

**BEFORE THE CANNABIS CONTROL APPEALS PANEL
OF THE STATE OF CALIFORNIA**

Case No. 2025-08-DCC-0003

License: C11-0001780-LLC

Department Decision: DCC23-0002236-INV

SANTA ANA MAIN DISTRO, LLC
dba O'Mina Distribution, Inc.
1836 South Grand Ave
Santa Ana, CA 92705
Appellant/Licensee,

v.

DEPARTMENT OF CANNABIS CONTROL,
Respondent.

Appeals Panel Hearing: March 10, 2026

PRELIMINARY DECISION

FACTS AND PROCEDURAL HISTORY

Santa Ana Main Distro, LLC (“appellant”) has held an annual Cannabis – Distributor license since January 3, 2024. Appellant’s license was set to expire on January 3, 2026.

In late October of 2024, the Department of Cannabis Control (“the Department”) received a complaint about appellant’s business. In December of 2024, the Department opened an investigation and assigned it to Department Special Investigator Emily Gutierrez.

On April 14, 2025, the Department filed a Petition for Interim Suspension Order against appellant’s license under section 494(a) of the Business and Professions Code. The Petition alleged violations of several sections of title 4 of the California Code of Regulations, including: that appellant “distributes cannabis to unlicensed persons” in violation of rule 15000.1(b); that appellant used credentials belonging to an individual no longer associated with the business “to log over 1,000 commercial cannabis transactions in 2024” in the California Cannabis Track and Trace system (CCTT), in violation of rule 15048(c); and that “the dates and times on [appellant]’s delivery manifests do not always match the dates and times of actual deliveries,” in violation of

rules 15047.2(b) through (c) and rule 15049.2(b). (Petition for Interim Suspension Order, at pp. 7-8; see also Code Regs., tit. 4, §§ 15000.1(b), 15047.2(b)-(c), 15048(c), and 15049.2(b).) The Petition was supported by the declaration of Special Investigator Gutierrez (the “Gutierrez Declaration”) regarding the results of her investigation. The Department delegated the hearing on the Petition to an administrative law judge (ALJ).

On May 2, 2025, ALJ Thomas Heller conducted a hearing on the Department’s Petition. Pursuant to section 494(d), the evidentiary scope of this hearing was limited to “affidavits and other documentary evidence.” (See Bus. & Prof. Code, § 494(d).) Appellant nevertheless filed a Motion for Clarification and Request to Accept Witness Declaration seeking admission of a “Declaration of Orang Haghighi as an offer of proof regarding the testimony that would have been presented had witness testimony been permitted during the hearing.” (Order Imposing License Restrictions, at p. 2, quoting Motion for Clarification and Request to Accept Witness Declaration, at p. 2.) Both the Department’s Petition and appellant’s Motion were taken under submission following hearing. (Order Imposing License Restrictions, at p. 2.)

On May 9, 2025, ALJ Heller issued an Order Imposing License Restrictions. As part of the Order, ALJ Heller denied appellant’s Motion for Clarification and Request to Accept Witness Declaration, noting that “a licentiate does not have the right to present witness testimony at a hearing on a petition under Business and Professions Code section 494.” (*Id.* at p. 2.)

ALJ Heller made findings of fact and ultimately concluded that appellant had violated rule 15000.1(b) by doing business with “people who don’t have licenses” ; had improperly logged “over 1,000 CCTT transactions” using login credentials belonging to an individual who “was not the user and was no longer associated with” appellant’s business, in violation of rule 15048(c); and had recorded dates and times on delivery manifests that “do not always match the dates and times of actual deliveries,” in violation of rules 15047.2(b) through (c) and 15049.2(b). (*Id.* at pp. 8-9, citing Code Regs., tit. 4, §§ 15000.1(b), 15047.2(b)-(c), 15048(c), and 15049.2(b), and quoting Gutierrez Decl.) ALJ Heller found that these violations “are not just ‘procedural or administrative,’ as appellant had argued in its opposition, but that “the dangers of a cannabis distributor working with unlicensed persons and generating inaccurate and misleading records of cannabis transactions are self-evident.” (Order Imposing License Restrictions, at p. 10.) He concluded that “[a]ny repeat or continuation of respondent’s violations would endanger the public health, safety, or welfare.” (*Ibid.*)

ALJ Heller’s Order, however, declined to suspend appellant’s license and instead found that, “[c]onsidering the evidence, an order imposing license restrictions is warranted.” (*Id.* at p. 3.) ALJ Heller reasoned that “[a]n interim suspension of respondent’s license would close the business entirely, and respondent has proposed interim compliance measures with respect to the identified violations. Respondent’s proposal suggests a willingness to change its deficient

practices immediately, which weighs in favor of imposing interim license restrictions rather than an interim suspension.” (*Id.* at pp. 10-11.)

The Order imposed the following restrictions:

1. Respondent shall limit its distribution activities to licensed businesses that are preapproved in writing by the Department.
2. Respondent’s distribution activities and CCTT entries shall be monitored by a third-party compliance monitor, whom respondent shall identify and retain at its own expense. The compliance monitor shall provide information and compliance reports as directed by the Department.

(*Id.* at p. 11.)

Finally, the Order required the Department to file an accusation within 15 days, pursuant to section 494(f) of the Business and Professions Code. (*Id.* at p. 12.)

On May 11—two days after issuance of ALJ Heller’s Order—the Department filed a timely accusation against appellant’s license alleging violations of rules 15000.1(b); 15047.2(b); 15048(c) and 15048.1(a)(1)-(3); and 15049.2 under title 4 of the California Code of Regulations, each meriting disciplinary action under Business and Professions Code section 26030. (Accusation, at pp. 7-8.) The underlying conduct was the same as that alleged in proceedings leading to issuance of the Order Imposing License Restrictions. (See generally Accusation; Petition for Interim Suspension Order; Order Imposing License Restrictions.) Additionally, the Accusation requested cost recovery pursuant to section 26031.1 of the Business and Professions Code. (Accusation, at pp. 5-6.)

On June 18 and 19, 2025, ALJ Deena R. Ghaly conducted hearings on the Department’s Accusation. Both the Department and appellant presented evidence. Special Investigators Emily Gutierrez, Daniel Torres, and Denis Rakitskiy testified on behalf of the Department. (See RT, vol. I, at pp. 36-164; RT, vol. II, at pp. 115-127.) Appellant’s owner, Orang Haghighi, its new manager, Sylvia Cano Rosales, and its driver, Jonathan Gallo, testified on behalf of appellant. (RT, vol. I, at pp. 174-246; RT, vol. II, at pp. 8-110.)

On July 2, 2025, ALJ Ghaly issued a Proposed Decision in which she made extensive findings of fact. (Proposed Decision, at pp. 2-8.) The relevant findings are summarized here.

ALJ Ghaly found that Haghighi told Special Investigator Gutierrez that he “charged a flat fee of \$1,000 per month to store, move, or distribute cannabis and does not question the license status of his customers.” (*Id.* at p. 4.) Gutierrez also “observed boxes labelled Life Cannabis, which, according to Gutierrez, Haghighi explained respondent was storing for the Life Cannabis company,” although “Life Cannabis is not a Department Licensee.” (*Ibid.*)

According to Haghghi, his comment about “doing business with unlicensed entities” was “taken out of context” and “that he was referencing agreements he had with branding companies, including Life Cannabis, who wished to come to agreements with retailers to sell cannabis products under the branding companies’ names.” (*Id.* at p. 6.) Haghghi asserted that these companies did not “need licenses to add their particular part in the cannabis supply chain.” (*Ibid.*) However, Haghghi “did not produce any contracts or other written documents reflecting agreements or scope of work between respondent and branding companies.” (*Ibid.*) Instead, Haghghi claimed “all work orders and agreements were memorialized through discussions over the phone.” (*Ibid.*)

Department investigators also reviewed appellant’s CCTT data, and found entries “made under the initials S.S., the initials of respondent’s previous owner, Samantha Solmor,” who had relinquished her credentials effective October 1, 2023, after separating from the company. (*Id.* at p. 4.) Nevertheless, Solmor’s credentials “continued to be listed in respondent’s CCTT data throughout 2024, long after she was no longer affiliated with respondent.” (*Ibid.*) According to Gutierrez, Haghghi claimed “all CCTT entries had been input by a respondent employee identified only as Tatiana.” (*Ibid.*) However, “Gutierrez did not find a Tatiana listed among the users in respondent’s CCTT account.” (*Ibid.*) Gutierrez later “requested Tatiana’s last name, but Haghghi did not provide it.” (*Ibid.*)

Haghghi testified that “the use of S.S.’s credentials was a simple clerical error” since “[t]he email address associated with S.S.’s log in information was respondent’s general email and Haghghi was hesitant to cease using it as that might mean losing important correspondence.” (*Id.* at pp. 6-7.) Haghghi “also reiterated that any mistakes were the fault of Tatiana, including sharing credentials for accessing the CCTT system,” and “maintained he discharged Tatiana from her position once he came to understand the many mistakes she had made.” (*Id.* at p. 7.)

Sylvia Cano Rosales, appellant’s new manager, testified that “she now uses proper credentialing for all of respondent’s CCTT’s [sic] entries” and that “all respondent [sic] employees now have their own credentials.” (*Ibid.*)

Department Investigators further discovered that appellant’s “shipping manifests showed multiple consecutive day deliveries made to the same defunct licensee, El Dorado Extracts,” in Oakland, California. (*Id.* at p. 4.) Investigators reviewed appellant’s records and

found manifests for three consecutive day deliveries between October 22 through 24, 2024; five consecutive day deliveries from November 5 through 9, 2024, three consecutive days from November 12 through 14, 2024, five

consecutive days [sic] deliveries from December 3 through 7, 2024, and four consecutive days [sic] deliveries from December 10 through 13, 2024.

