

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. - 118202410150091**

**GOOD STANDING BOUTIQUE (AKA CHARLIE  
BROWN GUMBO SHOW)**

Respondent.

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Respondent requested a hearing on November 15, 2024, for an inspection which occurred on October 15, 2024

The hearing was scheduled for December 3, 2024. Prior to the commencement of the hearing, Respondent requested an adjournment so that he could inquire about obtaining counsel. The request was granted, and the hearing was scheduled and conducted on December 10, 2024.

The Respondent represented himself.

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

Investigator Zachary Roubelakis (hereinafter “Roubelakis”) testified on behalf of OCM.

**ISSUE**

The allegations set forth in the Notice of Violation, Order to Cease Unlicensed Activity, and Order to Seal (jointly hereinafter “NOV/OTS”) asserts that the Respondent was offering cannabis products, as defined by Cannabis Law Article 3, for sale without an appropriate registration, license, or permit. These allegations are based upon observations made during a regulatory inspection which was conducted at 13 Academy St., Poughkeepsie, NY 12601.

The scope of the hearing involves determination whether OCM, by a preponderance of the evidence were justified in issuing to Respondent the Notice of Violation and Order to Cease

Unlicensed Activity (jointly hereinafter “NOV”) and what penalty under Article 6 § 132 is justified. OCM requested the maximum fine of \$10,000. Additionally, this hearing was to determine the issue of whether the padlocking provisions Cannabis Law Article 6 § 138-b of have been met by a preponderance of the evidence.

### **APPLICABLE LAW**

Cannabis Law Article 6 §125(1) states that “[n]o 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, or any product marketed or labeled as such, within the state without obtaining the appropriate registration, license, or permit therefor required....”

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 §132(1)(a) provides that any person who sells cannabis, or 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.

Cannabis Law Article 6 §132 (1)(c) requires that any civil penalties assessed “shall take into consideration the nature of such violation and shall assess a penalty that is proportionate to the violation....”

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. On October 15, 2024, OCM conducted an inspection of Good Standing Boutique (AKA Charlie Brown Gumbo Show) (hereinafter “GSB”) located at 13 Academy St., Poughkeepsie, NY (Ex. A1). At that time, an NOV/OTS was issued and the premises were sealed (Ex. A1). In November of that same year, Respondent requested a hearing, which was held on December 10, 2024. During the hearing, Roubelakis appeared as the sole witness. He testified that upon arriving at the store, he noticed several markings on the store front that led him to believe that an individual may procure cannabis from GSB. A neon sign with a cannabis leaf and the phrase “it’s 420 somewhere” was lit up in the storefront window (Ex. B2). Further, a poster and mural for the “Charlie Brown Gumbo Show” were present,<sup>1</sup> which showed characters from the Peanut comic strip smoking what appeared to be cannabis cigarettes (Ex. B1 & 3). Roubelakis stated that the cannabis leaf, use of the term “420,” and the smoking present on the mural and poster, were known to him, as a trained investigator, as indicative of the presence of cannabis, and would likely be known symbols to those customers seeking to procure cannabis. The store front also contained a sign which advertised that the store was open for business (Ex. B2). Upon entering the store, Roubelakis testified that one of the first things he noticed was a menu, written on a dry erase board, which listed prices for products which Roubelakis testified were well-known brands of cannabis products/cannabis strains (Ex. B4). Roubelakis highlighted that some of the products had designations next to them that listed these products as “sold out.” It is likely that since the products listed were marked as “sold out,” that they had been present previously but had been sold by the store. Although there does not appear to be any explicit reference to cannabis on the menu, terminology which is frequently used when trading in cannabis were listed. Gummies, baked goods (with a milligram designation), ounces, pens, dimes, and pre-rolls were all listed on the menu; these are all known phrases associated with cannabis (Ex. B4). The store also contained a point-of-sale system, ATM (although it appeared nonfunctional at the time of inspection), and tip jar, all indications that commercial transactions were occurring on site (Ex. B7 & 23). Roubelakis testified that upon inspecting GSB he discovered a significant amount of products, which were either labeled as cannabis or suspected of being a cannabis product (see generally Ex. B & C). These products were found in various forms, flavors, and variety. Additionally, Roubelakis found items that are used in the processing of cannabis such as cones, loose flower, a “knock box,” packaging materials (tubes and baggies), a wooden box that held empty joint papers, and what Roubelakis described as a processing station (Ex. B 10-15; C 1-2). He also testified that a scale was found on site, but no picture of the scale was introduced into evidence. Roubelakis also discovered a large amount of “processed” cannabis, either contained in individual baggies or in joint form (Ex. B15-22; C3, 6-7). Pre-rolled joints, which

