



March 8, 2019

John Sutton, CEO
NNV Operations I, Inc. dba Silver State Trading
895 South 21st Street
Sparks, NV 89431
john@silverstatetrading.com

NNV Operations I, Inc. dba Silver State Trading
930 Tahoe Blvd., Ste. 802-433
Incline Village, NV 89451

Re: Silver State Trading Complaint

Dear Mr. Sutton:

Please find enclosed with this letter the City of Sparks' complaint against NV Operations I, Inc. dba Silver State Trading (Silver State Trading) that was ordered by the Sparks City Council at its February 25, 2018 meeting pursuant to Sparks Municipal Code § 5.80.110(A). As you previously discussed with the City Manager's Office, and as was approved by the Sparks City Council, Silver State Trading should respond to this complaint within 15 days after receipt by filing an answer with the Sparks City Clerk pursuant to SMC § 5.80.110(B). Upon receiving Silver State Trading's answer, the City will schedule a hearing before the Sparks City Council pursuant to SMC § 5.80.110(C).

Please do not hesitate to contact myself or the City Manager's Office if you have any questions.

Respectfully,

A handwritten signature in blue ink, appearing to read "Lisa Hunderman", is written over a blue horizontal line.

Lisa Hunderman, City Clerk

Enclosure

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BEFORE THE SPARKS CITY COUNCIL

IN RE: CITY OF SPARKS BUSINESS
LICENSE NUMBERS S080836Q-LIC
AND S080837Q-LIC HELD BY
NNV OPERATIONS I INC.

COMPLAINT PURSUANT TO SPARKS MUNICIPAL CODE SECTION 5.80.110

City of Sparks Business Licensing Department through counsel Chester H. Adams,
Sparks City Attorney, and Brandon C. Sendall, Assistant City Attorney, complains, alleges, and
avers as follows:

JURISDICTION

1. The Sparks City Council has jurisdiction pursuant to NRS 268.0977, NRS
453A.326, NAC 453A.316, NAC 453A.400, NAC 453A.332(2), NAC 453D.282, NAC
453D.312(2), NAC 453D.400, and Sparks Municipal Code (SMC) 5.80.100 and 5.80.110.
Pursuant to SMC 5.80.110(A), the Sparks City Council considered an agenda item at its
regularly scheduled February 25, 2019 meeting addressing whether to initiate proceedings to
consider revoking business licenses held by NNV Operations I, Inc., dba Silver State Trading
(Silver State Trading). The Sparks City Council voted at the February 25, 2019 meeting to
institute these proceedings as outlined in SMC 5.80.110.

PARTIES

- 2. City of Sparks (the City) is a lawfully incorporated Charter City pursuant to NRS
Title 21 and Chapter 470, Statutes of Nevada (1975).
- 3. Silver State Trading is a corporation organized under the laws of Nevada.
- 4. Silver State Trading currently holds two business licenses with the City of Sparks.
The two licenses are (1) City of Sparks business license S080836Q-LIC for the cultivation of
marijuana, and (2) City of Sparks business license S080837Q-LIC for the production of edible
marijuana products or marijuana-infused products.

1 **PRIMA FACIE CASE FOR REVOCATION OF BUSINESS LICENSE**

2 5. In order to conduct a lawful marijuana-related business within the City of Sparks,
3 SMC requires that all businesses apply for, receive, and thereafter maintain a business license in
4 accordance with SMC Chapter 5.80. The maintenance of a business license requires the timely
5 payment of all applicable business license fees. SMC 5.80.180.

6 6. SMC regulates the commercial cultivation, production, distribution, and sale of
7 marijuana and other marijuana-infused products in accordance with the laws of the State of
8 Nevada.

9 7. NRS 268.0977 empowers the governing body of an incorporated city to fix,
10 impose or collect a license tax on marijuana establishments and medical marijuana
11 establishments located within its corporate limits, provided that the total amount of such a
12 license tax must not exceed three (3) percent of the establishment's gross revenue.

13 8. SMC imposes business license fees on entities holding marijuana-related business
14 licenses, including quarterly business license fees based on the gross receipts of all marijuana
15 establishments that hold state-issued "recreational" licenses authorized by NRS Chapter 453D.
16 SMC 5.80.195.