(*Id.* at p. 5.) “Haghighi told the investigators that Tatiana had prepared all the manifests and that they were not always followed by his driver.” (*Ibid.*) Haghighi further stated that “personnel from El Dorado, a regular client, would call to place its orders over the phone and therefore there were no written orders.” (*Ibid.*)

Additionally, according to Gutierrez, the manifests she “saw at respondent’s facility were electronic, not the paper versions the driver would carry and upon which a wet signature could be expected to be found.” (*Ibid.*) When Gutierrez asked to see the paper records, “Haghighi pulled out individuated folders bearing various entities [sic] names but could not locate the one for El Dorado, noting Tatiana was responsible for filing and must have misplaced it.” (*Ibid.*)

Haghighi testified that “Tatiana also was responsible for creating the manifests and did not always void out ones that were not used” and attributed it to her “incompetence.” (*Id.* at p. 7.) “He stated that the driver did not always follow the manifests but had made multiple deliveries to El Dorado, always dropping off cannabis products per its orders.” (*Ibid.*)

At hearing, Haghighi produced “one paper manifest counter to the electronic manifests Gutierrez reviewed.” (*Ibid.*) This manifest was “dated October 17, 2024 with October18, 2024 as ‘date of departure/arrival.’” (*Id.* at p. 7; see also Exh. C.) “The signature of the receiver, Tarif Page¹. is dated October 19, 2024.” (Proposed Decision, at p. 7; see also Exh. C.)

Appellant’s driver, Jonathan Gallo, “testified he made many deliveries to the El Dorado facility during the October through December, 2024 period, among other times,” with the final delivery taking place sometime in December 2024. (Proposed Decision, at p. 7.) Until this final delivery, Gallo claimed “there was always someone to take delivery,” although “he stated that the hand-off always took place outside El Dorado’s facility and he never entered the premises.” (*Ibid.*) Gallo testified “that, due to the sensitive nature of his cargo, he drives directly to Oakland and, because he returns with cash payments, directly back to respondent’s facility, stopping only for gas and rest breaks.” (*Ibid.*)

ALJ Ghaly also found that Special Investigator Denis Rakitskiy had investigated El Dorado Extracts in order “to determine whether large transfers of cannabis purportedly going to El Dorada [sic] were in fact arriving there. (*Id.* at p. 5.) Rakitskiy “attempted to contact individuals associated with El Dorado, including an owner of record, Tarik Page, but Page did not return Rakitskiy’s messages.” (*Id.* at p. 6.) “Rakitskiy also visited El Dorado’s premises twice in the

¹ Tarif Page is referred to as both Tarif and Tarik in the record.

summer of 2024 and tried, without success, to gain access,” leading Rakitskiy to conclude that “the premises was vacated at the time of his visits.” (*Ibid.*)

Rakitskiy did make contact with the building’s property manager, however, who “confirmed in an email communication to Rakitskiy that El Dorado had not renewed its lease for 1080 23rd Avenue, which ended on July 31, 2024.” (*Id.*; see also Exh. 25.) “On September 26, 2024, the property manager let Rakitskiy into El Dorado’s suite where Rakitskiy found the place entirely empty.” (Proposed Decision, at p. 6.) Rakitskiy “took photographs showing the empty space.” (*Id.*; see also Exh. 26.)

ALJ Ghaly ultimately concluded that appellant’s “own evidence is not credible and only supports a finding that respondent did do business with unlicensed entities.” (Proposed Decision, at p. 9.)

Based on these findings, ALJ Ghaly found the Department had carried its burden of the proving the allegations contained in the Accusation and had established grounds for discipline under section 26030. (*Id.* at p. 11; see also Bus. & Prof. Code, § 26030.)

With regard to the first cause of action, based on conducting cannabis activities with unlicensed entities in violation of rule 15000.1, ALJ Ghaly acknowledged that the Department’s “evidence establishing respondent did business with unlicensed entities is circumstantial.” ALJ Ghaly observed, however, that “[c]ircumstantial evidence may carry the burden of establishing a claim and may be as persuasive and convincing as direct evidence.” (Proposed Decision, at p. 9, ¶ 16, citing *People v. Comstock, Inc.* (2017) 12 Cal.App.5th 1064, 1086.) She noted, however, that “[t]here are limitations,” and that “[c]ircumstantial evidence’s inferences must be the logical extension of the evidence” and cannot be supported by “speculation and conjecture alone.” (Proposed Decision, at p. 9, ¶ 16, citing *Feduniak v. Cal. Coastal Com.* (2007) 148 Cal.App.4th 1346, 1360.) Based on these findings of fact, ALJ Ghaly concluded that “the logical and direct inference to be drawn from [the Department]’s evidence as well as Haghghi’s uncredited statements is that respondent did cannabis-related business with unlicensed entities.” (Proposed Decision, at p. 9, ¶ 16.) This inference was sufficient to establish the violation alleged. (*Id.* at p. 12, ¶ 8.)

ALJ Ghaly found that the second and third causes of action—based, respectively, on the failure to accurately record cannabis activity in violation of rule 15047.2(b) and the improper use and sharing of CCTT credentials in violation of rules 15048(c) and 15048.1(a)(1) through (3)—were established by Haghghi’s admission. (*Id.* at pp. 13-14.)

Finally, ALJ Ghaly found that the fourth cause of action, based on inaccurate distribution manifests in violation of rule 15049.2(b)(1) through (2), was proven because “the evidence established the manifests investigators found reflecting deliveries to El Dorado during the

October through December, 2024 period could not have been correct because at that time, El Dorado's business was defunct and it had vacated the premises to which respondent's driver purportedly delivered cannabis product." (*Id.* at p. 15.)

ALJ Ghaly reviewed the Department's disciplinary guidelines and determined that conducting cannabis business with non-licensees violation of rule 15000.1 constituted a Tier 3 violation, calling for a "recommended minimum penalty" of "stayed revocation with a 45-day suspension, a fine or a combination of suspension and a fine" and a "maximum recommended penalty" of "license revocation." (*Id.* at p. 15, ¶ 19.) All other violations fell under Tier 2, with a "recommended minimum penalty" of "stayed revocation with a 15 to 30-day suspension, a fine or a combination of suspension and a fine," and a "maximum recommended penalty" of "license revocation." (*Id.* at pp. 15-16, ¶ 19.) While acknowledging that the guidelines allow both aggravating and mitigating factors, ALJ Ghaly concluded that "nothing in the record supports a basis for leniency" and that "[u]nder these circumstances, license revocation is warranted and necessary for the public safety." (*Id.* at p. 17, ¶¶ 20-21.)

Finally, ALJ Ghaly awarded costs to the Department totaling \$15,865.33 pursuant to section 26031.1(a) of the Business and Professions Code, finding no grounds to reduce the amount. (*Id.* at pp. 17-18, ¶¶ 22-24, applying criteria in *Zuckerman v. State Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.)

On July 8, 2025, the Department adopted the Proposed Decision as its Final Decision without modification. (Final Decision, at p. 1.) The Final Decision went into effect the same day. (*Ibid.*)

On August 4, 2025, appellant filed a timely Form 6003 (Notice of Appeal) with this Panel. (App. Notice of Appeal (Aug. 4, 2025), at p. 1.) Pursuant to Panel rule 6014, the filing of the Notice of Appeal automatically stayed the effect of the Department decision pending the final order of this Panel. (Code Regs., tit. 16, § 6014.) However, on August 12, 2025, the Department filed a Motion to Dismiss or, in the Alternative, to Vacate Stay. (Dept. Motion to Dismiss or Vacate Stay (Aug. 12, 2025).) On August 26, 2025, following briefing on the Motion, this Panel denied the Department's Motion to Dismiss, but granted its Motion to Vacate Stay. (Panel Order Vacating Stay (Aug. 26, 2025).)

On appeal, appellant raises numerous objections to the Department's decision, including: (1) that intellectual property (IP) licensing is not "commercial cannabis activity" within the meaning of Business and Professions Code section 26001(n) (App.Br., at pp. 7-8); (2) that the Department violated appellant's due process right by implementing the interim Order Imposing license restrictions as a "de facto suspension" (*id.* at p. 8); (3) that substantial evidence is lacking (*id.* at pp. 10-14); (4) that the Department failed to provide reasoned decision-making

(*id.* at p. 14); (5) that the penalty is disproportionate under both Business and Professions Code section 26011.5 and the Department’s own Penalty Guidelines (*id.* at pp. 14-16); (6) that the decision misapplies Department rule 15049.2 by equating any recordkeeping inconsistencies with “falsification” (*id.* at p. 16); (7) that the public is sufficiently protected by “targeted conditions” (*id.* at p. 17); and (8) that the decision “creates regulatory uncertainty and chills legitimate business operations” (*id.* at p. 18).

Appellant’s second and seventh arguments will be addressed together.

JURISDICTION AND STANDARD OF REVIEW

This Panel is limited in both its jurisdiction and scope of review. Generally, the Panel may hear appeals only under a limited set of circumstances.

After proceedings pursuant to Section 26031, 26031.5, or 26058 or Chapter 2 (commencing with Section 480) or Chapter 3 (commencing with Section 490) of Division 1.5 [of the Business and Professions Code], any person aggrieved by the decision of the department denying the person’s application for any license, denying the person’s renewal of any license, placing any license on probation, imposing any condition on any license, imposing any fine on any license or licensee, assessing any penalty on any license, or canceling, suspending, revoking, or otherwise disciplining any license as provided for under this division, may appeal the department’s written decision to the panel.

(Bus. & Prof. Code, § 26043(a).)

Where the Panel does have jurisdiction, its scope of review is constrained. “The panel shall review the decision subject to such limitations as may be imposed by the Legislature.” (§ 26043(b).) Moreover, the Panel “shall not receive evidence in addition to that considered by the department.” (*Ibid.*) Finally,

(c) Review by the panel of a decision of the department shall be limited to the following questions:

- (1) Whether the department has proceeded without or in excess of its jurisdiction.
- (2) Whether the department has proceeded in the manner required by law.
- (3) Whether the decision is supported by the findings.
- (4) Whether the findings are supported by substantial evidence in light of the whole record.

