

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

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**OFFICE OF CANNABIS MANAGEMENT,**

Petitioner,

-against-

**DECISION**  
**Inspection No. 110202408140036**

**Bee Well CBD Corporation**  
**679 Nostrand Avenue**  
**Brooklyn, NY 11216**

Respondent.

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The hearing was conducted on November 6, 2024.

The Respondent was represented by Michael Walker, Esq.

No person testified on behalf of the Respondent.

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

Investigative Specialist Raissa Lomba-Ajoku testified on behalf of OCM.

**ISSUE**

The allegations set forth in the Notice of Violation indicate that the Respondent was offering cannabis products, as defined by Cannabis Law Article 3, for sale without an appropriate registration, license, or permit. This allegation was based upon observations made during a regulatory inspection which was conducted at 679 Nostrand Avenue, Brooklyn, New York 11216 on August 14, 2024.

The scope of the hearing was limited solely to the issue as to whether the padlocking provisions Cannabis Law Article 6 § 138-b of have been met by a preponderance off the evidence.

## CONCLUSIONS OF LAW

Cannabis Law Article 6 §138(a) provides that “The board or the Office of Cannabis Management shall, in accordance with the authority otherwise conferred in this chapter, have the authority to: 1. order any person who is unlawfully cultivating, processing, distributing or selling cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such in this state without obtaining the appropriate registration, license, or permit therefor, or engaging in an indirect retail sale to cease such prohibited conduct. 2. seize any cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such, found in the possession of a person engaged in the conduct described in subdivision one of this section.”

Cannabis Law Article 6 § 138-b(1) provides that orders to seal: In addition to any other authority conferred in this chapter, pursuant to the provisions of this section, the board or the office shall have the authority to issue an order to seal the building or premises of any business engaged in unlicensed activity, when such activity is conducted, maintained, or permitted in such building or premises, occupied as a place of business as described in subdivision eight of section ten of this chapter, in violation of subdivision one or one-a of section one hundred twenty-five or subdivision one or eight or section one hundred thirty-two of this article.

Cannabis Law Article 6 §138-b(6) provides that an order to seal may be issued by the office or the board pursuant to subdivision three of this section only if:

- (a) no part of the premises to be sealed is used in part as a residence and pursuant to local law or ordinance is zoned and lawfully occupied as a residence; and
- (b) the unlicensed activity as described in this section is more than a de minimis part of the business activity on the premises or in the building to be sealed pursuant to this subdivision, the office shall issue a notice of violation and order to cease the unlicensed conduct, which shall constitute notice that such activity must cease immediately. (See Regulations at 9 NYCRR 133.25(f) (2-3)).

Cannabis Law Article 6 §138-b (7) provides that in assessing whether unlicensed activity within a building is more than de minimis, the office or board, as relevant, shall consider factors such as any one or more of the following:

- (a) the presence of signs or symbols, indoors or out, advertising the sale of cannabis or otherwise indicating that cannabis is sold on the premises.
- (b) information shared in any advertisements or other marketing content in connection with the unlicensed business activity and any direct or indirect sales of cannabis or other conduct in violation of this chapter.
- (c) the volume of illicit cannabis products on site; and

- (d) the variety of illicit cannabis products on site. (See Regulations at 9 NYCRR 133.25(f)(3) (i-iv)).

Cannabis Law Article 6 §138-b (3) provides that the office may issue an order to seal with an immediate effective date if such order is based upon a finding by the office of an imminent threat to the public health, safety, and welfare. (See Regulations at 9 NYCRR 133.25(f)(1)).

Cannabis Law Article 6 §138-b (4) sets forth the factors that determine an imminent threat to public health, safety, and welfare shall be limited to:

- (a) documented sales to minors.
- (b) unlicensed processing of cannabis products at the building or premises.
- (c) orders issued following an inspection wherein the person engaged in the unlicensed activity engaged in violent, tumultuous, or other behaviors indicating expressed intent to not comply with the office's order to cease the unlicensed activity.
- (d) documented presence of unlawful firearms at the building or premises.
- (e) proximity of the building or premises to schools, houses of worship, or public youth facilities.
- (f) presence of products deemed unsafe based on reports of illness or hospitalization; or
- (g) sales of, or offers to sell, cannabis products not tested or labeled lawfully in accordance with this chapter. (See Regulations at 9 NYCRR 133.25(f)(1) (i-vii)).

