

STATE OF NEW YORK  
OFFICE OF CANNABIS MANAGEMENT  
CANNABIS CONTROL BOARD

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IN THE MATTER OF  
7TH AVE ORGANIC CORP.,  
                  APPELLANT-RESPONDENT,

-against-

NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT,  
                  APPELLEE-PETITIONER.

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DECISION ON APPEAL

INSPECTION NO.:  
102202406180011

Application by Appellant-Respondent, 7th Ave Organic Corp. (“Appellant”), appealing from the decision and order of the Office of Administrative Hearings (“OAH”) extending an immediate sealing order against Appellant’s business. The sealing order was issued by Appellee-Petitioner New York State Office of Cannabis Management (“OCM”) following a regulatory inspection pursuant to New York State Cannabis Law (“Cannabis Law”) Article 6 §§ 138-a and 138-b and Title 9, § 133.25 of the New York Codes, Rules and Regulations (“NYCRR”).

Appellee- Petitioner OCM (“Appellee”), conducted a regulatory inspection of Appellant’s place of business and determined Appellant was engaging in unlicensed activity of cannabis and products marketed as cannabis in violation of the Cannabis Law and implementing regulations. Following the regulatory inspection, Appellee issued a Notice of Violation (“NOV”), an Order to Cease Unlicensed Activity (“Cease Order”) and an immediate Order to Seal (“OTS”) for Appellant’s place of business because the unlicensed activity posed an imminent threat to the public health, safety, and welfare. Appellant requested a hearing with the OAH. Following the hearing, the presiding Administrative Law Judge (“ALJ”) issued a decision extending the Order to Seal for one year. Appellant takes exception to the ALJ’s decision and has submitted the instant administrative appeal, and the exceptions noted therein, to the Cannabis Control Board (“Board”) for review pursuant to Cannabis Law §§ 10(18) and 17(8) and 9 NYCRR § 133.25(k).

BACKGROUND

The State of New York enacted the Marihuana Regulation and Taxation Act (“MRTA”) in March 2021. The MRTA legalized recreational adult use of marijuana and created a regulated cannabis industry. The Cannabis Law governs medical cannabis (Cannabis Law Article 3), adult-use cannabis (Cannabis Law Article 4), and cannabinoid hemp and hemp extract (Cannabis Law Article 5). The Cannabis Law also contains general provisions, (Cannabis Law Article 6), including the enforcement framework, that apply to the entire regulatory program. Appellee is the regulatory agency for the cannabis industry in New York.

Cannabis Law § 3(5) defines cannabis as “all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. Cannabis does not include “the mature stalks of the plant” and it does not include “hemp, cannabinoid hemp or hemp extract as defined by this section or any drug products approved by the federal Food and Drug Administration.” (Cannabis Law § 3[5]). Hemp is defined as the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (“THC”) concentration of not more than three-tenths of a percent on a dry weight basis. (Cannabis Law § 3 [27]). THC concentration “means Delta-9-THC; Delta-8-THC; Delta-10-THC and the optical isomer of such substances.” (Cannabis Law § 3[52]). Cannabis product, or adult-use cannabis product, means cannabis, concentrated cannabis, and cannabis-infused<sup>1</sup> products for use by a cannabis consumer. (Cannabis Law § 3[9]).

Cannabis Law § 125 states that “[n]o person<sup>2</sup> 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 first obtaining the appropriate registration, license or permit” that is required under the law. Appellee is authorized to conduct, without notice, site visits, inspections, or investigations of any person and any premises cultivating, processing, distributing, selling, or offering for sale cannabis, cannabis product, cannabinoid hemp or cannabinoid hemp extract product, or any product marketed or labeled as such in this state, or engaging in an indirect retail sale, without obtaining the appropriate registration, license, or permit. (Cannabis Law § 138-a and 9 NYCRR § 133.25). In response to a violation of the Cannabis Law, and related regulations, Appellee is authorized to take various actions, including issuing a notice of violation, an order to cease unlicensed activities, and an immediate order to seal the premises. (Cannabis Law §§ 138-a and 138-b).

Appellee can issue an immediate “order to seal the building or premises of any business engaged in unlicensed activity, when such activity is conducted, maintained, or permitted in such

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<sup>1</sup> A cannabis- infused product is defined as “products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.” (Cannabis Law §3[10]).

<sup>2</sup> Cannabis Law § 3(40-a) broadly defines person “an individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.”

building or premises, occupied as a place of business”<sup>3</sup> and upon a finding of an imminent threat<sup>4</sup> to public health, safety, and welfare. (Cannabis Law § 138-b; 9 NYCRR § 133.25[f]). Upon finding such an imminent threat, an order to seal may be issued 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 zone and lawfully occupied as a residence; and (b) the unlicensed activity . . . is more than a de minimis part of the business activity on the premises or in the building to be sealed pursuant to the order. In assessing whether unlicensed activity within a building or premises is more than a de minimis part of the business activity at the premises, Cannabis Law § 138-b (7) states: Appellee “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.”