(§ 26043(c).)

Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion. (*County of San Diego v. Assessment Appeals Bd. No. 2* (1983) 148 Cal.App.3d 548, 555, quoting *Hosford v. State Personnel Bd.* (1977) 74 Cal.App.3d 302, 307.) It is evidence of “ponderable legal significance . . . reasonable in nature, credible, and of solid value.” (*County of San Diego, supra*, at p. 555, quoting *Ofsevit v. Trustees of the Cal. State Univ. & Colleges* (1978) 23 Cal.3d 773, fn. 9.) This Panel’s review of the evidence, however, is strictly limited: “The findings and conclusions of the department on question of fact are conclusive and final and are not subject to review. Those questions of fact shall include ultimate facts and the findings and conclusions of the department.” (Bus. & Prof. Code, § 26047.) This Panel may not reweigh conflicting evidence but instead will consider whether the Department’s findings are supported by such evidence in light of the whole record. (*Kirby v. Alcoholic Bev. Control Appeals Bd.* (1970) 7 Cal.App.3d 126, 129; *Reimel v. Alcoholic Bev. Control Appeals Bd.* (1967) 255 Cal.App.2d 40, 43.)

The Panel also considers whether any procedural error or evidentiary ruling prejudiced the appellant. Reversal is not warranted unless the appellant affirmatively demonstrates that an error resulted in prejudice. (Cal. Const., art. VI, § 13; Code Civ. Proc., § 475; *Reimel v. House* (1969) 268 Cal.App.2d 780, 787; *Citizens for Open Govt. v. City of Lodi* (2012) 205 Cal.App.4th 296, 308.) The burden is on the party seeking reversal to show that it is reasonably probable a more favorable result would have been reached absent the alleged error. (*City of Oakland v. Public Employees’ Retirement System* (2002) 95 Cal.App.4th 29, 51-52; *Thornbrough v. Western Placer Unified School Dist.* (2013) 223 Cal.App.4th 169, 200.)

This standard imposes a high threshold. This Panel will not overturn a decision simply because different inferences could be drawn from the evidence. The question is not whether the Panel would have reached the same result, but whether the Department’s findings are supported by substantial evidence.

Finally, “the penalty imposed by an administrative agency is a matter vested in the discretion of such agency,” which “will not be disturbed unless there has been a clear abuse of discretion.” (*Martin v. Alcoholic Bev. Control Appeals Bd. of Cal.* (1959) 52 Cal.2d 287, 291.) An abuse of discretion occurs only when the penalty is so disproportionate to the offense that it shocks the conscience and suggests an absence of honest judgment. (*Deegan v. City of Mountain View* (1999) 72 Cal.App.4th 37, 46.)

ANALYSIS

I. Decision on Review

Appellant appeals the Department's Final Decision and the underlying Proposed Decision, but raises two separate arguments implicating the terms and enforcement of the earlier Order Imposing License Restrictions. Appellant's first argument, aimed at the Department's enforcement of the terms of the interim Order Imposing License Restrictions, will be addressed here. (See App.Br., at pp. 8-10.) Appellant's argument that the license restrictions imposed pursuant to the interim Order were sufficient to protect the public will be included in penalty discussions in Part VI, *infra*.

Appellant claims the Department's implementation of the interim Order Imposing License Restrictions "transformed these protective restrictions into an unlawful de facto suspension." (*Id.* at p. 8.) Appellant objects, for example, to the Department's approach to enforcing the provision requiring preapproval of business partners: "[t]he Department initially approved only 18 of 58 proposed license counterparts—a 35% approval rate—without providing any reasons for the 40 denials." (*Ibid.*; see also Order Imposing License Restrictions, at p. 11, ¶ 1.) This purportedly "caused counterparties to place orders with other distributors, resulting in operational disruption and financial loss." (App.Br., at p. 9.)

The Department responds that "a petition for interim suspension order, and an accusation hearing, are two separate and different proceedings." (Dept.Br., at p. 15.) It argues that "ALJ Heller and ALJ Ghaly did not consider the same exact evidence," and as one example, notes that "ALJ Heller did not hear live witness testimony, and thereby did not assess the credibility of witnesses, since it is not allowed in petitions for interim suspension order hearings." (*Ibid.*)

As discussed above, the full course of disciplinary action against appellant's license entailed two proceedings. The first proceeding, heard by ALJ Heller, commenced following the Department's Petition for Interim Suspension Order and resulted in the Order Imposing License Restrictions, issued pursuant to section 494 of the Business and Professions Code. (See generally Order Imposing License Restrictions.) The resulting license restrictions were twofold: first, that appellant "shall limit its distribution activities to licensed businesses that are preapproved in writing by the Department," and second, that appellant's "distribution activities and CCTT entries shall be monitored by a third-party compliance monitor, whom [appellant] shall identify and retain at its own expense," and who "shall provide information and compliance reports as directed by the Department." (*Id.* at p. 11, ¶¶ 1-2.)

The second proceeding, heard by ALJ Ghaly, commenced after the Department filed its Accusation. It resulted in the Proposed Decision, which revoked appellant's license. (Proposed

Decision, at p. 18, ¶ 1.) The Department duly adopted the Proposed Decision, including the penalty, as its Final Decision pursuant to section 26031 of the Business and Professions Code. (See generally *ibid.*)

There is no question that this Panel has jurisdiction to review both the Proposed Decision and the Final Decision adopting it. (See Bus. & Prof. Code, § 26043(a).) That jurisdiction, however, does not extend to the Order Imposing License Restrictions issued pursuant to section 494. (See Order Imposing License Restrictions; Bus. & Prof. Code, § 494.)

As described above, this Panel is authorized to hear appeals from “any person aggrieved by a decision of the department” imposing one of the enumerated forms of discipline. (Bus. & Prof. Code, § 26043(a).) Appeal before this Panel is available only “[a]fter proceedings pursuant to . . . Chapter 3 (commencing with section 490) of Division 1.5.” (*Ibid.*)

Section 494, the provision governing interim orders, is a provision of Division 1.5 of the Business and Professions Code, suggesting it falls within that language. However, section 26043(b) states that “The panel shall review the decision subject to such limitations as may be imposed by the Legislature.” (§ 26043(b).)

Section 494 includes an express limitation on review of interim orders: “Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego.” (Bus. & Prof. Code § 494(g).) This language represents a limitation imposed by the Legislature and precludes appeal from an interim order before this Panel.

As a matter of law, this Panel therefore lacks jurisdiction to review either the Order Imposing License Restrictions or the implementation of its terms. Whether the Department’s approval of appellant’s proposed business partners amounted to a “unlawful de facto suspension” is not a question that may properly be reviewed by this Panel. (See App.Br., at p. 8.)

II. Interpretation of “commercial cannabis activity” under Department rule 15000.1

Appellant contends that the Department failed to prove a violation of rule 15000.1, which provides that “commercial cannabis activity shall only be conducted between licensees.” (Code Regs., tit. 4, § 15000.1.) According to appellant, the definition of “commercial cannabis activity” under section 26001(n) of the Business and Professions Code “regulates plant-touching operations and does not encompass non-plant touching brand/IP licensing.” (App.Br., at p. 7.) Appellant does not cite a statute, regulation, or other law explicitly excluding intellectual property from the definition of “commercial cannabis activity,” but instead contends that “[s]ection 26001(n) requires licensure only for activities involving the actual handling, processing, or transfer of cannabis and cannabis products—the ‘plant-touching’ operations, and

that “[i]ntellectual property licensing, by definition, involves intangible rights and contractual agreements that never touch cannabis products.” (*Ibid.*)

Based on its proposed definition, appellant claims that the Department’s conclusion that “[a]ppellant ‘did business with unlicensed entities’ rests entirely on a mischaracterization of statements made during Inspector Gutierrez’s inspection.” (*Ibid.*) It argues that Gutierrez “did not ask Mr. Haghighi to clarify the ‘people who don’t have licenses’ remark and did not obtain any names or identify any instance in which an unlicensed person physically handled cannabis.” (*Id.* at p. 8.) It further claims that Gutierrez “conceded that an IP/brand-owning company ‘would not necessarily need to have a commercial cannabis license itself’ if it does not handle cannabis.” (*Ibid.*)

According to appellant, the Department’s misinterpretation of the definition of “commercial cannabis activity” constitutes “legal error subject to de novo review” by this Panel. (*Id.* at p. 7.)

In response, the Department argues that its “decision did not find that branding arrangements *per se* do, or do not, constitute commercial cannabis activity such that both parties must be licensed. Rather . . . the Department found that Appellant’s story about branding agreements was not credible.” (Dept.Br., at p. 18.) According to the Department, “[t]hat finding, and not a broad holding about the legality of branding agreements, is what is before this Panel.” (*Ibid.*) It urges this Panel to “decline to issue a pronouncement regarding the legality of branding arrangements.” (*Ibid.*)

This Panel’s scope of review indeed includes “whether the Department has proceeded in the manner required by law.” (Bus. & Prof. Code, 26043(c)(2).) “It is well settled that the interpretation and application of a statutory scheme to an undisputed set of facts is question of law . . . which is subject to de novo review on appeal.” (*Rudd v. Cal. Casualty Gen. Ins. Co.* (1990) 219 Cal.App.3d 948, 951-952.) Where properly raised, this Panel may review questions of law de novo.

However, where the dispute turns instead on findings of fact, this Panel may only review “[w]hether the decision is supported by the findings” and “[w]hether the findings are supported by substantial evidence in light of the whole record.” (Bus. & Prof. Code, § 26043(c)(3)-(4).)

