

JOLLY RANCHER®
SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (hereinafter, the “Agreement”) is made and entered as of January 29, 2018 (the “Effective Date”), between The Hershey Company, a Delaware corporation with a business address of 100 Crystal A Drive, Hershey, Pennsylvania 17033 and its trademark management subsidiary, Hershey Chocolate & Confectionary Corporation, a Delaware corporation with a business address of 4860 Robb Street, Suite 204, Wheat Ridge, Colorado 80033 (hereinafter, collectively referred to as “Hershey”); and Patients Mutual Assistance Collective Corporation d/b/a Harborside Health Center, a California corporation with an address of 1840 Embarcadero, Oakland, California, 94606 (hereinafter, referred to as “Harborside”). Hershey and Harborside are referred to herein individually as the “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, Hershey is the exclusive United States licensee of the JOLLY RANCHER® trademark, which have been used by Hershey in connection with the JOLLY RANCHER® brand products

WHEREAS, Hershey alleged that Harborside has utilized the JOLLY RANCHER® trademark or the confusingly similar mark, “Jolly Meds” in connection with the promotion and sale of the “Jolly Meds” cannabis edible evidence of which is hereto attached as **Exhibit A** through **Exhibit C** (hereinafter, referred to as the “Products”);

WHEREAS, Hershey has asserted that Harborside has infringed its intellectual property rights in violation of state and/or federal law by utilizing the JOLLY RANCHER® trademark or confusingly similar mark, “Jolly Meds” without authorization in connection with the promotion and sale the Products;

WHEREAS, Harborside has asserted that it had no role in manufacturing the Products or their packaging, or in selecting the name “Jolly Meds” and therefore has not willfully infringed any alleged intellectual property rights;

WHEREAS, Harborside represents and warrants that it has never used the term “Jolly Meds” for any commercial purpose other than in connection with the Products, and is no longer utilizing “Jolly Meds” in any capacity whatsoever in connection with its other offered products;

WHEREAS, Harborside filed *Patients Mutual Assistance Collective Corporation dba Harborside Health Center v. The Hershey Company et. al*, Case No. 3:17-cv-07173 in the Northern District of California and *Patients Mutual Assistance Collective Corporation dba Harborside Health Center v. The Hershey Company et. al*, Case No. 3:17-cv-07175 in the Northern District of California (the

“Lawsuits”) in response, *inter alia*, to Hershey’s continued assertions of intellectual property infringement of the JOLLY RANCHER® trademark or confusingly similar mark, “Jolly Meds”;

WHEREAS, the Parties wish to resolve this matter amicably, without the need for further litigation.

NOW, THEREFORE, in consideration of the promises and covenants set forth herein; and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DISMISSAL.** Harborside agrees to dismiss with prejudice all current actions, including the Lawsuits. Such dismissal(s) must be filed within three (3) days of the Effective Date of this Agreement. Both Harborside and Hershey’s shall bear their own attorneys’ fees and costs in connection with this dispute. .
2. **MUTUAL RELEASES.**
 - a. Except for actions related to the breach or enforcement of this Agreement, Hershey’s Parties release, forgive, acquit, and forever discharge Harborside, and each of their attorneys, heirs, administrators, officers, directors, members, agents, servants and employees from all civil claims, demands, and causes of action, whether asserted or unasserted, liquidated or unliquidated, known or unknown, whether arising in tort, contract, statute or otherwise, whether for damages (including but not limited to direct, indirect, consequential (including without limitation lost sales, lost profits, lost business opportunities, or damage to goodwill or reputation), special, punitive, and/or treble damages, costs, expenses, attorneys' fees, penalties, sanctions, and/or of any other charges or sums of money of any kind whatsoever, arising out of the offer for sale or advertisement of the Products which exist as of the Effective Date.
 - b. Except for actions related to the breach or enforcement of this Agreement, Harborside releases, forgives, acquits, and forever discharges Hershey’s and each of their attorneys, heirs, administrators, officers, directors, members, agents, servants, and employees from all claims, demands, and causes of action, whether asserted or unasserted, liquidated or unliquidated, known or unknown, whether arising in tort, contract, statute or otherwise, whether for damages (including but not limited to direct, indirect, consequential (including without limitation lost sales, lost profits, lost business opportunities, or damage to goodwill or reputation), special, punitive, and/or treble damages, costs, expenses, attorneys' fees, penalties, sanctions, and/or of any

other charges or sums of money of any kind whatsoever, arising out of the subject matter of Lawsuits, including any demand for attorneys' fees and costs.

