

STATE OF NEW YORK
OFFICE OF CANNABIS MANAGEMENT
OFFICE OF ADMINISTRATIVE HEARINGS

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

Hush Rush 3880, Inc.

Respondent.

DECISION

Complaint No. 102 2024 0611 0006

The above noted matter was held as a Webex hearing before the undersigned, Carl Stoll, on July 16, 2024.

The Respondent failed to appear.

The Office of Cannabis Management (hereinafter “OCM”) was represented by Paul Tsui, Esq.

Investigative Specialist Bladimir Nunez was present and prepared to testify on behalf of OCM.

Regulations at 9 NYCRR 133.18(a) (3) provide that “If a party fails to appear at the hearing and no adjournment has been requested and granted for cause, the administrative law judge shall recommend a default order.” As such, a default judgment in this case is hereby entered.

ISSUE

The allegations set forth in the Notice of Violation, Order to Cease Unlicensed Activity and Order to Seal (hereinafter “NOV”) indicate that the Respondent was offering cannabis products, as defined by Cannabis Law § 3, for sale without an appropriate registration, license, or permit. This allegation was based upon observations made during a regulatory inspection which was conducted on June 11, 2024, at the business located 3880 Broadway, New York, NY (Exhibit 1).

FINDINGS OF FACT

1. The NOV was personally served on the Respondent at the time of the regulatory inspection. An email address for OCM's Office of Administrative Hearings was also provided to the Respondent at that time. The Respondent was notified via email at the address he provided on his Administrative Hearing Request he submitted to OCM. See Exhibit A/1. The Respondent did not appear at the hearing, nor did the Respondent or anyone on behalf of the Respondent contact the Office of Administrative Hearings.

2. The Respondent has a Certificate of Authority issued by the New York State Department of Taxation and Finance, Identification Number 93-3638858, for a business designated as Hush Rush 3880 Inc. located at 3880 Broadway, New York, NY 10032.

3. According to the exhibits on June 11, 2024, Investigative Specialist Nunez, conducted a regulatory inspection at 3880 Broadway, New York, NY, based upon complaints alleging that the business was selling illicit cannabis. Investigative Specialist Nunez was prepared to testify that he confirmed through a search of the OCM database and records, that Respondent was not in possession of a license issued by OCM to sell cannabis or any products containing cannabis containing over 3% THC.

4. Investigative Specialist Nunez was prepared to testify that at the time of the regulatory inspection, there was signage outside the business with a price list advertising the sale of illicit cannabis products (Exhibits A-G). According to the NOV Investigative Specialist Nunez observed numerous types of cannabis products, all of which were labeled as containing THC greater than 3%.

5. Investigative Specialist Nunez was prepared to testify that at the conclusion of the regulatory inspection, he placed a copy of the NOV and a Warning Sticker (hereinafter "WS") on the main public door of 3880 Broadway, New York, NY. See Exhibit A/3. Investigative Specialist Nunez was prepared to testify that he also served a copy of the NOV on Liz Leger, who was working at the business. See Exhibit A/2.

CONCLUSIONS OF LAW

Cannabis Law Article 6 § 125(1) provides that: "No person shall cultivate, process, distribute for sale or sell at wholesale or retail or deliver to consumers any cannabis, cannabis product, medical cannabis or cannabinoid hemp or hemp extract product within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter unless otherwise authorized by law."

Cannabis Law Article 6 § 132(1)(a) provides that any person who sells cannabis, cannabis products, or any product marketed or labeled as such, without an appropriate registration, license or permit therefore, may be subject to a civil penalty of not more than ten thousand dollars for each day during which such violation continues.

DECISION

The Respondent engaged in the sale of illicit cannabis and cannabis products without a license, registration, or permit to do so, at the location of 3880 Broadway, New York, NY. In so doing, Respondent violated Cannabis Law Article 6 § 125(1) and §132(1)(a). The Order to Cease Unlicensed Activity, and Order to Seal is hereby affirmed.

**WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 § 138-b (9),
THE ORDER TO SEAL, ISSUED ON 0611.24, IS HEREBY EXTENDED FOR ONE YEAR
FROM THE DATE OF THIS DECISION.**

Carl B. Stoll

Administrative Law Judge

Dated: July 24, 2024

This decision was sent *via email* on July 25, 2024, to the following:

Nickolas Perry
Sheila Wagner
Paul Tsui, Esq.

This decision was sent *via regular first-class mail* on July 25, 2024, to the following:

Hush Rush 3880 Inc.
3880 Broadway
New York, NY 10032