In conducting such a review, however, the Panel must defer to the findings below. “The findings and conclusion of the department on questions of fact are conclusive and final and are not subject to review.” (§ 26047.) This deference extends to the credibility of witnesses:

The trier of the facts is the sole judge of the credibility of witnesses [citation], and is free to disbelieve them even though they are uncontradicted, if he has any rational ground for doing so In most cases he is free to disbelieve testimony

contradicting inferential evidence and may accept the result of the inference as true. [Citations.] Among the many things the trier of fact is entitled to consider in passing on the credibility of witnesses are their motives and interest in the result of the case, [citations], and the inherent improbability of their testimony.

(*De Martini v. Industrial Acc. Com.* (1949) 90 Cal.App.2d 139.) “The law is clear that the credibility of a witness is always an issue for the trier of fact to decide and the trier of fact ‘may consider in determining the credibility of a witness any matter that has any tendency in reason to prove or disprove the truthfulness of his testimony at hearing.’” (*Argueta v. Worldwide Flight Services* (2023) 97 Cal.App.5th 822, 835, citing Evid. Code, § 780.) This deference is based on the longstanding premise that “the opportunity to observe witnesses ‘upon the stand and the manner in which they gave their testimony . . . in no small degree aid[s] in the determination of the truth and correctness of testimony.’” (*Rycz v. Superior Ct. of San Francisco County* (2022) 81 Cal.App.5th 824, 841, quoting *Pac. Coast Title Ins. Co. v. Land Title Ins. Co.* (1950) 97 Cal.App.2d 829, 834.)

In the present case the Proposed Decision contains no interpretation of section 26001(n), nor does it offer a legal definition of the phrase “commercial cannabis activity.” (See generally Proposed Decision.) Instead, the conclusion that appellant did business with unlicensed entities turned largely on findings of fact related appellant’s inaccurate manifests and the deliveries it made to vacated premises previously occupied by El Dorado Extracts. (See *id.* at p. 8, ¶¶ 14-15.) Additionally, ALJ Ghaly expressly rejected Haghghi’s claim that he was referring to intellectual property agreements when he alluded to “people who don’t have licenses” during his conversation with Investigator Gutierrez. (See *id.* at p. 4, ¶ 5 [finding Haghghi told investigators that appellant “works with both licensed and unlicensed entities”]; see also RT, vol. I, at p. 53, ll. 20-21 [Investigator Gutierrez testifying that Haghghi “stated that he works with licensed and unlicensed entities”]; RT, vol. I, at p. 185, ll. 9-13 [Haghghi testifying that IP contracts were “an extensive part of the conversation” with Investigator Gutierrez, and that he was “surprised and shocked that she was inferring I was doing something illegal by working with . . . some unlicensed operators”]; Investigative Report, Exh. 7, at p. 2; Declaration of Orang Gaghghi [sic], Exh. B, at p. 2, ¶ 8 [“When I referred to working with ‘people who don’t have licenses,’ I was specifically referring to intellectual property holding companies”].) ALJ Ghaly provided detailed reasons for discrediting Haghghi’s testimony:

Haghghi’s testimony about his comments to Gutierrez being taken out of context and that his only reference to unlicensed businesses was about branding companies is not credible. For one, why reference businesses ancillary to cannabis production and sale as “unlicensed”? If such businesses do not fall within the ambit of the Department’s regulatory control, they have no status vis-

à-vis the Department. Denoting them as unlicensed can only be understood as Haghghi's attempt to backpedal from his more candid statements to Gutierrez in an unguarded moment.

(Proposed Decision, at p. 9, ¶ 15.)

This Panel is bound to accept credibility findings made by the trier of fact. ALJ Ghaly did not interpret the phrase "commercial cannabis activity" under section 26001(n) because the cause for disciplinary action alleged in the Accusation did not turn on that definition, and because appellant did not present evidence or credible testimony sufficient to call the meaning of that provision into question. (See generally Proposed Decision; Accusation.) As such, there is no grounds for this Panel to interpret the provision, either.

The conclusion that appellant did business with unlicensed entities in violation of rule 15001.1 was based on findings of fact—including the credibility of witnesses—and not on an interpretation of the applicable law.

III. Interpretation of Department rule 15049.2

Appellant contends that Department rule 15049.2, implicated in the fourth cause for discipline, "addresses administrative inaccuracy in the seed-to-sale tracking system" and "does not criminalize or equate with 'falsification' every instance" of inconsistency. (App.Br., at p. 16.) Appellant argues that, in this case, the rule's "tracking purpose was fully served despite timing variances in manifest creation versus execution." (*Id.* at p. 17.) It claims that "the undisputed evidence shows Appellant's former Metrc manager followed a common industry practice of entering estimated delivery dates early in the week for logistical planning purposes," an action it insists "does not constitute falsification." (*Ibid.*)

The Department responds that it was "Appellant's sole responsibility to accurately report each of its transfers." (Dept.Br., at p. 15.) It points out that "investigator Gutierrez *did* ask Mr. Haghghi for the paper versions of the manifests, after noticing that they were not in Appellant's files," but that "Mr. Haghghi replied that he 'had no idea' where they were, and subsequently never sent them to the Department." (*Ibid.*, emphasis in original.) Moreover, "Appellant sought to blame any wrongdoing on its employee 'Tatiana,' yet Appellant failed to produce 'Tatiana' or fully identify her." (*Ibid.*) According to the department this is "consistent with [appellant's] refusal to take accountability." (*Ibid.*)

Department rule 15049.2 states, in relevant part,

(b) The distributor who transports the cannabis or cannabis product shall record the following additional information on the shipping manifest:

- (1) The actual date and time of departure from the licensed premises;
and
- (2) The actual date and time of arrival at each licensed premises.

(Code Regs., tit. 4, § 15049.2(b).)

As observed in Part II, *supra*, this Panel's scope of review includes "whether the Department has proceeded in the manner required by law." (Bus. & Prof. Code, 26043(c)(2).) Where the facts are undisputed, the Panel may properly review the interpretation and application of the law. (See *Rudd, supra*, at pp. 951-952.)

Appellant does not contend that its delivery manifests were, in fact, accurate. (See generally App.Br.) Instead, appellant argues that "[t]he record shows administrative timing variances and planning manifests, not falsification designed to conceal activity." (*Id.* at p. 17.) Appellant itself characterizes the evidence on this point as "undisputed." (*Ibid.*)

Rule 15049.2(b), however, does not differentiate between a deliberate "falsification" and an unintentional inaccuracy. (See Code Regs., tit. 4, § 15049.2(b); see also App.Br., at p. 17.) Nor does it offer an exception for what appellant characterizes as "an administrative timing variance" reflecting "a common industry practice." (App.Br., at p. 17.) Indeed, the rule does not address the intent behind inconsistencies at all. Instead, the plain language of rule 15049.2 mandates that a distributor "shall" record the "actual date and time of departure" and the "actual date and time of arrival" on its manifests. (Code Regs., tit. 4, § 15049.2, emphases added.)

This Panel need not interpret language surrounding intent when no such language appears in the rule. It is undisputed that "estimated times" recorded on appellant's manifests did not reflect "actual delivery times." (App.Br. at p. 16.) That is sufficient to establish a violation of rule 15049.2.

IV. Substantial evidence

Appellant contends that substantial evidence is lacking to support disciplinary action in this case. It argues that "[s]peculation and conjecture cannot constitute substantial evidence, nor can inferences unsupported by the record." (*Id.* at p. 10.)

In particular, appellant objects to the Department's purported reliance on hearsay evidence, arguing that "[a]dministrative findings require reliable, non-hearsay evidence; while hearsay may be used to supplement or explain, it cannot alone support critical findings unless admissible over objection." (*Ibid.*) It claims that "[t]he Department's entire case for unlicensed activity rests on Inspector Gutierrez's interpretation of a conversation" with Haghghi, and that these "out-of-court statements attributed to Haghghi constitute classic hearsay offered to prove

the truth of the matter asserted”—namely, “that Appellant conducted business with unlicensed entities.” (*Id.* at p. 11.)

Moreover, appellant claims that “[t]he Department’s assertion that multiple delivery manifests to El Dorado Extracts evidences [sic] wrongdoing is speculative” and is better explained by “[s]tandard logistics.” (*Id.* at p. 13.) Appellant claims that “[m]anifests are commonly created in advance for planning, grouped by brand for intake verification, and consolidated into fewer physical trips when exact timing within a week is uncertain.” (*Ibid.*) It insists that “[n]othing about this practice suggests diversion, falsification, or a regulatory violation.” (*Ibid.*) Appellant explains its “Metric manager sometimes prepared manifests earlier in the week and did not always update the date when deliveries were consolidated, resulting in” what it characterizes as “slight timing variances.” (*Ibid.*) This, according to appellant, is insufficient to constitute “evidence of diversion or falsification.” (*Ibid.*)

Finally, appellant contends that ALJ Ghaly improperly inferred unlicensed transfers based on El Dorado Extracts’ vacant premises. (*Ibid.*) Appellant argues that all transfers were made while El Dorado Extracts’ license was still active. (*Ibid.*) It writes, “The Department did not develop evidence that deliveries were made to an address other than El Dorado’s licensed address, nor did it identify any instance of a transfer to a non-licensee.” (*Ibid.*) It characterizes “reliance on premises vacancy to imply unlicensed recipients” as “conjectural.” (*Ibid.*)

The Department counters that “Appellant does not dispute that is committed three of the four charged violations.” (Dept.Br., at p. 11.) It writes,

On cross-examination, Mr. Haghighi admitted that Appellant had used the CCTT account login credentials of Appellant’s former owner for over a year after she disassociated from Appellant. (2 RT 29-30; AR 511). Appellant also admitted that an employee named “Tatiana”, who did not have her own CCTT account credentials, handled and logged all of Appellant’s CCTT activity. (1 RT 71; 1 RT 102.) Mr. Haghighi also admitted that Appellant’s delivery driver did not always follow the dates and times on the transfer manifests. (1 RT 110; AR 502.) Similarly, [appellant’s] Opening Brief concedes that there were “timing discrepancies” between manifests and actual deliveries. (Opening Brief, 13.) These admissions establish that Appellant committed the second, third, and fourth charged causes for discipline.