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<sup>1</sup> Roubelakis testified that the Department of Taxation and Finance had no official record for the store doing business at 13 Academy St., Poughkeepsie, NY. OCM, therefore, did not have an official name for the business when it served the NOV/OTS. Roubelakis used the name the “Charlie Brown Gumbo Show,” assuming that name was correct, as it was displayed in numerous places around the business. It was not until Respondent filed the request for hearing that the name “Good Standing Boutique” was used. While this confusion as to the name raised some questions initially, the testimony by Roubelakis clarified the reason for this confusion and his testimony that it arose from the business’ lack of a Certificate of Authority, served as a suitable explanation which was not refuted. The address of the store is confirmed as the location.

corresponded to the empty “cones” pictured in other exhibits (compare Ex. B12, C1, & C3), were discovered in large quantity (Ex. B 16). Roubelakis testified that he believed the pre-rolls were being processed on site and that they were being sold under the store’s brand – “The Charlie Brown Gumbo Show” (see Ex. C9). Cookies were also discovered, and while they were not labeled as cannabis, Roubelakis testified that the employee present on site (Ex. D1) identified the baked goods as contained cannabis (Ex. C4). These cookies also correspond to the menu on display, which lists a 500 mg cookie as one of the products for sale (compare Ex. B4 & C4). Additionally, various items (gummies, vape cartridges, and concentrate), although smaller in number than the overwhelming amount of loose flower, were discovered on site which were either labeled as cannabis or which Roubelakis suspected contained cannabis products (Ex. C9-16, & 20-23). Many of these items contained warning stickers or stamps associated with cannabis which are frequently seen at unlicensed retailers (see e.g., Ex. C16-21). Even the pre-rolled joints which appeared to be processed on site, contained a CA! symbol that is typically seen on cannabis products imported from California (Ex. C18). Assorted packages of cannabis flower, many labeled as cannabis flower or with a cannabis “warning sticker” were also found during the inspection (Ex C 2-10). Finally, Roubelakis testified that GSB possessed no type of Medical, Adult Use, or Cannabis Processing License at the time of the inspection and Respondent presented no evidence to the contrary.

The factors introduced into evidence and through testimony indicate by a preponderance of the evidence that Respondent was offering cannabis products for sale without the necessary license being issued by OCM. Significant product was discovered in the store and a menu displayed in the store prominently listed the prices for cannabis products (Ex. B & C, B4). The amount of product discovered was sizable; Roubelakis testified that he seized approximately 50 pounds of cannabis flower, either loose, rolled in joints, or packaged, from the store. Products discovered were either identified as suspected cannabis by Roubelakis, advertised as cannabis by the store, or labeled as cannabis, either explicitly or affixed with a warning label. The volume of cannabis and suspected cannabis products found on site indicates that it was not for personal use and that it is more likely than not that cannabis was being sold at GSB. The prominent displays which featured cannabis signs and symbols, which were found both inside and outside the store would like to have been recognized by many customers to mean that illicit products could be purchased from the GSB. Additionally, the processing station on site demonstrate that a GSB could scale up the amount of product it maintained and make a large volume of sales. Finally, in addition to the cash register and credit card machine, which facilitates sales, the menu of cannabis products (especially considering the “sold out” designations by some of the products) greatly bolsters the assertion that illicit products were being sold at GSB. All the factors, taken together, support a finding by a preponderance of the evidence that GSB was engaged in unlicensed cannabis sales.

2. Roubelakis testified that no part of the premises to be sealed was used in part as a residence. He stated that the location was not zoned as residential and that he saw no bed, oven, or other dwelling amenities. While he stated that he saw a microwave and mini fridge, he testified that the employee stated that no one lived on premises. Respondent made no assertion to counter the assertion that the location was being used solely as a business.

3. The unlicensed activity which warranted an order to seal constituted more than a “de minimis” part the business activity. The 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. While a large volume of illicit products was discovered at GSB, Roubelakis testified that few other products were being sold in the store. There was a small assortment of clothing that appeared for sale (Ex. B 5),<sup>2</sup> but the vast majority of items that could be purchased at GSB were cannabis. It might be said that the apparel that was for sale constituted a de minimis part of the cannabis business being conducted by GSB. While on cross-examination of Roubelakis, Respondent hinted that the “set up” of the store on the day of the inspection was not indicative of the store’s general business (hinting that there might be additional items for sale during a “normal” business day), Respondent did not testify to expand on this comment. The variety of product observed on premises was significant (Ex. C4, 10, & 13) and the menu advertised an assortment of cannabis products for sale (Ex. B4), but the majority of product recovered was cannabis flower (Ex. B17-20; C3, 6-7, 9, & 24). The volume of flower alone would meet the threshold of “more than de minimis” for most stores. In a store that appears to have little if any “legal business” occurring on site, this large volume of cannabis clearly demonstrates that the unlicensed sale of cannabis is the vast majority of the business being transacted at GSB. Further, the signs and symbols present at GSB were prominently displayed. The signs outside the store with a cannabis leaf stating that “its 420 somewhere,” is a clear indication to even casual passersby that cannabis is likely able to be procured at the store (Ex. B2). The large mural and poster showing Peanuts characters smoking what appear to be joints, lend support to this conclusion (Ex. B1 & 3). These “indications” also appeared within the store, adding even more evidence that GSB was primarily, possibly exclusively, a shop that sold cannabis (Ex. B. 5-7). By a preponderance of the evidence, I find that GSB’s unlicensed sale of cannabis constituted more than de minimis part of the business and that the volume of flower found onsite, the prominent displays and advertisement, and the lack of significant legal products lead to the conclusion that GSB was primed to make significant sales in illicit cannabis.