17 9. In order to maintain a lawful commercial marijuana business within the City of
18 Sparks, SMC 5.80.180 and 5.80.195 impose a legal obligation upon each such business to timely
19 submit payment of quarterly business license fees.

20 10. SMC 5.80.100 and 5.80.110 provide that a marijuana-related business license may
21 be revoked for (1) failure to timely submit business license payments, or (2) refusal or neglecting
22 to comply with any provisions of SMC Chapter 5.80.

23 11. Silver State Trading is the holder of two City of Sparks business licenses that
24 authorize it to conduct business in the City of Sparks for the cultivation of marijuana and the
25 production of edible marijuana products or marijuana-infused products, and is therefore
26 obligated to pay business license fees to the City of Sparks based upon its gross receipts received
27 through the sales of marijuana, edible marijuana products, and marijuana-infused products as
28 outlined in SMC 5.80.180 and 5.80.195.

1 12. Sparks business license holder Silver State Trading has failed or refused to timely
2 pay its business license fees resulting in delinquent penalties and costs.

3 **BUSINESS LICENSE FEE PAYMENT HISTORY**

4 13. Pursuant to SMC 5.80.180 and 5.80.195, marijuana establishments that hold state-
5 issued “recreational” licenses authorized by NRS Chapter 453D must pay quarterly licensing
6 fees that are based on the establishment’s quarterly gross receipts for the preceding calendar
7 quarter.

8 14. In July and August of 2018, Silver State Trading began arguing that it was only
9 required to pay business licensing fees for its sales to dispensaries located within the City of
10 Sparks, while not reporting gross receipts or paying business licensing fees associated with its
11 sales to dispensaries located in other jurisdictions. Thus, Silver State Trading only reported a
12 percentage of its total gross receipts for the second quarter of 2018 and only paid quarterly
13 business licensing fees on a percentage of its total gross receipts.

14 15. Silver State Trading met with City staff on or about September 13, 2018, during
15 which Silver State Trading stated it would provide additional information to explain its legal
16 position. Silver State Trading’s Chief Financial Officer stated that he would provide this
17 information by September 17, 2018.

18 16. On September 17, 2018, Silver State Trading’s Chief Financial Officer contacted
19 City staff and stated that he would need until September 19, 2018 to provide the additional
20 information.

21 17. The City never received any additional information from Silver State Trading that
22 would explain or justify its position that it was not obligated to pay licensing fees associated with
23 all of its gross receipts.

24 18. The City sent Silver State Trading a letter on or about October 5, 2018 stating that
25 (1) the City never received any additional information as promised, (2) City staff considered
26 Silver State Trading to be in violation of SMC Section 5.80.180, and (3) Silver State Trading
27 must immediately (a) submit amended quarterly filings for the second quarter of 2018, and (b)
28 pay all outstanding gross receipts business licensing fees for the second quarter of 2018. The

1 October 5, 2018 letter also stated that Silver State Trading's third quarter gross receipts fees
2 would be due at the end of the month and stressed that Silver State Trading must pay the correct
3 third quarter fees by the due date or City staff would bring the matter before the Sparks City
4 Council to begin the process to revoke Silver State Trading's cultivation and production business
5 licenses.

6 19. City staff requested that if Silver State Trading truly believed there was a viable
7 legal argument that the City was improperly over-charging, then Silver State Trading should pay
8 its quarterly business licensing fees under protest until the legal scope of the City's gross receipts
9 business license fee could be resolved, in which case the City would refund any excess fees
10 collected.

11 20. On or about October 30, 2018, Silver State Trading submitted partial gross
12 receipts filings and fees for the third quarter of 2018 based on the same argument that Silver
13 State Trading's gross receipts were limited to sales made to dispensaries located within the City
14 of Sparks.

15 21. On or about October 31, 2018, Silver State Trading stated that it received an
16 opinion from its legal counsel and based on that advice Silver State Trading agreed that its prior
17 interpretation of its quarterly business license fee obligations was incorrect. Silver State Trading
18 agreed to: (1) submit amended quarterly filings for the second and third quarters of 2018, (2) pay
19 its full third quarter of 2018 fees by the end of the day on October 31, 2018, and (3) pay its
20 outstanding second quarter licensing fee balance and all applicable late fees by November 30,
21 2018. Silver State Trading also agreed that it would, in the future, report its full gross receipts
22 based on all sales and would pay the proper corresponding quarterly licensing fees on time. The
23 City Manager informed Silver State Trading that any failure to comply with these terms would
24 result in City staff bringing the matter before the Sparks City Council to begin the process of
25 revoking Silver State Trading's cultivation and production business licenses.