(*Ibid.*) With regard to the first count, doing business with unlicensed entities, the Department directs this Panel to portions of Haghighi’s testimony, as well as appellant’s manifests showing delivery to El Dorado Extracts’ vacated premises. (*Id.* at pp. 11-12.) It also points out that ALJ

Ghaly found Haghghi's "post hoc explanation" regarding unlicensed entities and IP contracts to be not credible. (*Id.* at p. 12.)

With regard to appellant's unsupported hearsay claim, the Department responds that appellant failed to object to the questions at hearing, thereby waiving any hearsay objection and foreclosing the issue on appeal. (*Id.* at p. 13.) The Department further argues that these hearsay statements constitute party admissions. (*Ibid.*)

The Department bears the burden of proof. (See Evid. Code, § 500.) The statutory scheme in question, however, does not specifically identify what burden the Department is required to meet in a disciplinary proceeding. (See generally Bus. & Prof. Code, § 26000 *et seq.*) The burden of proof is therefore preponderance of the evidence. (Evid. Code, § 115; see also *Conservatorship of Wendland* (2001) 26 Cal.4th 519, 546 ["The default standard of proof in civil cases is the preponderance of the evidence."]; *Imports Performance v. Dept. of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916 [affirming preponderance of the evidence standard in disciplinary actions against nonprofessional licenses].)

The preponderance of the evidence standard "simply requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence." (*In re Angelia P.* (1981) 28 Cal.3d 908, 918.) "In other words, the term refers to 'evidence that has more convincing force than that opposed to it.'" (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567, citing Cal. Civ. Jury Instructions, No. 2.60 (Spring 2021 Com. Rev.))

"Substantial evidence is evidence that is of ponderable legal significance, reasonable in nature, credible, and of solid value, and substantial proof of the essentials [that] the law requires in a particular case." (*LaMarr v. Regents of Univ. of Cal.* (2024) 101 Cal.App.5th 671, 675-676, internal quotations omitted, citing *Conservatorship of O.B.* (2020) 9 Cal.5th 989, 1006.)

"No evidence is admissible except relevant evidence." (Evid. Code, § 350.) "'Relevant evidence' means evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." (§ 210.) Under this provision, "'relevant evidence' includes not only evidence of the ultimate facts actually in dispute but also evidence of other facts from which such ultimate facts may be presumed or inferred." (§ 210, Law Rev. Com. comm.)

Circumstantial evidence may be both relevant and probative. "Relevant evidence includes circumstantial evidence that tends to establish a fact from which the existence or nonexistence of the fact can be inferred. [Citation.] The modifier 'circumstantial' is used to emphasize the need to draw inferences from the evidence." (*Phillips v. Honeywell Internat., Inc.* (2017) 9 Cal.App.5th 1061, 1079.) "An inference is a deduction of fact that may logically and

reasonably be drawn from another fact or group of facts found or otherwise established in the action.” (Evid. Code, § 600(b).) “[C]ircumstantial evidence and any reasonable inferences drawn from that evidence may constitute substantial evidence.” (*LaMarr, supra*, at p. 676, quoting *People v. Grant* (2020) 57 Cal.App.5th 323, 331.) Moreover, “Proof of knowledge, like any other fact, can be circumstantial.” (*People v. Overstock.com, Inc.* (2017) 12 Cal.App.5th 1064, 1086.) Indeed, “the law generally makes no distinction between circumstantial and direct evidence absent some affirmative indication in a statute.” (*Harris v. City of Santa Monica* (2013) 56 Cal.4th 203, 232, agreeing with *Desert Palace, Inc. v. Costa* (2003) 539 U.S. 90, 99-100.)

Hearsay is defined as “evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated.” (Evid. Code, § 1200(a).) “Except as provided by law, hearsay evidence is inadmissible.” (§ 1200(b).)

Exceptions to the hearsay rule, however, are numerous. (See generally §§ 1220-1390.) For example, “Evidence of a statement is not made inadmissible by the hearsay rule when offered against the declarant in an action to which he is a party in either his individual or representative capacity, regardless of whether the statement was made in his individual or representative capacity.” (§ 1220.) “An admission is a statement made by a party to a proceeding suggesting an inference as to any fact in dispute or relevant to any such fact and to be admissible must tend to prove or have a material bearing on the issues in the case.” (*Legg v. United Ben. Life Ins. Co.* (1951) 103 Cal.App.2d 228, 229.) “Admissions of a party . . . are received to prove the truth of the assertions; i.e., they constitute affirmative or substantive evidence that the jury or court may believe as against other evidence, including the party’s own contrary testimony on the stand.” (*Jayazeri v. Mao* (2009) 174 Cal.App.4th 301, 325.) Such admissions “may be oral or written.” (*Ibid.*) Even in the criminal context, where the burden of proof is substantially higher than in a non-professional licensing matter, “a defendant’s own hearsay statements are admissible against him, as long as they satisfy the test of relevance.” (*People v. Brown* (2014) 59 Cal.4th 86, 103.)

In administrative proceedings, evidentiary rules—including the hearsay rule—are relaxed:

The hearing need not be conducted according to technical rules relating to evidence and witnesses Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

(Gov. Code, § 11513(c).) “Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil cases.” (§ 11513(d).) Additionally, a hearsay objection “is timely if made before submission of the case or on reconsideration.” (*Ibid.*)

Generally, where the adverse party fails to object, inadmissible hearsay becomes competent evidence, and the trier of fact may consider it. (See, e.g., *Burke v. Bloom* (1960) 187 Cal.App.2d 155,163-165; *Smith v. Smith* (1955) 135 Cal.App.2d 100, 105; *Dorfer v. Delucchi* (1943) 61 Cal.App.2d 63, 66.) In the context of administrative proceedings, however, “[t]here are two competing lines of cases concerning the issue of whether an objection to hearsay evidence is necessary during an administrative hearing to preserve the issue on review.” (*McNary v. Dept. of Motor Vehicles* (1996) 45 Cal.App.4th 688, 696, comparing *Borror v. Dept. of Investment* (1971) 15 Cal.App.3d 531, 544-547 [holding objection can be waived], with *Martin v. State Personnel Bd.* (1972) 26 Cal.App.3d 573 [holding that absence of objection cannot convert hearsay evidence into competent evidence sufficient to independently support a finding].)

Appellant faced four causes for discipline under the Department’s Accusation. The first cause for discipline alleged a violation of rule 15000.1(b), which states, in relevant part, “Commercial cannabis activity shall only be conducted between licensees.” (Code Regs., tit. 4, § 15000.1(b).)

At the commencement of administrative proceedings, appellant raised an objection to the admission of Investigator Gutierrez’s investigative report into evidence—in which she described Haghghi’s alleged admission that he worked with “people who don’t have licenses”—on several grounds, including that it contained “statements by non-parties as hearsay.” (See RT, vol. I, at p. 87, ll. 7-22; see also Exh. 7, at p. 3.) The court observed that “hearsay is admissible in these types of administrative adjudications,” and therefore overruled the objection. (RT, vol. I, at p. 87, ll. 23-24 and p. 88, ll. 14-15.)

Both Investigator Gutierrez and Haghghi testified about the alleged exchange described in Gutierrez’s investigative report. Gutierrez testified that during her investigation, Haghghi

had made a comment that he received a phone call from someone from the El Dorado Extracts license asking him if he wanted to conduct business with them. I asked him if that was a common occurrence. He stated that yes, that people get his phone number off a website that shows that he has a DCC license, and people will call him and ask him to work with them, and I asked him if they are all licensed people, and he said that he works with licensed and unlicensed people.

(RT, vol. I, at p. 96, ll. 4-12; see also RT, vol. I, at p. 97, ll. 23-24.) Appellant’s subsequent cross-examination regarding this alleged statement focused on whether Gutierrez asked Haghghi for

clarification. (See generally RT, vol. I, at pp. 92-102.) Gutierrez later testified that Haghghi had not mentioned either branding agreements or intellectual property. (RT, vol. II, at p. 124, ll. 7-22.)

During the second day of proceedings, Department Special Investigator Torres testified that he accompanied Investigator Gutierrez to appellant's premises. (RT, vol. II, at p. 117, ll. 5-7.) Torres testified that he was present for Gutierrez's conversation with Haghghi, and that he "heard Mr. Haghghi state that he worked with licensed, unlicensed, or pretty much anybody that was willing to work with him." (RT, vol. II, at p. 118, ll. 46-25, and p. 119, ll. 1-2; see also RT, vol. II, at p. 120, ll. 5-16.) He also testified that he did not recall Haghghi mentioning branding agreements. (RT, vol. II, at p. 119, ll. 3-8.)

Haghghi's testimony extended over both days of administrative proceedings. (See RT, vol. I, at pp. 174-246; RT, vol. II, at pp. 7-84.) On direct examination, Haghghi stated that Gutierrez took his comments out of context. (RT, vol. I, p. 187, ll. 2-5.) He described his conversation with Inspector Gutierrez as follows:

[Counsel for Appellant]: So when you had your discussion with the investigator about unlicensed entities, were talking just about entities that never actually touch the cannabis product?

[Haghghi]: Yes, never touch cannabis product, but I never even mentioned anything about unlicensed—working with unlicensed entities out of my own words. That was a question she posed, and I immediately said no, I don't work with any unlicensed entities, and went into explaining brand, the brand and IPs.