3. **COVENANT.** Harborside, on behalf of itself, and its owners, directors, officers and employees, covenants it will never in the future advertise, sell, manufacture, cause to be manufactured or distribute the Products. Nothing in this Agreement shall preclude Harborside from advertising, selling, or distributing the Products if they have been repackaged or relabeled in a manner such that the "Jolly Meds" name is not visible.
4. **NO LICENSE.** Nothing in this Agreement shall be construed to confer a license of any trademark or trade dress, or any other form of intellectual property to Harborside.
5. **AUTHORITY.** The Parties warrant that they have each read this Agreement and have had time to consider it and have obtained the advice of counsel regarding this Agreement, its meaning and application, and are signing of their own free will with the intent of being bound by it. The signers assert that each has full authority to execute this Agreement.
6. **FULL AGREEMENT.** This Agreement supersedes all prior and contemporaneous negotiations, agreements, discussions and writings and constitutes the entire agreement between the Parties with respect to the subject matter thereof.
7. **MODIFICATION.** No waiver or modification of this Agreement will be binding upon either Party unless made in writing and signed by a duly authorized representative of such Party.
8. **BREACH.** In the event that any court action is required to enforce the terms of this Agreement, the prevailing Party shall recover its reasonable attorney's fees and costs.
9. **STRICT ADHERENCE.** The failure of a Party to insist upon strict adherence to any term or obligation of this Agreement shall not be considered a waiver or deprive that Party of the right thereafter to insist upon strict adherence to that term or obligation, or any other term or obligation, of this Agreement.
10. **AMBIGUITY.** The Parties agree that any ambiguity in this Agreement is not to be construed against any Party to this Agreement on the grounds that such Party drafted the Agreement, but shall be construed as if all Parties jointly prepared this Agreement and any uncertainty or ambiguity shall not on that ground be interpreted against any one party. Any prior drafts of this Agreement shall not be used to determine the intent of the parties to this Agreement.

IN WITNESS WHEREOF, the Parties execute this Agreement, to be effective as of the date executed by all parties.

<p>The Hershey Company</p> <p>By: <u>Adrian D. Mebane</u></p> <p>Name: <u>Adrian D. Mebane</u></p> <p>Title: <u>Assistant Secretary</u></p> <p>Date: <u>1/30/2018</u></p>	<p>Patients Mutual Assistance Collective Corporation d/b/a Harborside Health Center</p> <p>By: <u>Steve DeAngelo</u></p> <p>Name: <u>Steve DeAngelo</u></p> <p>Title: <u>CEO</u></p> <p>Date: <u>1/28/18</u></p>
<p>Hershey Chocolate & Confectionery Corporation</p> <p>By: <u>Adrian D. Mebane</u></p> <p>Name: <u>Adrian D. Mebane</u></p> <p>Title: <u>Assistant Secretary</u></p> <p>Date: <u>1/30/2018</u></p>	

Exhibit A

The screenshot shows a web browser window with the URL <https://menu.shopharborside.com/menu/harbonside-dakamb/5702669?view=95f16030f6beac>. The page has a green header with a back arrow and the word "MENU". A notification states: "You are not logged into this location. To place an order, please [Login](#) or [Register](#)." The main product is "JOLLY MEDS | CBD-OO'S | GINGER", which is a square, golden-brown gummy. The ingredients listed are "Ginger Organic Flavoring, Cane Sugar, Corn Syrup, Filtered Water, Natural Organic Flavoring, and Medical Cannabis". The price is "\$12 Each". Below the main product is a "RELATED PRODUCTS" section with three items: "JAYDEN'S JUICE | CBD MCT OIL | 5 OZ", "LEMON REMEDY (S/I) (CBD) - 17-55-200-380", and "PRANA | P2 ACTIVE | 10 MG 30 QTY". A date and time stamp in the bottom right corner reads: "Tuesday, March 28, 2017, Local time: Tue 3:33 PM, Berlin: Tue 9:33 PM".

Exhibit B

Harborside Oakland

Secure | <https://menu.shopharborside.com/menu/harborside-oakland/57026437?ec=95b250301b0a>

MENU

You are not logged into this location. To place an order, please [Login](#) or [Register](#).


JOLLY MEDS | CBD-OO'S | STRAWBERRY


CBD


Strawberry Organic Flavoring
Cane Sugar, Corn Syrup, Filtered Water, Natural Organic Flavoring, and Medical Cannabis

\$12
Each

RELATED PRODUCTS


JAYDEN'S JUICE | CBD
MCT OIL | 5 OZ
CBD


LEMON REMEDY (S/I)
(CBD) - 17-55-200-380
CBD


PRANA | P2 ACTIVE | 10
MG 30 QTY
CBD

Tuesday, March 28, 2017
Local time: Tue 3:34 PM
Berlin Tue 9:34 PM

Exhibit C

Harborside Oakland

Secure | <https://menu.shopharborside.com/menu/harborside-oakland/17026837/evo9fo3601856web>

MENU

You are not logged into this location. To place an order, please [Login](#) or [Register](#).

JOLLY MEDS | CBD-OO'S | TANGERINE

CBD

3mg THC, 30mg CBD

Tangerine Organic Flavoring

Cane Sugar, Corn Syrup, Filtered Water, Natural Organic Flavoring, and Medical Cannabis

\$12
Each

RELATED PRODUCTS

JAYDEN'S JUICE | CBD MCT OIL | 5 OZ
CBD

LEMON REMEDY (S/I) (CBD) - 17-55-200-380
CBD

PRANA | P2 ACTIVE | 10 MG 30 QTY
CBD

Tuesday, March 28, 2017
Localtime Tue 9:34 PM
Etc/UTC Tue 9:34 PM