

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION

Complaint No. 115 2023 0621 0027

LES CONVENIENCE CORP AKA RUNTZ

Respondent.

The above noted matter was held as a Webex hearing before the undersigned, Thomas Kidera, on July 7, 2023.

The Respondent failed to appear.

The Office of Cannabis Management (hereinafter “OCM”) was represented by Deputy General Counsel Jasmine Norman.

Investigative Specialist James Lawson testified on behalf of OCM.

Regulations at 9 NYCRR 133.15(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 on June 21, 2023 at the business located 14 1st Ave, New York, NY (Exhibit 1).

FINDINGS OF FACT

1. The NOV was personally served on the Respondent at the time of the regulatory inspection. The NOV indicated that a hearing was scheduled for July 7, 2023 at 10:00 a.m. An email address for OCM's Office of Administrative Hearings was also provided to the Respondent at that time. 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 (Exhibit 1).

2. The Respondent has a Certificate of Authority issued by the New York State Department of Taxation and Finance, validated February 24, 2023, Identification Number 92-2522387, for a business designated as Les Convenience Corp located at 14 1st Ave, New York, NY 10009-7904 (Exhibit 3).

3. On June 21, 2023, Investigative Specialist Lawson, in addition to members of the Enforcement Division from the New York State Department of Taxation and Finance, conducted a regulatory inspection at 14 1st Ave, New York, NY, based upon complaints alleging that the business was selling illicit cannabis. The Respondent was in possession of a Cannabinoid Hemp Retail License issued by OCM on June 2, 2023 (Exhibit 2). Investigative Specialist Lawson testified 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 Lawson credibly testified 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 1, 5). Investigative Specialist Lawson observed numerous types of cannabis products, all of which were labeled as containing THC greater than 3%. Investigative Specialist Lawson testified that he observed vape cartridges containing cannabis, cannabis flower, cannabis oil, prohibited hemp pre-rolls, cannabis edibles, cannabis pre-rolls, and cannabis concentrates (Exhibits 1, 4-9). Investigative Specialist Lawson also testified that he observed a cash register in the proximity of the illicit cannabis products (Exhibit 10).

5. Investigative Specialist Lawson testified 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 14 1st Ave, New York, NY (Exhibits 13-14). Investigative Specialist Lawson testified that he also served a copy of the NOV on Crystal Marcano, who was working at the business.

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 14 1st Ave, New York, NY. In so doing, Respondent violated Cannabis Law Article 6 § 125(1) and §132(1)(a). The Order to Cease Unlicensed Activity is hereby affirmed.

WHEREFORE, THE RESPONDENT IS HEREBY ORDERED:

To pay a **\$10,000** fine for the sale of illicit cannabis and cannabis products without a license on June 21, 2023.

Thomas Kidera

Administrative Law Judge

Dated: July 14, 2023

This decision was sent *via email* on July 17, 2023 to the following:

Nickolas Perry
Sheila Wagner
Jasmine Norman, Esq.

This decision was sent *via regular first-class mail* on July 18, 2023 to the following:

LES CONVENIENCE CORP AKA RUNTZ
14 1st Ave
New York, NY 10009-7904