(RT, vol. II, at p. 199, ll. 22-25, and p. 200, ll. 1-6.) Haghghi testified, "I was surprised and shocked that [Inspector Gutierrez] was inferring that I was doing something illegal by working with Life Cannabis and some unlicensed operators." (RT, vol. I, at p. 185, ll. 10-13.) He stated,

So her inspection, we also went in to spot-check the inventory, and one of it was Life Cannabis, and the whole conversation about an unlicensed operator came up with her question, and I gave her the background of the brand Life Cannabis being in the retail market, and her question to me was, "Is this owner licensed?" And I told her, the owner is not licensed, but he has an agreement with me as a distributor as well as a manufacturer, as an IP, intellectual property, licenses out the brand, and that's how the industry works.

(RT, vol. I, at p. 184, ll. 23-25, and p. 185, ll. 1-8.)

Following the administrative proceedings, ALJ Ghaly made the following findings of fact:

14. Aside from Haghghi's alleged admission, which Haghghi has disavowed, complainant's evidence establishing respondent did business with unlicensed entities is circumstantial: the manifests indicating deliveries to a defunct licensee who had vacated his facility at the address to which respondent was ostensibly delivering cannabis products; the fact that the manifests reflected an unusual number of deliveries to El Dorado within compressed time periods and Haghghi's admission that the manifests did not reflect the actual dates of deliveries further support a finding that whatever deliveries were made were not made when or to where the manifests reflect. The only reasonable inference from this evidence is that respondent was trying to conceal the actual recipient of its deliveries and the only reasonable inference for why that would be the case is because the recipient is unlicensed.

15. In addition to complainant's evidence, respondent's own evidence is not credible and only further supports a finding that respondent did do business with unlicensed entities. Haghghi's testimony about his comments to Gutierrez being taken out of context and that his only reference to unlicensed businesses was about branding companies is not credible. For one, why reference businesses ancillary to cannabis production and sale as "unlicensed"? If such businesses do not fall within the ambit of the Department's regulatory control, they have no status vis-à-vis the Department. Denoting them as unlicensed can only be understood as Haghghi's attempt to backpedal from his more candid statements to Gutierrez [sic] in an unguarded moment. Additionally, Haghghi's testimony about the manifests exhibiting only minor clerical errors is belied by the strong evidence that El Dorado was defunct at times the manifests reflect deliveries to its facilities. Gallo's testimony that he made his deliveries and returned without lengthy stops coupled with the only manifesto [sic] bearing a wet signature showing receipt of respondent's product one day after the date of delivery also support a finding that the hard copy manifest is falsified.

16. Circumstantial evidence may carry the burden of establishing a claim and may be as persuasive and convincing as direct evidence. (*People v. Overstock, Inc.* (2017) 12 Cal.App.5th 1064, 1086). There are limitations, however. Circumstantial evidence's inferences must be the logical extension of the evidence. "Speculation and conjecture alone is not substantial evidence." (*Feduniak v. California Coastal Commission* (2007) 148 Cal.App.4th 1346, 1360.) Here, the logical and direct inference to be drawn from complainant's evidence as well as Haghghi's uncredited statements is that respondent did cannabis-related business with unlicensed entities.

(Proposed Decision, at p. 9, ¶¶ 14-16.) Based on these findings, ALJ Ghaly reached the following conclusion of law regarding the first cause for discipline under rule 15000.1:

7. As a first cause of discipline, the Department alleged respondent, through the actions of Haghghi, violated Regulation section 15000.1. Specifically, complainant alleged respondent falsified manifestos [sic] to reflect he was making deliveries to another Department licensee when, in fact, that licensee, El Dorado, had vacated its premises for at least several months during the period respondent was ostensibly making deliveries to it.

8. As set out in Factual Finding 14 through 16, complainant established respondent did business with unlicensed entities.

(*Id.* at p. 12, ¶¶ 7-8.)

Appellant would have this Panel conclude that the Department's offer of proof under rule 15000.1 consisted of a solitary hearsay statement contained in Inspector Gutierrez's investigative report. In fact, both Gutierrez and Investigator Torres appeared and testified about the conversation, as did Haghghi himself. All three were subject to cross-examination. Ultimately, ALJ Ghaly found Haghghi's testimony to be not credible.

It is true that Haghghi's statements about "people who don't have licenses" described in the investigative report and in the testimony offered by Investigators Gutierrez and Torres might constitute hearsay. If so, it is nevertheless admissible, for several reasons. First, Haghghi's statement constitutes a party admission. (See Evid. Code, § 1220.) Second, the statement is offered as hearsay in an administrative proceeding, meaning that it "may be used for the purpose of supplementing or explaining other evidence." (See Gov. Code, § 11513(d).) As described in the findings of fact, Haghghi's admission supplemented additional, non-hearsay evidence that appellant's manifests were inaccurate and that it delivered cannabis product to El Dorado Extracts' vacated premises.

Additionally, it is not clear that appellant objected to Haghghi's statement as hearsay. It did object to the admission of Gutierrez's report on hearsay grounds, but because it included "statements by non-parties as hearsay." (RT, vol. I, at p. 87, ll. 19-22; see also Exh. 7.) As appellant's owner, Haghghi is, of course, a party—indicating that the objection did not apply to his statement. Regardless, ALJ Ghaly overruled the objection, noting that hearsay is admissible in administrative proceedings. (RT, vol. I, at p. 87, ll. 23-25, and p. 88, ll. 14-15.) Appellant does not argue that this evidentiary ruling was incorrect, but instead insists Haghghi's hearsay statements in the report "cannot constitute substantial evidence on critical issues" under Government Code section 11513(d) due to the existence of contrary evidence. (See App.Br., at

p. 11.) Appellant misstates the law. The presence of contrary evidence has no effect on the admissibility of hearsay evidence in administrative proceedings. (See Gov. Code, § 11513(d).)

ALJ Ghaly's ruling turned on multiple facts and credibility assessments. Haghghi's hearsay statement to Inspector Gutierrez was properly admitted for the purpose of supplementing or explaining other evidence. Taken together, this evidence supports ALJ Ghaly's findings of fact, including reasonable inferences based on circumstantial evidence. Substantial evidence therefore exists to establish that appellant violated rule 15000.1.

The second cause for discipline alleged failure to accurately record cannabis activity in violation of rules 15047.2, subdivisions (b) and (c). Those provisions state:

(b) All commercial cannabis activity shall be accurately recorded in the track and trace system.

(c) A licensee is responsible for the accuracy and completeness of all data and information entered into the track and trace system. The licensee is responsible for all actions taken by the designated account manager or other account users while performing track and trace activities.

(Code Regs., tit. 4, § 15047.2(b)-(c).)

The third cause for discipline implicates related facts. It alleged improper use and sharing of CCTT credentials, in violation of rule 15048(c) and 15048.1(a)(1) through (3). Rule 15048 states, in relevant part,

(c) The account manager and each user shall utilize a unique login, consisting of a username and password. The account manager and each user shall only access the track and trace system under their assigned login. No account manager or user shall share their login, username, or password, with any other individual for any reason.

(§ 15048(c).) Rule 15048.1 states, in relevant part:

(a) A licensee and their designated account manager(s) shall:

(1) Designate track and trace system users, as needed, and require the system users to be trained in the proper and lawful use of the track and trace system before the users are permitted to access the track and trace system;

(2) Maintain an accurate and complete list of all of the licensee's track and trace system users, including full names and usernames, and update the list immediately when changes occur;

(3) Remove a user from the licensee's track and trace system account when that individual is no longer authorized to represent the licensee.

(§ 15048.1(a)(1)-(3).)

ALJ Ghaly made the following findings of fact relevant to the second and third causes for discipline:

9. Haghghi maintained the use of S.S.'s credentials was a simple clerical error. The email address associated with S.S.'s log in information was respondent's general email and Haghghi was hesitant to cease using it as that might mean losing important correspondence. He also reiterated any mistakes were the fault of Tatiana, including sharing credentials for accessing the CCTT system. Haghghi maintained he discharged Tatiana from her position once he came to understand the many mistakes she had made. Sylvia Cano Rosales (Cano), respondent's new manager, testified at the hearing and stated she now uses proper credentialing for all of respondent's CCTT's [sic] entries into Metrc. Cano also stated all respondent employees now have their own credentials for inputting information into Metrc.

10. Haghghi stated Tatiana also was responsible for creating the manifests and did not always void out ones that were not used, another instance of her incompetence. He stated the driver did not always follow the manifests but had made multiple deliveries to El Dorado, always dropping off cannabis products per its orders.

(Proposed Decision, at pp. 6-7.) Based on these findings, ALJ Ghaly found that appellant had admitted to the violations alleged in the second and third causes of action.

On appeal, appellant does not contend otherwise. In fact, appellant does not address the improper sharing of credentials at all in its brief before this Panel, except to characterize it as an "administrative error[]" and to discuss its remedial measures. (App.Br., at pp. 5-6.)

The second and third causes for discipline are therefore supported by substantial evidence—namely, appellant's own admission.

The fourth and final cause for discipline alleged inaccurate distribution manifests, in violation of rule 15049.2(b)(1) through (2). (Code Regs., tit. 4, § 15049.2(b)(1)-(2).) The language and proper interpretation of this rule are addressed in more detail in Part III, *supra*. Additionally, the findings of fact relevant to this cause for discipline overlap with the facts supporting the first cause for discipline, discussed above. (See Proposed Decision, at pp. 8-9, ¶¶ 14-15.)

Based on these findings, ALJ Ghaly reached the following conclusion of law:

As a fourth cause for discipline, the Department alleged respondent violation regulation section 15049.2 by distributing cannabis on dates and times which did not match those on the associated delivery manifests. As set out in Factual Findings 14 through 16, the evidence established the manifests investigators found reflecting deliveries to El Dorado during the October through December, 2024 period could not have been correct because at that time, El Dorado's business was defunct and it had vacated the premises to which respondent's driver purportedly delivered cannabis product.

(*Id.* at p. 15, ¶ 16.)