4. The unlicensed activity being conducted at GSB 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 and that a significant amount of cannabis processing was occurring on site. This processing, for which Respondent did not possess a license, created a threat to the public as none of the flower being processed appeared to have been tested under any standards. The store itself also seemed to be haphazardly arranged and lack processing safety measures, which would make processing safe and sanitary (see Ex. B11-12). Further, the items other than cannabis flower found in the store all lack the necessary stamps/stickers that show that they have been tested in New York. Some contain identifiers that allow one to conclude that they come from out of state, such as those that possess the “CA!” label (Ex. C 11, 17, & 20). Some contain no sticker at all (Ex. C4). It is, therefore, more likely than not that none of the products were tested in New York as the products

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<sup>2</sup> It should also be noted that the clothing for sale all seemed branded with the store’s logo and marketing motif. It could be said that this created a “feedback loop” where the only legal products seem designed to advertise the store’s unlicensed products. If these “legal products” are merely advertisements (another consideration when determining “de minimis”) for the businesses unlicensed activity, then it might be said that all products which were for sale at the store were designed to further GSB’s cannabis sales. It is unnecessary to reach this conclusion, as the legal products constituted such a small fraction of the total product found on site.

shown in the photographs and submitted into evidence lacked the inspection stamp of New York State. Due to the volume of processing which appeared to be occurring (thousands of “Raw” rolling papers and fifty pounds of loose flower were on site) coupled with a majority (possibly all) of the product present lacking the New York State testing certification, the activity occurring at GSB constituted an imminent threat to public health, safety and welfare.

5. Service appears to have been validly conducted and Respondent received adequate notice of the NOV/OTS. While Respondent made no assertion that he did not receive adequate notice, OCM issued the NOV/OTS to the employee working at GSB on the day of the inspection. It is unclear whether OCM mailed a copy of the NOV/OTS to the address which the employee provided, as is required by the statute, however, the address given for “Charlie Adams” by the employee was the address of GSB. Delivery via mail of the NOV/OTS to the store in question would have likely been impossible, as the store was sealed, and duplicative as OCM had posted a copy of the NOV/OTS to the store front. Anyone who would have gone to GSB to retrieve the mail would have found it impossible to enter and seen the NOV/OTS on the storefront. The Respondent’s attendance at the hearing he himself requested (a procedure which is outline on the NOV/OTS) is also strong evidence that OCM properly executed service in this matter.

5. OCM requested that the maximum fine of \$10,000 be levied against GSB for the violations discovered on October 15, 2024. While the statutes do not provide extensive guidance for determining the penalty for violations under Cannabis Law Article 6 §125, 132, and 138-a, it does require a penalty proportionate to the violation (Cannabis Law Article 6 §132(1)(c)). In the Matter of Good Standing Boutique, Roubelakis testified that the amount of cannabis recovered from the store was quite large (approximately 50 pounds). While cannabis flower was the largest type of cannabis seized from GSB, there appeared other types as well. Further, the stores seemed to operate as if with impunity, with a large bold mural and a prominently displayed neon sign, both of which seemed to advertise cannabis. The product seized underwent little, if any, testing. The store appeared to be processing without a license or proper safety/sanitary measures, and the packaging violated the law due to it be colorful and with cartoon figures. This, Roubelakis testified, made the packaging and the content within, more appealing to children. Based on all these factors, and the fact that GSB seemed to trade nearly exclusively in cannabis product, I am inclined to impose the maximum penalty in this case.

### **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 13 Academy St., Poughkeepsie, NY 12601. In so doing, Respondent violated Cannabis Law Article 6. The Order to Cease Unlicensed Activity and Order to Seal are hereby affirmed and a penalty is assessed.

**WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 §138-b (9), THE ORDER TO SEAL, ISSUED ON OCTOBER 15, 2024, IS HEREBY EXTENDED FOR ONE YEAR FROM THE DATE OF THIS DECISION.**

**FURTHER, THE RESPONDENT IS HEREBY ORDERED TO PAY A \$10,000 FINE UNDER CANNABIS LAW ARTICLE 6 §132 FOR VIOLATIONS UNDER §125, AND AS A PROPORTIONATE PENALTY, FOR THE UNLICENSED SALE OF ILLICIT CANNABIS ON OCTOBER 15, 2024.**

Dated: December 16, 2024

  
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 December 16, 2024, to the following:

Charles Adams, III

Luwick Francois, Esq.

Nickolas Perry

Sheila Wagner

Celena Ditchev