When Appellee issues an immediate sealing order, Cannabis Law § 138-b(2) provides that a copy “shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed.” Section 138-b(2) further provides that “[a] copy of the order shall also be mailed to any address for the owner of the business at any address provided by the person to whom such order was delivered pursuant to this subdivision.” Subdivision (10) of section 138-b provides that a copy of the sealing order shall be mailed, within five (5) days of being issued, by certified mail, to the person currently holding ownership over the real estate affected by the sealing order, as recorded in the city register or county clerk, and such mailing “shall constitute notice to the owner and shall be deemed to be complete upon such mailing by the office.”

After the issuance of an OTS pursuant to Cannabis Law § 138-b, an emergency hearing can be requested on the order to seal. An emergency hearing must be requested within seven (7) calendar days of the date of the order to seal and shall be held within three business days of such request provided that the respondent has submitted a verified statement with the request. (Cannabis Law § 138[b][3]; 9 NYCRR § 133.25[h][3]).

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<sup>3</sup> “[P]lace of business” shall not include a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner or any private vehicle on or about the same such property, unless probable cause exists to believe that such residence, real property, or vehicle are being used in such business or commercial manner as described herein.” Cannabis Law § 10(8).

<sup>4</sup> In assessing whether there is an imminent threat to public health, safety, and welfare, Cannabis Law § 138-b(4) provides factors Appellee shall consider.

Following the hearing, the presiding ALJ shall prepare a written decision based on the ALJ's findings of facts and conclusions of law. (9 NYCRR § 133.25[i][2]). Within thirty (30) days of the issuance of the ALJ's determination, any party may submit an appeal of the ALJ's determination to the Board and such appeal shall be based solely on the record on appeal. (9 NYCRR § 133.25[k]).

In this matter, Appellant timely submitted the instant appeal on or about July 26, 2024.

#### ISSUE ON APPEAL

Whether the Order to Seal was erroneously extended because Appellee failed to establish proper and sufficient service of the sealing order in accordance with the jurisdictional mandates of Cannabis Law § 138-b and because there was insufficient evidence to establish the unlicensed cannabis activity was more than a de minimis part of Appellant's business activity in accordance with Cannabis Law § 138-b(7).

#### FINDINGS OF FACT

The Board accepts the credibility findings of the ALJ and finds no basis in the hearing record to depart from them here. Accordingly, we find the following facts.

#### Regulatory Inspection

Appellant conducts business as 7th Ave Organic Corp. at 319 7<sup>th</sup> Ave, Brooklyn, New York 11215. On June 18, 2024, Appellee conducted a regulatory inspection, Inspection Number 102202406180011, of Appellant's business at the above-mentioned location pursuant to Cannabis Law § 138-a and 9 NYCRR § 133.25. Based on observations during the inspection, Appellee issued an immediate sealing order and sealed the premises. The OTS was issued simultaneously with an accompanying NOV and Cease Order.<sup>5</sup>

On June 24, 2024, Appellant, through counsel, requested an emergency hearing, pursuant to Cannabis Law § 138-b and 9 NYCRR § 133.25, challenging the OTS issued by Appellee.

#### Administrative Hearing

The hearing was conducted on June 27, 2024, before the OAH ALJ Karen Lavery. At the hearing, Appellant and Appellee were represented by counsel. The scope of the emergency hearing was limited solely to whether the padlocking provisions of Cannabis Law Article 6 § 138-b were met by a preponderance of the evidence.

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<sup>5</sup> Appellee's OTS, NOV, and Cease Order are all contained on a single, 8 x14, page, one sided, document. The document also contains a Certificate of Service. The first portion of the document is the NOV and Cease Order, the second the OTS, and the last section is the Certificate of Service.

Appellee called one witness, Investigator Bladimir Nunez. Investigator Nunez testified that he is employed as an investigative specialist with OCM and has received instructional and hands on training in the field on how to recognize cannabis products. Prior to the inspection of Appellant's business, Investigator Nunez testified that he had reviewed OCM records and determined that Appellant had not been issued a license to sell cannabis in New York State. Upon entering Appellant's business, Investigator Nunez testified he observed signage above the doorway that read "Canna World Organic Product." He testified that as he entered the store, he saw additional signage inside the store that stated the price for sample size products and the words "Made in Harlem NYC" and "Not Psychoactive!" He further testified that he saw THC edibles in the store with a "Cannabis World" label made by 7<sup>th</sup> Ave Organic on them and an "Rx" logo, signifying a prescribed cannabis item, which he said the store did not have the authorization to prescribe.