As above, appellant alleges the erroneous manifests reflect logistics. (App.Br., at p. 13.) It argues that the "timing variances" on its manifests reflected "administrative logistics" and not "evidence of falsification or diversion." (*Ibid.*) However, as discussed in Part III, *supra*, the Department need not prove falsification, diversion, or other criminal activity in order to establish a violation of rule 15047.2; inaccurate record-keeping alone is sufficient. Additionally, appellant contends "Inspector Gutierrez did not verify which trips physically occurred . . . or obtain signed paper counterparts before concluding the manifests were 'inaccurate.'" (*Ibid.*)

However, Haghighi's testimony indicates that he was well aware that the delivery manifests were chronically inaccurate, and simply blamed the inaccuracies on his former employee, Tatiana. (RT, vol. II, at pp. 71-72.) Under the rule, however, the responsibility is placed on "the distributor" to ensure that the manifests reflect the "actual date and time" of arrival and departure. (Code Regs., tit. 4, § 15049.2(b)(1)-(2).) Appellant cannot evade responsibility by blaming a former employee. Substantial evidence therefore supports ALJ Ghaly's finding that, by Haghighi's own admission, "the manifests did not reflect the actual dates of deliveries." (Proposed Decision, at p. 8, ¶ 14.) Finally, appellant's driver, Jonathan Gallo, testified that he obtains a signature from a company representative upon delivery of any product. (RT, vol. II, at p. 105, ll. 11-22.) If appellant believed that the paper counterparts to its manifests provided a defense to the Department's allegations under rule 15049.2, then it fell on appellant to produce those documents. Ultimately, it produced only one—a manifest for El Dorado Extracts dated October 17, 2024, with a departure/arrival date of October 18, 2024, and a wet signature dated October 19, 2024. (Proposed Decision, at p. 7, ¶ 12; see also Exh. C.) The one paper manifest appellant did produce only reinforces the conclusion that its recordkeeping violated rule 15049.2. (See Code Regs., tit. 4, § 15049.2(b)(1)-(2).)

Substantial evidence therefore supports all four causes for discipline.

V. Sufficiency of Findings

Appellant directs this Panel to the California Supreme Court’s decision in *Topanga*, which held, in relevant part, “that implicit in section 1094.5 [of the Code of Civil Procedure] is a requirement that the agency which renders the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order.” (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.) According to appellant, the Final Decision fails to meet the standards set by *Topanga* for three reasons:

(1) it contains no analysis explaining why the Department’s own CCTT/Metric data—showing exclusively licensee-to-licensee transfers—should be disregarded in favor of Inspector Gutierrez’s uncorroborated interpretation of an ambiguous conversation; (2) no findings address Appellant’s substantial remedial measures and compliance monitoring instituted under the Interim Order [citation]; and (3) the Department’s implementation of the Interim Order through unexplained 65% denial rates and escalated demands undermined ALJ Heller’s express finding that targeted restrictions were sufficient.

(App.Br., at p. 14.) According to appellant, these “failures to address contrary evidence and explain reasoning require reversal under *Topanga*.” (*Ibid.*)

Subsequent courts have clarified the *Topanga* holding. For example, “In [*Topanga*], the granting of a variance by the County of Los Angeles was invalidated on the ground that no findings were made showing the existence of circumstances authorizing a variance under the provisions” of the applicable statute. (*Jacobson v. County of Los Angeles* (1977) 69 Cal.App.3d 374, 389.) “The holding of *Topanga* was, thus, that *in the total absence of findings in any form* on the issues supporting the existence of conditions justifying a variance, the granting of such variance could not be sustained.” (*Id.* at p. 389, emphasis added; see also *No-Slo Transit, Inc. v. City of Long Beach* (1987) 197 Cal.App.3d 241, 258-259.) The court continued, “Among other functions, a findings requirement serves to conduce the administrative body to draw legally relevant sub-conclusions supportive of its ultimate decision; the intended effect is to facilitate orderly analysis and minimize the likelihood that the agency will randomly leap from evidence to conclusions.” (*Jacobson, supra*, at pp. 389-390.)

In fact, in a later case on similar facts—aptly bearing the same party names—the court of appeal refined the original *Topanga* holding. It first held, like the earlier case, that “[t]he findings of an administrative agency must be sufficient to enable the parties to determine whether and upon what basis they should seek review and to allow a reviewing court to determine the basis for the agency’s action.” (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1989) 214 Cal.App.3d 1348, 1356, citing *Topanga Assn. for a Scenic Community*,

supra, 11 Cal.3d at p. 514.) The court added, “However, great specificity is not required. It is enough if the findings form an analytic bridge between the evidence and the agency’s decision.” (*Topanga Assn. for a Scenic Community, supra*, 214 Cal.App.3d at p. 1356, citing *Topanga Assn. for a Scenic Community, supra*, 11 Cal.3d at p. 515.)

More importantly, the later *Topanga* court wrote,

In addition, findings are to be liberally construed to support rather than defeat the decision under review. [Citation.] “[W]here reference to the administrative record informs the parties and reviewing courts of the theory upon which an agency has arrived at its ultimate finding and decision it has long been recognized that the decision should be upheld if the agency ‘in truth found those facts which as a matter of law are essential to sustain its . . . [decision].’”

(*Topanga Assn. for a Scenic Community, supra*, 214 Cal.App.3d at p. 1356, quoting *McMillan v. Am. Gen. Fin. Corp.* (1976) 60 Cal.App.3d 175, 184.)

In this case, none of appellant’s contentions merit reversal under the original *Topanga* holding. With regard to appellant’s first point, a review of the Proposed Decision shows that ALJ Ghaly made detailed factual findings providing “circumstantial” evidence that appellant “did business with unlicensed entities.” (Proposed Decision, at pp. 8-9, ¶¶ 14-16.) Based on these findings, ALJ Ghaly reached the legal conclusion that appellant had violated rule 15000.1. (*Id.* at p. 12, ¶¶ 6-8.) The sufficiency of circumstantial evidence is addressed in Part IV, *supra*. That aside, these findings are sufficient to “bridge the analytic gap between the raw evidence and” the ultimate conclusions of law.

Appellant’s second point is simply inaccurate. Appellant’s compliance with the terms of the interim Order Imposing License Restrictions does not constitute evidence either establishing or disproving the violations alleged in the Department’s Accusation. However, appellant’s compliance with its terms could be—and was—considered in selecting the penalty. ALJ Ghaly ultimately rejected it as a mitigating factor:

Evidence of Mitigation and Rehabilitation. Respondent presented evidence of mitigation and rehabilitation, particularly with respect to improving compliance by hiring competent staff and arranging for the services of a compliance officer. However, in light of Haghghi’s improbably statements and lack of accountability, these improvements to business systems ring hollow and provide little guarantees [sic] that, should respondent be allowed to remain in business, it would adhere to the legal requirements.

(*Id.* at p. 17, ¶ 20.) Because appellant’s compliance with the earlier Order was not relevant to proof of the violations alleged, ALJ Ghaly was not required to make findings on it. Nevertheless,

appellant's compliance is acknowledged in the penalty section of the decision, undermining appellant's contention that "no findings address" it. (*Ibid.*; App.Br., at p. 14.)

Finally, as discussed in Part I, *supra*, this Panel reviews only the Final Decision, not the interim Order Imposing License Restrictions or its implementation.

VI. Penalty

Appellant raises two related arguments aimed at the penalty imposed.

First, appellant contends that a penalty of revocation is a "disproportionate punishment untethered to actual risk" and "may be imposed only when lesser sanctions are insufficient to protect the public." (App.Br., at p. 14.) Appellant claims "the record shows first-time administrative issues, no prior citations or discipline, and no public harm," and that "[t]he Department bypassed its own progressive [disciplinary] framework entirely, seeking revocation for first-time recordkeeping errors without giving Appellant any opportunity to remedy deficiencies." (*Id.* at p. 15.) It insists that "[t]he absence of any actual or imminent public harm makes revocation arbitrary." (*Ibid.*)

Second, appellant argues that the Order Imposing License Restrictions itself supplies proof that revocation is an excessive penalty. It writes,

The Department cannot simultaneously maintain that (a) restrictions were sufficient to protect the public, thereby justifying revocation; while (b) restrictions were sufficient to protect the public pending adjudication, as ALJ Heller found. The Department had the same evidence in May 2025 that it presented in June 2025. Its shifting position on what protections are "sufficient" appears result-driven rather than risk-based.

(*Id.* at pp. 9-10.) Appellant contends that ALJ Heller's "rejection of suspension in favor of restrictions was a reasoned determination that lesser measures would adequately protect the public," a finding it claims is "entitled to substantial weight." (*Id.* at p. 15.)

In response, the Department argues that appellant has three Tier 2 violations, indicating that the Department "was well within its discretion to revoke Appellant's license without even considering Appellant's transactions with unlicensed entities." (Dept.Br., at p. 14.) The Department further notes that "[c]onducting commercial cannabis transactions with unlicensed entities is a Tier 3 violation, the most serious category under the Department's Disciplinary Guidelines, and on its own warrants the revocation of a license." (*Ibid.*)

Additionally, the Department points out that the revocation penalty imposed by the Final Decision was based on a separate proceeding which entailed the presentation of evidence,

including live testimony requiring credibility assessments, which was unavailable at the interim proceeding by operation of law. (*Id.* at p. 15; see also Bus. & Prof. Code, § 494.)

This Panel's scope of review includes "[w]hether the department has proceeded without or in excess of its jurisdiction" and "[w]hether the department has proceeded in the manner required by law." (Bus. & Prof. Code, § 26043(c)(1)-(2).) In assigning a penalty, the Department is therefore "bound to exercise legal discretion, which is, in the circumstances, judicial discretion." (*Martin v. Alcoholic Bev. Control Appeals Bd.* (1965) 55 Cal.2d 867, 875.) Judicial discretion "is not a capricious or arbitrary discretion, but an impartial discretion, guided and controlled in its exercise by fixed legal principles." (*Bailey v. Taaffe* (1866) 29 Cal. 422, 424.)

