

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

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**OFFICE OF CANNABIS MANAGEMENT**

Petitioner,

-against-

**DECISION**

**Complaint No. 110202308160110**

**BIG CHIEF SMOKE SHOP CORP.**

*7323 3<sup>RD</sup> Ave.*

*Brooklyn, N.Y.*

Respondent.

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The above matter was held as a Webex hearing before the undersigned, Thomas Kidera, on October 20, 2023.

The Respondent failed to appear.

The Office of Cannabis Management (hereinafter “OCM”) was represented by Deputy General Counsel, Christopher DeLuca.

Investigative Specialist Raissa Lamba testified on behalf of OCM.

Regulations at 9 NYCRR 133.16 (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. As the Petitioner is seeking penalties in this matter, a default hearing was held in this matter.

**ISSUE**

The allegations set forth in the Notice of Violation and Order to Cease Unlicensed Activity and Notice of Hearing (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 at Big Chief Smoke Shop Corp. located at 7323 3<sup>rd</sup> Avenue, Brooklyn, NY, on August 16, 2023 (Ex.1).

## **FINDINGS OF FACT**

1. The NOV was served upon and signed by Respondent's employee Takalia Williams at the time of the regulatory inspection (Ex.1). The NOV indicated that a virtual hearing was scheduled for September 18, 2023, at 10:00 a.m. The Respondent failed to appear, and the hearing was adjourned and rescheduled to October 20, 2023, at 10:00 a.m. OCM attorney, Mr. DeLuca, reported that they sent a certified letter to the owner of the building located at 7323 3<sup>rd</sup> Avenue advising of the new hearing date and time. The Respondent did not appear on either date, nor did the Respondent or anyone on behalf of the Respondent contact the Office of Administrative Hearings.

2. On August 16, 2023, Investigative Specialist Lomba, along with another OCM Investigator, as well as members of the Enforcement Division of the New York State Department of Taxation and Finance (hereinafter "DTF"), conducted a regulatory inspection of 7323 3<sup>rd</sup> Avenue in Brooklyn, NY. Investigative Specialist Lomba testified that prior to the regulatory inspection, an internal record search was conducted, and it was determined that Respondent was not in possession of a license, permit or registration issued by OCM to sell cannabis or any products containing cannabis. This was further supported by an Affidavit, signed by OCM's Deputy Director for Licensing and Operations, which confirmed that Respondent was never issued any cannabis adult-use retail license, permit, or registration by OCM. (Ex.20).

3. Investigative Specialist Lomba credibly testified that, at the time of the regulatory inspection, she observed numerous types of cannabis products offered for sale including cannabis flower, cannabis edibles, cannabis pre-rolls, cannabis concentrates, and Delta 8 products. (Ex.4-11). She also observed a scale, cash register, and a point-of-sale IPAD (Ex.12-14).

4. Investigative Specialist Lomba testified that she observed the products and the seizure of those products and completed an OCM inspection report. (Ex. 2).

5. Investigative Specialist Lomba testified that she witnessed the seizure and inventory of cannabis products as well as the completion of the voucher by a representative of DTF, which documented the cannabis products which DTF seized from the location (Ex. 19A).

6. Investigative Specialist Lomba testified that at the conclusion of the regulatory inspection, a copy of the NOV and a Warning Sticker (hereinafter "WS") was affixed to the storefront of to the door of 7323 3<sup>rd</sup> Avenue, Brooklyn, N.Y. (Ex 18,19).

## 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 having an appropriate registration, license or permit therefor, 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 7323 3<sup>rd</sup> Avenue, Brooklyn, N.Y. In so doing, Respondent violated Cannabis Law Articles 6 § 125(1) and §132(1)(a).

The Order to Cease Unlicensed Activity is hereby **Affirmed**.

## WHEREFORE, RESPONDENT IS HEREBY ORDERED:

To pay a **\$10,000** fine for the sale of illicit cannabis and cannabis products without a license on August 16, 2023.

*Thomas Kidera*

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Administrative Law Judge

DATED: October 20, 2023

This decision was sent via email on October 24, 2023, to the following:

Nickolas Perry  
Sheila Wagner  
Christopher DeLuca, Esq.

This decision was sent via regular first-class mail on October 24, 2023, to the following:

Big Chief Smoke Shop Corp.  
7323 3<sup>rd</sup> Avenue  
Brooklyn, NY 10462