

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. 108 2023 0713 0051**

**Smoke Time Smoke Shop  
2777 Harlem Rd.  
Cheektowaga, N.Y. 14225**

Respondent.

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The above matter was held as both an in-person and virtual Webex hearing before the undersigned, Thomas Kidera, on September 22, 2023, in Buffalo, NY.

The Respondent failed to appear.

The Office of Cannabis Management (hereinafter “OCM”) was represented by Assistant Counsel, Jessica Dell’Anno.

Investigative Specialist Bryant Paredes 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 Smoke Time Smoke Shop located at 2777 Harlem Road, Cheektowaga, NY, on July 13, 2023 (Ex.1).

## **FINDINGS OF FACT**

1. The NOV was personally served on Osamah Alyafai, who was working at the shop at the time of the regulatory inspection. The NOV indicated that a hearing was scheduled for July 31, 2023 at 2:00 p.m. An email address for OCM's Office of Administrative Hearings was also provided to the Respondent at that time. (Exh. 1). The Respondent, via an email sent by the store owner Soliman Mohamed on July 19, 2023, acknowledged receiving the NOV and requested that the hearing be conducted in-person in Buffalo, NY. The hearing was re-scheduled for September 22, 2023 and the Respondent was sent an email notification of the new hearing date; the address in Buffalo where the hearing would take place; and a link to the hearing so he could attend either in-person or virtually. The Respondent did not appear, either virtually or in-person, for the hearing.

2. On July 13, 2023, Investigative Specialist Paredes, in addition to members of the Enforcement Division from the New York State Department of Taxation and Finance (hereinafter "DTF"), conducted a regulatory inspection at 2777 Harlem Road, Cheektowaga, NY. Investigative Specialist Paredes testified that he had done a diligent search of the OCM database prior to the regulatory inspection and 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 from the OCM Manager of Licensing, Christian Embler, confirming that Respondent was not issued a cannabis adult-use retail license by OCM. (Exh. 4).

3. Investigative Specialist Paredes credibly testified that at the time of the regulatory inspection, he observed numerous types of products including cannabis edibles, cannabis concentrates, and cannabis pre-rolls, all identified as containing cannabis by their labeling and packaging (Exhs. 11-19). Investigative Specialist Paredes also testified that he observed a cash register, card reader, and ATM machine at the location (Exhs. 7-9).

4. Investigative Specialist Paredes completed a voucher of the cannabis products observed, inventoried, and seized by OCM (Exh. 2).

5. Investigative Specialist Paredes testified that he witnessed the completion of the DTF voucher listing the type and quantity of the cannabis products inventoried and seized at the July 13, 2023 regulatory inspection (Exh. 3).

6. Investigative Specialist Paredes testified that at the conclusion of the regulatory inspection, he placed a copy of the NOV and a Warning Sticker (hereinafter "WS") on the door of 2777 Harlem Road, Cheektowaga, NY (Exh. 20).

## 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 2777 Harlem Road, Cheektowaga, NY. In so doing, the 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 July 13, 2023.

*Thomas Kidera*

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Administrative Law Judge

DATED: September 27, 2023

This decision was sent via email on September 27, 2023 to the following:

Nickolas Perry  
Sheila Wagner  
Jessica Dell'Anno, Esq.  
Harlemsmoketime@gmail.com

This decision was sent via regular first-class mail on September 27, 2023 to the following:

Smoke Time Smoke Shop  
2777 Harlem Road  
Cheektowaga, NY 14225