The standard of review for a penalty is therefore abuse of discretion. (*Landau v. Med. Bd.* (1998) 81 Cal.App.4th 191, 217-218; see also *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, 217.) "[I]t is well settled that in reviewing the penalty imposed by an administrative body, neither a trial court nor an appellate court is free to substitute its own discretion as to the matter." (*Nightingale v. State Personnel Bd.* (1972) 7 Cal.3d 507, citing *MacFarlane v. Dept. of Alcoholic Bev. Control* (1958) 51 Cal.2d 84, 91.) Moreover, a reviewing court may not "substitute its own discretion" in order to "interfere with the imposition of a penalty by an administrative tribunal because in the court's own evaluation of the circumstances the penalty appears to be too harsh." (*Lake v. Civ. Service Com.* (1975) 47 Cal.App.3d 224, 228; see also *Collins v. Bd. of Med. Examiners* (1972) 29 Cal.App.3d 439, 446.) "If reasonable minds might differ as to the propriety of the penalty imposed, this fact serves to fortify the conclusion that the administrative body acted within the area of its discretion." (*Harris v. Alcoholic Bev. Control Appeals Bd.* (1965) 62 Cal.2d 589, 594; *Marino v. City of Los Angeles* (1973) 34 Cal.App.3d 461, 464.)

This Panel may therefore only review whether the penalty of revocation represented a valid exercise of the Department's discretion under the law. It may not substitute an alternative penalty.

Rule 17814 states, "In reaching a decision on a disciplinary action . . . the Department shall consider the disciplinary guidelines . . . which are hereby incorporated by reference." (Code Regs., tit. 4, § 17814.) The rule allows for deviation "where the Department in its sole discretion determines that the facts of the particular case warrant such a deviation (e.g., the presence of mitigating factors, the age of the case, or evidentiary problems)." (*Ibid.*)

The Department's Disciplinary Guidelines are divided into tiers depending on the severity of the violation. Each tier is then assigned a recommended maximum and minimum penalty. According to the Disciplinary Guidelines,

Tier 2 discipline is recommended for

- Violations with a serious potential for harm
- Violations which involve greater risk and disregard of public safety

(Dept. Disciplinary Guidelines (Jul. 2022) (“Disciplinary Guidelines”), at p. 8.) The minimum penalty for a Tier 2 violation is “Revocation stayed, 15 to 30-day suspension, a fine . . . , or a combination of a suspension and fine.” (*Ibid.*) The maximum penalty for a Tier 2 violation is “Revocation.” (*Ibid.*)

Tier 2 violations established in this case include all violations described in the second through fourth causes for discipline described in the Final Decision, including violations of rule 15047.2(b) and (c) (first cause for discipline); rules 15048(c) and 15048.1(a)(1) through (3) (second cause for discipline); and rule 15049.2 (third cause for discipline). (*Ibid.*; see also Proposed Decision, at pp. 12-15, ¶¶ 9-16.)

Tier 3 violations, on the other hand, represent an elevated risk of harm. According to the Disciplinary Guidelines,

Tier 3 discipline is recommended for:

- Knowing or willfully violating laws or regulations pertaining to commercial cannabis activity.
- Fraudulent acts relating to the licensee’s commercial cannabis business.

(Disciplinary Guidelines, at p. 11.) The minimum penalty for a Tier 3 violation is “Revocation stayed, 45-day suspension, a fine . . . , or a combination of a suspension and fine.” (*Ibid.*) The maximum penalty for a Tier 3 violation is “Revocation.” (*Ibid.*)

The first cause for discipline established in this case—a violation of rule 15000.1—constitutes a Tier 3 violation. (*Id.* at p. 12; see also Proposed Decision, at p. 12, ¶¶ 6-8.)

ALJ Ghaly reviewed these Penalty Guidelines in addition to several factors she deemed relevant to the penalty determination:

Nature and gravity of the act(s), violations, or crime(s) under consideration. [Appellant]’s acts, involving essentially circumventing the regulatory requirements for tracking cannabis transport and ensuring cannabis transactions occur only with other licensees, are very serious.

Actual or potential harm to the public or consumers. Because [appellant] sent out cannabis product into the cannabis supply chain without essential safeguards to track and maintain control over the product, whether there is danger to the public or consumers cannot be determined; however, its actions create potential harm for both.

Prior disciplinary and/or administrative record. [Appellant] has no history of prior discipline though its relatively short tenure under its current owner gives this factor little weight.

Number and/or variety of current violations. As alleged, [appellant]'s transgressions encompassed violations of multiple regulations.

Evidence of Mitigation and Rehabilitation. [Appellant] presented evidence of mitigation and rehabilitation, particularly with respect to improving compliance by hiring competent staff and arranging for the services of a compliance officer. However, in light of Haghghi's improbable statements and lack of accountability, these improvements to business systems ring hollow and provide little guarantees [sic] that, should [appellant] be allowed to remain in business, it would adhere to the legal requirements.

(Proposed Decision, at pp. 16-17, ¶ 20.) ALJ Ghaly concluded, "Considering the Guidelines' recommended penalties and factors for disposition, nothing in the record supports a basis for leniency." (*Id.* at p. 17, ¶ 21.) License revocation, she determined, was "warranted and necessary for the public safety." (*Ibid.*)

A penalty of revocation falls well within the Department's Disciplinary Guidelines for any one of the violations at issue. Moreover, ALJ Ghaly reviewed both aggravating and mitigating factors and determined that revocation was necessary to protect the public. Because a penalty of revocation is clearly within the Department's discretion for any one of the multiple violations at issue in this case, this Panel cannot find that the Department abused its discretion when it revoked appellant's license.

Appellant's contention that the Order Imposing License Restrictions was sufficient to protect public health and safety also fails.

An interim order is issued pursuant to a limited, expedited proceeding. In order to initiate the proceeding, the complainant agency need not file a complete accusation; it must only present "affidavits that demonstrate," by a preponderance of the evidence, that the licensee "engaged in acts or omissions constituting a violation of [the Business and Professions] code or has been convicted of a crime substantially related to the licensed activity," and that allowing the licensee "to continue to engage in the licensed activity," or "continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare." (Bus. & Prof. Code, § 494(a)(1)-(2), (e).)

During these proceedings, the licensee may "[b]e represented by counsel," "[p]resent affidavits and other documentary evidence," and "[p]resent oral argument." (§ 494(d)(1), (3)-(4).) However, neither the licensee nor the licensing agency is allowed the opportunity to

present or cross-examine witnesses. The truncated and incomplete nature of the proceeding is implicitly acknowledged by the requirement that the complainant agency “shall file an accusation within 15 days of the issuance of an interim order.” (§ 494(f).)

Finally, the discipline pursuant to an interim order is limited to license suspension or conditions. (§ 494(a).) Revocation is not an available remedy under section 494 regardless of the nature or severity of the violations alleged. (See *ibid.*) In fact, it would make little sense for revocation to be an available remedy in an interim proceeding, where the prosecuting agency has yet to present a complete case, and the defending licensee has not yet had the opportunity to gather and present a full defense.

In other words, an interim order functions as an expedited public protection measure pending accusation and full evidentiary hearing. It cannot serve as a substitute for a full and fair hearing on the merits. In this case, after a complete, two-day hearing that included the presentation of evidence and the examination of witnesses, the trier of fact imposed a penalty of revocation. (See generally Proposed Decision.) As discussed above, the penalty complies with the Penalty Guidelines and does not represent an abuse of discretion. The fact that a lesser, alternative penalty was imposed as part of limited interim order proceedings carries no weight in this Panel’s review.

VII. Public Policy

Appellant claims that the outcome of this case “sets a dangerous precedent for California’s cannabis industry.” (App.Br., at p. 18.) Appellant argues that the decision creates “regulatory uncertainty” that “deters potential operators from building a stable and compliant business in California” and further “destabilizes compliant supply chains without demonstrable safety benefit.” (*Id.* at pp. 18-19.)

The Department of Cannabis Control, overseen by its Director, holds “the power, duty, purpose, responsibility, and jurisdiction to regulate commercial cannabis activity as provided” by applicable laws. (Bus. & Prof. Code, § 26010.5(d).) It holds the authority to “make and prescribe reasonable rules and regulations as may be necessary to implement, administer, and enforce its duties under this division.” (§ 26013(a).) California’s rulemaking process provides substantial opportunity for stakeholders—both cannabis licensees and the public at large—to participate in the rulemaking process and thereby shape the trajectory of the state’s cannabis industry. (See, e.g., Gov. Code, §§ 11346.2 [requiring public notice of all proposed regulations, including the purpose and rationale for each proposed rule], 11346.3 [requiring economic impact assessments as part of regulatory process], and 11346.45 [“In order to increase public participation and improve the quality of regulations, state agencies proposing to adopt

regulations shall . . . involve parties who would be subject to the proposed regulation in public discussions”].)

However, the Department’s policy priorities are ultimately prescribed, in part, by statute: “The protection of the public shall be the highest priority for the department in exercising licensing, regulatory, and disciplinary functions under this division. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.” (Bus. & Prof. Code, § 26011.5.) In other words, where the protection of the public conflicts with the promotion and growth of the cannabis industry, the Department is required to protect the public.

On the other hand, this Panel’s jurisdiction and scope of review are strictly limited. (See § 26043.) This Panel exists solely to hear appeals from Department disciplinary actions. (*Ibid.*) Its regulatory authority is limited to “adopt[ing] procedures for appeals.” (§ 26042.) The Panel is not a policymaking body, and its authorizing statutes do not permit it to evaluate the impact of an individual Department decision on the broader cannabis industry. (See generally §§ 26040-26047.)

The Department—not this Panel—is the agency tasked with overseeing cannabis policy and its implementation within the state of California.

Order

For the foregoing reasons, the Panel finds appellant’s arguments unpersuasive. The Panel declines to review the terms or implementation of the Order Imposing License Restrictions and affirms the Department’s decision on all four causes for discipline.