fully
8 understood and voluntarily accepted by them in advance of and as memorialized by the
9 signing of this Stipulation and Order, and that their signatures to this Stipulation and
10 Order indicates same. ACC, the Receiver, and Strata further represent that they have
11 voluntarily entered into this Stipulation and Order to make a full, final, and complete
12 compromise upon the terms and conditions set forth herein. ACC, the Receiver, and Strata
13 further represents that any releases, waivers, discharges, covenants, and agreements
14 provided for in this Stipulation and Order have been knowingly and voluntarily granted
15 and without any duress or undue influence of any nature from any person or entity. The
16 Parties, and each of them, hereby expressly acknowledge that they are each represented
17 by counsel of their own choice in this matter and have been advised by counsel accordingly.

18 49. Warranties of Authority. The Parties to this Stipulation and Order, and each
19 of them, expressly warrant and represent to all other Parties that each has the full right,
20 title, and authority to enter into and to carry out its obligations hereunder, with the sole
21 exception of the required approval of this Stipulation and Order by the CCB, the NTC, and
22 the Receivership Court. The Parties also expressly acknowledge the foregoing authority.

23 50. Binding Effect. This Stipulation and Order shall be binding upon and inure
24 to the benefit of the Parties hereto and the Parties' respective successors, predecessors,
25 parents, affiliates, shareholders, employees, heirs, executors, assigns, and administrators.

26 51. Construction. The headings of all Sections and Paragraphs of this Stipulation
27 and Order are inserted solely for the convenience of reference and are not a part of the
28 Stipulation and Order and are not intended to govern, limit, or aid in the construction or

1 interpretation of any term or provision of this Stipulation and Order. In the event of a
2 conflict between such caption and the paragraph at the head of which it appears, the
3 paragraph and not such caption shall govern in the construction of this Stipulation and
4 Order.

5 52. Governing Law. This Stipulation and Order shall be governed by and
6 construed in accordance with the laws of the State of Nevada, without reference to conflict
7 of law principles.

8 53. Jurisdiction and Forum Selection. The Parties consent to the jurisdiction of
9 the Receivership Court in the Eighth Judicial District Court of the State of Nevada, in and
10 for Clark County, to resolve any disputes related to the terms or enforcement of this
11 Stipulation and Order. The successful or prevailing Party or Parties in such action shall be
12 entitled to recover reasonable attorney fees, costs, and expenses actually incurred in
13 initiating or responding to such proceeding, in addition to any other relief to which it may
14 be entitled.

15 54. Interpretation. This Stipulation and Order is the result of negotiations among
16 the Parties who have each negotiated and reviewed its terms. In the event a Court ever
17 construes this Agreement, the Parties expressly agree, consent, and assent that such Court
18 shall not construe this Agreement or any provision hereof against any Party as its drafter
19 for purposes of interpreting any ambiguity or uncertainty in this Stipulation and Order.

20 55. Time is of the Essence. Time is of the essence in the performance of all terms
21 of this Stipulation and Order.

22 56. Severability. If any portion of this Stipulation and Order, or its application
23 thereof to any person or circumstance, shall be deemed to any extent to be invalid, illegal,
24 or unenforceable as a matter of law, all remaining clauses of this Stipulation and Order
25 and its application thereof shall be not affected and shall remain enforceable to the fullest
26 extent permitted by law.

27 57. Counterparts and Copies. This Stipulation and Order may be executed in
28 counterparts, each of which when so executed and upon delivery to counsel of record for the

1 Parties shall be deemed an original ("Counterparts"). This Stipulation and Order shall be
2 deemed executed when Counterparts of this Stipulation and Order have been executed by
3 all the Parties and/or their counsel; such Counterparts taken together shall be deemed to
4 be the Agreement. This Stipulation and Order may be executed by signatures provided by
5 electronic facsimile or email, which signatures shall be binding and effective as original
6 wet ink signatures hereupon. All fully executed copies of this Stipulation and Order are
7 duplicate originals, equally admissible in evidence.

8 58. Receivership. The CCB, the NTC, the Department, and Strata acknowledge
9 that the Receiver is executing this Stipulation and Order on behalf of ACC, and may
10 execute other documents and instruments in connection with this Stipulation and Order,
11 solely in the Receiver's capacity as the court-appointed receiver for ACC and not in any
12 other capacity. The CCB, the NTC, the Department, and Strata further acknowledge and
13 agree that, notwithstanding anything contained in this Stipulation and Order to the
14 contrary, neither the Receiver, nor any of its officers directors, shareholders, trustees,
15 partners, employees, members, managers, agents and/or attorneys (collectively, the
16 "Receiver Parties") shall incur any personal liability or culpability whatsoever under this
17 Stipulation and Order or any other documents executed in relation thereto, whether or not
18 executed by any of the Receiver Parties. Any remedy that the CCB, the NTC, the
19 Department, and Strata might have against ACC under this Stipulation and Order is
20 limited to claims or other remedies against the Receivership Estate, and not the Receiver
21 Parties personally.

22 59. Responsible Persons. Notwithstanding any provisions of this Stipulation and
23 Order, no Parties waive any rights or defenses they may have related to NRS 360.297.

24 IN WITNESS WHEREOF, this Stipulation and Order has been executed by the
25 Parties and attested by their duly authorized representatives as of the date(s) so indicated.
26 The Effective Date of this Stipulation and Order shall be the latest date of the date it is
27 ordered by the CCB, approved by the NTC, or approved by the Receivership Court.

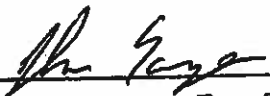
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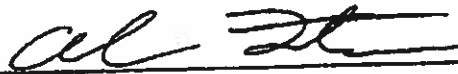
Date: 7/13/2022

William A. Leonard, Jr.
Receiver for Respondent ACC



Date: 7/13/2022

John J. Savage, Esq. (Nevada Bar No. 11455)
Receiver for Respondent ACC



Date: 7/8/22

Adam Fulton, Esq. (Nevada Bar No. 11572)
Counsel for Respondent ACC



Date: 7-11-22

Darren Kessler, Manager
For Strata Growth, LLC



Date: 7-12-22

Steven Mack, Esq. (Nevada Bar No. 4000)
Counsel for Strata Growth, LLC

Date: _____

Shellie Hughes, Executive Director,
Nevada Department of Taxation

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LKS Rath

Date: July 12, 2022

L. Kristopher Rath (Nevada Bar No. 5749)
Senior Deputy Attorney General
Counsel for Cannabis Compliance Board

Natasha Gebrael

Date: July 12, 2022

Natasha M. Gebrael (Nevada Bar No. 14367)
Deputy Attorney General
Counsel for Nevada Department of Taxation

ORDER

WHEREAS, on the 26th day of July, 2022, the Nevada Cannabis Compliance Board approved and adopted all the terms and conditions set forth in the Stipulation and Order for Settlement of Disciplinary Action with ACC.

IT IS SO ORDERED.

SIGNED AND EFFECTIVE (with respect to the CCB and with the contingencies set forth herein) this ___ day of _____, 2022.

**STATE OF NEVADA,
CANNABIS COMPLIANCE BOARD**

By: _____
HON. MICHAEL L. DOUGLAS, CHAIR