26 22. Silver State Trading paid its full business license fee obligations for the third
27 quarter of 2018 on October 31, 2018, as promised.

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1 23. Silver State Trading paid its full remaining second quarter of 2018 business
2 license fee obligations on November 28, 2018, with all applicable late fees, as promised.

3 24. In late January of 2019, the City business licensing office contacted Silver State
4 Trading's Office Manager to schedule a time to process Silver State Trading's fourth quarter of
5 2018 business license fee payment. The license fee was due by January 30, 2019 pursuant to
6 SMC 5.80.180(C).

7 25. Silver State Trading informed the City's business licensing office that it was
8 unable to pay the quarterly license fees by the January 30, 2019 due date. Silver State Trading's
9 Office Manager stated that one of its employees or contractors had discussed its non-payment
10 with the City Manager, but such a conversation had not occurred.

11 26. The City did not receive a quarterly gross receipts filing or any quarterly business
12 license fees from Silver State Trading by the January 30, 2019 due date.

13 27. The City Manager informed Silver State Trading in writing on February 1, 2019
14 that Silver State Trading's failure to submit its quarterly filings or pay quarterly business
15 licensing fees for the fourth quarter of 2018 by the January 30, 2019 deadline were in breach of
16 its prior promise to pay all business license fees in full and on time, and that City staff would
17 bring the matter before the Sparks City Council to begin the process of revoking Silver State
18 Trading's cultivation and production business licenses.

19 28. Silver State Trading contacted the City Manager the same day and made itself
20 available to pay its full fourth quarter of 2018 business license fees, plus applicable late
21 penalties, during the week of February 4, 2019. Final payment was not made until February 12,
22 2019 due to scheduling conflicts with the necessary City personnel to process payment.

23 29. As of Silver State Trading's February 12, 2019 payment, Silver State Trading is
24 current on all of its business license fee obligations with the City, including the payment of all
25 applicable late fees.

26 30. At its regularly scheduled meeting on February 25, 2019, the Sparks City Council
27 considered an agenda item addressing whether to initiate further proceedings to consider
28 revoking Silver State Trading's business licenses. The City Council heard from John Sutton,

1 Chief Executive Officer of Silver State Trading, and Will Hitchcock, Chief Financial Officer of
2 Silver State Trading, at the February 25, 2019 meeting. The City Council voted to direct the City
3 Manager's Office and City Attorney's Office to institute these proceedings as outlined in SMC
4 5.80.110(A) to determine whether Silver State Trading's cultivation and production business
5 licenses should be revoked.

6 **VIOLATIONS UNDER SPARKS MUNICIPAL CODE**

7 31. NRS 268.0977 empowers the governing body of an incorporated city to fix,
8 impose or collect a license tax on marijuana establishments and medical marijuana
9 establishments located within its corporate limits, provided that the total amount of such a
10 license tax must not exceed three (3) percent of the establishment's gross revenue.

11 32. SMC 5.80.195(A)-(B) provide that any marijuana cultivation or production
12 facility that holds any state-issued licensed authorized by NRS Chapter 453D shall pay, in
13 addition to a one-time application fee, business license fees of three (3) percent of the
14 establishment's gross receipts for the immediately preceding quarter.

15 33. SMC 5.80.180(C) provides that marijuana establishment license fees shall be in
16 the amounts provided in Section 5.80.195, and that the portion of license fees based on the
17 establishment's quarterly gross receipts shall be payable not later than 30 calendar days after the
18 end of each calendar quarter.

19 34. SMC 5.80.100 establishes the grounds by which a marijuana establishment
20 license may be revoked by the City Council. Any such license may be revoked by the City
21 Council if it appears to the satisfaction of a majority of the members of the City Council that a
22 licensee or an employee has failed to pay any license fee, or refused or neglected to comply with
23 any of the provisions of SMC Chapter 5.80. SMC 5.80.100(E)-(F).

24 35. Silver State Trading's recent failure to submit quarterly gross receipts filings or
25 pay its full quarterly business license fees on time may provide the Sparks City Council with
26 grounds for revoking Silver State Trading's cultivation and production business licenses.

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