

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION

Complaint No. 108 2023 0607 0007

**PLAYLAND CONVENIENT CORP AKA
PLAYLAND SMOKE SHOP**

Respondent.

The above noted matter was held as a Webex hearing before the undersigned, Thomas Kidera, at 10 a.m. on June 23, 2023.

The Respondent failed to appear at that time and no adjournment was requested or granted for cause, prior to the hearing. (Although attorney Lance Lazzaro sent an email at 12:15 p.m. asking to adjourn the 10 a.m. hearing, that request was neither timely made, nor did it assert a good cause reason for the late request).

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

Investigative Specialist Bryant Paredes appeared and 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, 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 117B W 23rd Street, New York, NY, on June 7, 2023 (Exhibit 1). Petitioner also

alleges that on June 13, 2023, it was observed by another OCM Investigator Specialist that both the NOV and the Warning Sticker (hereinafter “WS”) which were placed on the storefront’s door at the conclusion of the regulatory inspection, had been removed.

FINDINGS OF FACT

1. The NOV was personally served on Respondent at the time of the regulatory inspection. The NOV indicated that a hearing was scheduled for June 23, 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 prior to the hearing. (Exhibit 1).

2. The Respondent has a Certificate of Authority issued by the New York State Department of Taxation and Finance, issued June 9, 2021, Identification Number 87-1108594, for a business designated as Playland Convenient Corp located at 117B W 23rd Street, New York, NY 10011 (State’s Exhibit 10).

3. On June 7, 2023, Investigative Specialist Paredes, in addition to members of the Enforcement Division from the New York State Department of Taxation and Finance, conducted a regulatory inspection at 117B W 23rd Street, New York, NY, based upon complaints alleging that the business was selling THC products. While the Respondent was in possession of a hemp license issued by OCM (OCM-HMPR-22-01830), Respondent was not in possession of a license issued by OCM that authorized the sale of cannabis, products marketed as cannabis, products that contained a THC concentrate greater than 0.3%, or any smokable forms of hemp. (Exhibit 2).

4. Investigative Specialist Paredes credibly testified that at the time of the regulatory inspection, he observed numerous types of products, which were labeled as containing cannabis, some of which indicated the amount of THC contained in each product. Investigative Specialist Paredes also testified that he, in conjunction with staff from the Department of Taxation and Finance observed vape cartridges containing cannabis, Delta 8 products, cannabis edibles, cannabis pre-rolls, cannabis concentrates, and cannabis flower, all of which were documented on voucher receipts for evidence and property seized (Exhibits 6-8, 3).

5. Investigative Specialist Paredes testified that at the conclusion of the regulatory inspection, he placed a copy of the NOV and the WS on the storefront doors at 117B W 23rd Street, New York, NY (Exhibit 9). Investigative Specialist Paredes also testified that he served a copy of the NOV on Mohammed Irfan Mohinddin, who identified himself as a cashier at the store. Paredes instructed him to leave both the NOV and the WS in place until directed otherwise by OCM.

6. On June 13, 2023, OCM Investigative Specialist Alex Tuminello visited the location at 117B W 23rd St., New York, NY and observed that both the NOV and the WS had been removed from the storefront doors (Exhibit 12).

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.

Regulations at 9 NYCRR §133.23(4) provide that when a Notice of Violation and Order to Cease Unlicensed Activity is issued relating to the sale of illicit cannabis, “such Notice of Violation and Order to Cease Unlicensed Activity shall not be removed except when authorized by the Office. Any removal of such Notice of Violation and Order to Cease Unlicensed Activity shall constitute a violation of these regulations and shall be punishable by a fine of up to \$5,000 in accordance with subdivision 1 of section 16 of the Cannabis Law.”

Regulations at 9 NYCRR §133.23(5) provide that when a “the person served with such notice of violation and order to cease unlicensed activity shall also permit the Office to affix one or more warning stickers at or near the front door or other opening to such location where customers enter from the street advising the public that the business is ordered to stop the unlawful activity and of the public health and safety concerns relating to illicit cannabis.”

Regulations at 9 NYCRR §133.23(6) provide that “such warning sticker shall not be removed except when authorized by the Office. Any removal of the warning sticker shall constitute a violation of these regulations and shall be punishable by a fine of up to \$5,000 in accordance with subdivision 1 of section 16 of the Cannabis Law.”

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 117B W 23rd St, New York, NY. Furthermore, Respondent’s agent improperly removed the NOV and WS after having been advised by Investigator Specialist Paredes on June 7, 2023, not to remove either document. By so doing, Respondent has violated Cannabis Law Article 6 §125(1) and §132(1)(a), as well as Regulations at 9 NYCRR §133.23(4) and (6). The Order to Cease Unlicensed Activity is hereby affirmed.

WHEREFORE, RESPONDENT IS HEREBY ORDERED:

To pay a **\$10,000.00** fine for the sale of illicit cannabis and cannabis products without a license on June 7, 2023; and an additional fine of **\$10,000.00** for the improper removal of both the Notice of Violation and the Warning Sticker sometime after their placement on June 7, 2023.

Thomas Kidera

Administrative Law Judge

DATED: July 14, 2023

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

Nickolas Perry

Sheila Wagner

Jasmine Norman, Esq.

Lance Lazzarp, Esq. Lazarrolaw@aol.com