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STATE OF MAINE
OFFICE OF CANNABIS POLICY
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ADMINISTRATIVE & FINANCIAL SERVICES

KIRSTEN LC FIGUEROA
COMMISSIONER

OFFICE OF CANNABIS POLICY

JOHN HUDAK
DIRECTOR

Mr. Logan Martyn-Fisher
DBA Mountain Hi/Elevation 207
783 Forest Avenue
Portland, Maine 04103-4105

October 23, 2023



Re: Notice of Administrative Action, Elevation 207

Dear Mr. Martyn-Fisher

This Notice of Administrative Action is issued pursuant to the Maine Administrative Procedures Act (Maine APA), Title 5, Ch. 375, subchapter 4, to Elevation 207, Adult Use Cannabis Program (AUCP) Licenses **AMS 1126** for violations of the Marijuana Legalization Act (MLA), Title 28-B, Ch. 1 and the *Adult Use Cannabis Program Rule*, 18-691 CMR, Ch. 1 as described below. In response to these actions, the Department of Administrative and Financial Services, acting through its Office of Cannabis Policy (OCP), (collectively, "The Department") is taking the administrative actions detailed in this notice.

The licensee named herein is subject to the administrative actions pursuant to 28-B MRS § 801 as described in Part II and III below that may be timely appealed in accordance with the Maine APA in accordance with Part IV of this Notice. Failure to timely appeal will result in the imposition of the administrative actions described herein.

I. Summary of AUCP Investigation of License

1. Elevation 207 is owned by Mountain Hi LLC. The sole proprietor /owner is Mr. Adrian Martyn-Fisher. You are listed as the compliance contact.
2. On Tuesday, August 15th, 2023 Field Investigator Dean Goodale received a call from the City of Portland Code Enforcement Officer Chris Beaumont regarding Elevation 207, an Adult Use cannabis store. Officer Beaumont advised that he had been to Elevation 207 on two separate occasions and discovered that there was painter's tape covering the camera in the rear office area of the store. Officer Beaumont advised that on both occasions he told you and employee Scott Brown that you could not do this as it was a violation.
3. On August 16th, 2023, FI Goodale reviewed an email from Officer Chris Beaumont. According to Officer Beaumont. On August 10th, 2023, he conducted a nonscheduled site inspection during normal business hours for license renewal. During this inspection an employee Scott D. Brown (IIC6067) was the only representative from the business on site. Officer Beaumont observed blue painter's tape over the camera in the rear of the

store. The camera is in a restricted access area and is right over a work desk. According to Officer Beaumont, he removed the tape and verbally informed Mr. Brown that the camera could not be covered as it is part of the approved security plan for the business. You called your employee while Officer Beaumont was present. At that time, you were advised not to cover the camera with tape. You stated that the camera was taped because the bathroom is viewable from this camera when the door is open. You continued and stated that in the evening hours, you and your employee will leave the door to the bathroom open when they are using it so you can hear if customers enter the main sales floor area. According to Officer Beaumont, you were advised to reposition the camera, develop a compliant block for the toilet area, or change their operating procedures about using the bathroom with the door open.

4. On August 14th, 2023, Officer Beaumont inspected the store again. While viewing camera footage in the rear restricted access space, he noticed that once again the camera in this space had been covered with blue painter's tape.
5. On August 22nd, 2023, FI Goodale arrived at Elevation 207 to follow up on the complaint. You were the only person on site.
6. FI Goodale asked you about covering up the camera in the back room with tape and that this was not allowed. You reached up and pulled some blue painter's tape off a 360-degree camera in the center of the room. The tape was nearly covering the whole lens. You stated that you cover the lens with tape so that you can leave the bathroom door open when using it. FI Goodale advised you that you could get a curtain to cover the bathroom entrance, but he could not cover the camera. FI Goodale asked how long the tape had been on the camera lens and you stated for a couple of days.
7. The area that this camera covers a small room where product is brought from the vault and the order is fulfilled before it is brought back out to the customer.

II. Summary findings of fact and violations:

The Department finds, based upon its investigation, interviews, and inspection of Elevation 207, AMS 1126, Portland, Maine the following:

1. The rule state, "Mandatory Requirements for Cultivation Facilities, Testing Facilities, Products Manufacturing Facilities and Cannabis Stores. As applicable, cannabis establishments must enact security measures to prevent the diversion of cannabis or cannabis products that are being cultivated, manufactured, tested, packaged, stored, displayed, or transported.

D. Video surveillance

(1) Placement and coverage of cameras shall be sufficient:

(c) A sufficient number of cameras must be permanently fixed to allow the viewing, in its entirety, of any area where cannabis, cannabis plants, immature cannabis plants, seedlings, seeds, cannabis concentrate or cannabis products are cultivated, manufactured, stored or prepared for transfer or sale or where samples for mandatory testing are collected, and prepared and sealed for transport to a cannabis testing facility;

These are violations of the Adult Use Cannabis Rules: 18-691 CMR Ch. 1 § 3.3.1.

2. The actions of Elevation 207 in covering a camera on three occasions, after being advised to remove it are violations of these rules.

III. Summary of administrative actions taken by the Department:

Considering the violations summarized above and in order to ensure compliance with the MLA and Department rules, the Department is taking the following administrative actions to ensure licensee compliance with program requirements:

1. In response to covering a camera multiple times, where cannabis is moved to and from without video. Violations of 18-691 CMR Ch. 1 § 3.3.1 (D)(1) (c):
 - a. OCP imposes the following fine against Elevation 207: \$5,000 for a major license violation in accordance with Section 10.2.2 (B)(12) of the AUCP Rule to be remitted to the Department no later than 120 days from the date of this notice.

IV. Summary of administrative appeal rights:

The Department issues this Notice of Administrative Action in accordance with its authority pursuant to 28-B MRS § 801 and the Maine APA, 5 MRS, Ch. 375. If you disagree with the Department's findings of fact or administrative actions, you may timely request a formal hearing within 30 days from the date of this Notice. Failure to timely request a formal hearing of the Department will result in the Department executing the administrative action(s) listed in Part III above and could impact your continued participation in Office of Cannabis Policy programs.

A request for a formal hearing may be sent via e-mail to Deputy Director Vernon Malloch: Vernon.Malloch@maine.gov or via USPS mail to: Office of Cannabis Policy, 162 State House Station, Augusta, Maine 04333.

Sincerely,

Michael W. Field

Michael W. Field
Director of Compliance

Cc: Director John Hudak, Office of Cannabis Policy
Deputy Director Vernon Malloch, Office of Cannabis Policy
Anya Trundy, Office of the Commissioner
Deanna White, Esq., Office of the Attorney General