### **FINDINGS OF FACT**

1. Respondent was offering cannabis products for sale without a license issued by OCM. Investigator Raissa Lomba-Ajoku credibly testified that she has been employed by OCM as an investigator for 2 years. As such, she has conducted approximately 200 inspections of locations involved in the sale of cannabis products. Prior to her employment at OCM she was employed as a narcotics investigator for the New York State Department of Health where she also conducted over 200 narcotics investigations. She also has received training in the identification of various strains of cannabis from OCM. On 08.14.24 Investigator Lomba-Ajoku, along with members of the New York State Taxation & Finance Department, conducted an inspection of Bee Well CBD Corporation located at 679 Nostrand Avenue, Brooklyn, NY 11216. Upon their arrival at approximately 1:48pm the investigators entered a vestibule and encountered a male on the other side of a metal gate who locked the gate thereby preventing entry. The male was inside the location. The investigators showed the male their agency identification and informed the male of the

purpose of their visit. The male then began removing items from the shelves placing them in a safe in full view of the investigators. The male identified himself as one Nickolas Vorvolakos and stated that he was afraid of the investigators. He then went into the bathroom of the establishment where he remained for approximately 2 hours while the investigators were verbally assuring him of his safety. He subsequently came out of the bathroom and allowed entry to the investigators. Mr. Voruolakos identified himself as an employee of the business. During said waiting period Investigator Lomba-Ajouku, took a photo of a sign over the front door with the establishment name and a cannabis plant. Petitioner Exhibit B1. Exhibit B3 is a photo of a Certificate of Authority issued to Beewell CBD Corporation; B4 is a photo of the aforementioned gate in the vestibule preventing entry; B5 shows preroll, edibles and cannabis concentrate in the front of the establishment; B6 shows a cash register; B7 shows a debit/credit card payment processor; B8 shows cannabis flower in a glass case; B9 shows flower packages, edibles in packages with cartoon characters displayed on said packages; B10 shows a menu of prices; B11 shows a growing cannabis plant growing in a glass case; B12 shows an "Open" sign on the front door; B13 shows cannabis packaging with a medical label; B14 shows a scale; B15 shows a safe with vape concentrate with a state of California label with no indication of being tested by NYS; B16 shows a roll of medical labels (illegal in NYS without a license), edibles, and wrapping paper; B17 shows cannabis packaging; B18 shows a sign advertising cannabis vape concentrate in bright coloring; B19 shows a sign advertising cannabis oil with a California seal; B 20 shows cannabis flowers with a California seal and a warning label to keep out of reach of children; B21 shows a label advertising cannabis concentrate with a California label; B22 shows the back of the B21 label chronicling the THC level. Investigator Lomba-Ajouku credibly testified that she took all the above referred to photos (Exhibits) inside the premises during the inspection.

2. No part of the premises to be sealed is used in part as a residence and pursuant to local law or ordinance, is zoned and lawfully occupied as a "residence." Investigator Raissa Lomba-Ajouku testified that based on what she observed at the location it was not being utilized as a residence. There was no shower, no kitchen or bed and no stove. Investigator Lomba-Ajouku additionally testified that she observed a cash register and a sales reader, at the front of the establishment, as evidenced by the photos in Petitioner's Exhibit B 6 & 7.

3. The unlicensed activity which warrants an order to seal constitutes more than a "de minimis" part the business activity. A large variety, and a substantial volume of illicit products were discovered during the inspection at the location. Cannabis Law Article 6 § 138-b (7) and OCM Regulations part 133.25(f)(3) enumerate the factors to consider when determining if unlicensed activity occurring within a business is more than de minimis. From the photographs entered as evidence during the hearing, and the credible testimony of

Investigator Lomba-Ajoku listing the items seized buy OCM, this location had a large variety and a substantial volume of illicit cannabis being offered for sale. Please see Petitioners Exhibits A – C. Finally, the Respondent offered no evidence to rebut the testimony.

4.The unlicensed activity constituted an imminent threat to public health, safety, and welfare in that: there were sales of, or offers to sell cannabis products that were not tested or labeled lawfully in accordance with Cannabis Law Article 6. Exhibits D - E, as credibly testified to by Investigator Lomba-Ajoku, depicted products that were labeled with the California cannabis label. Exhibits B 15, 19, 20 and 21 depicted products that were labeled with the California cannabis label also, and the products were brightly colored with cartoons on the front of the products. Some of the products were flavored. All the above are in violation of the NYS Cannabis Law Article 6 §138-b (4).

5.The Notice of Violation, Order to Cease Unlicensed Activity, and Order to Seal were properly served upon the Respondent on 08.14.24. Investigator Lomba-Ajoku testified that an employee, Nicolas Voruolakos, accepted the Notice of Violation and executed the Certificate of Service of said NOV.

**WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 §138-b (9), THE ORDER TO SEAL, ISSUED ON AUGUST 14, 2024, IS HEREBY EXTENDED FOR ONE YEAR FROM THE DATE OF THIS DECISION.**

Dated: 11.20.24

*Carl B. Stoll*

**Administrative Law Judge**

PLEASE BE ADVISED: Either party may appeal this decision within 30 calendar days of receipt, according to the specific manner described in Regulations at 9 NYCRR 133.25(k). This decision was sent via email on 11.20.24 to the following:

Nickolas Perry  
Sheila Wagner  
Celena Ditchev, Esq.  
Luwick Francois, Esq.  
Michael Walker, Esq.