Investigator Nunez testified that there was an individual in the store when he entered who identified themselves as a store employee. Investigator Nunez identified numerous photographs of various products that were observed during the inspection, including concentrates, pre-rolls, and edibles. He further testified to observing and photographing hemp products. He testified that some of the cannabis products he observed in the store had a California warning label and were therefore not authorized for sale in New York State. He further testified to observing packages of edibles in the store that were labeled as "Cannabis World" and indicated it was made by 7<sup>th</sup> Ave Organic. Additionally, he indicated he observed a prescription logo, "Rx." He testified that Appellant's business was not authorized to sell adult use or prescription cannabis. Investigator Nunez also observed different kinds of products, varying by brand names and flavors, posted on the wall as being for sale. During the inspection, Investigator Nunez testified to also observing a point-of-sale system that included a credit card reader, a cash register, and a ledger documenting cash sales. Investigator Nunez also testified to finding a receipt that documented a \$52 purchase made on June 13, 2024. Investigator Nunez acknowledged the receipt did not identify the products sold, but also reflected that there was no sales tax charged as part of the sale. Investigator Nunez testified he did not recall seeing any snacks in the store.

Investigator Nunez testified the determination to seal Appellant's business was based on observations indicating offers to sell cannabis products that are not tested or labeled in accordance with the Cannabis Law and because no part of Appellant's business premises was being used or occupied as a residence. Additionally, he testified the volume and variety of the products observed indicated that the unlicensed business activity was more than de minimis part of Appellant's business activity. Before Appellant's business was sealed, Investigator Nunez prepared the NOV, Cease Order and the OTS. He testified that the individual who identified themselves as a store employee refused to sign the Certificate of Service. Investigator Nunez documented the refusal on

the NOV, Cease Order, OTS in the Certificate of Service section and gave the store employee a copy of it. After the employee was provided a copy, Investigator Nunez further testified he also posted a copy on the front door of the business.

Appellant called one witness, a store employee. The individual testified that he is a manager at Appellant's business and has been employed there for about two years. He testified that the store has a Cannabinoid Hemp Retail License and that he was present inside the store during the inspection. He further testified that during the inspection he was asked to show his ID but refused. He testified that the inspection lasted approximately 45 minutes and that when it was finished one of Appellee's agents handed him some paperwork and requested that he sign a copy. He testified that he refused to sign the paperwork but did accept the documents. He testified that he later gave the paperwork to the business owner. The store manager further testified that the items for sale at Appellant's business include a variety of products, including hemp products as well as cannabis items. He said at least half of the store's business is cannabis, although he acknowledged the Appellant does not have a license to sell cannabis. He testified the business sells cannabis and has a growing demand for cannabinoid hemp products, including CBD products. He testified the business sells a large number of edibles, including different combinations of THC and CBD. He described and identified numerous items from the photograph exhibits entered by Appellee. He also testified that the business recently held an event for the community and does a lot for older people in the community. He said many older people are looking for products that help with pain, anxiety, and lack of sleep. Finally, he testified that after the inspection, he had a conversation with the investigator. He testified he told the investigator that the store was not a detriment or a problem to the community and that they were trying to do something that was more legitimate.

### ALJ Decision

On June 28, 2024, the ALJ issued a decision extending the order to seal for one year from the date of decision. The ALJ found that the evidence presented during the hearing demonstrated that Appellant was offering cannabis products for sale and that such unlicensed cannabis activity constituted an imminent threat to public health, safety, and welfare.

The ALJ found that no part of the premises to be sealed was used in part as a residence and pursuant to local law or ordinance, is zoned and lawfully occupied as a "residence." The ALJ further found that the unlicensed activity which warrants an order to seal constitutes more than a "de minimis" part of the business activity. The ALJ relied on the testimony and photographic evidence of signage indicating cannabis is offered for sale at the location. The ALJ further noted the testimony of Investigator Nunez established a volume and variety of cannabis products. The ALJ also relied on the testimony of Appellant's witness. Appellant's witness testified that cannabis

products were offered for sale and consisted of approximately fifty percent of the products offered for sale in the store. He further acknowledged that Appellant did not have a license to sell cannabis.

The ALJ concluded that the testimony of both Appellee and the Appellant's witnesses established that the NOV, Cease Order, and the OTS was personally served upon the store employee present at the time of the inspection, was posted on the location's storefront, and that a copy was mailed to the address of the business. The ALJ also concluded that the Appellant was not in any way prejudiced by any service defect, as evidenced by Appellant's timely request for an emergency hearing and appearance through counsel at the hearing.

### Arguments on Appeal

Appellant filed the instant appeal on July 26, 2024. Appellant asserts that the ALJ erroneously extended the OTS because Appellee failed to establish proper and sufficient service of the sealing order in accordance with the jurisdictional requirements mandated by Cannabis Law § 138-b. Specifically, Appellant argues that the ALJ improperly admitted as evidence the Affirmation of Service by Mailing to Business Owner offered by Appellee and as a result, Appellee failed to establish that a copy of the OTS was mailed to the business owner in accordance with § 138-b(2). Appellant further argues that there was no evidence presented during the hearing to show that the sealing order was mailed to the owner of the real estate where Appellant's business is located in accordance with § 138-b(10). Appellant maintains that the service requirements of § 138-b subdivisions (2) and (10) are jurisdictional prerequisites that must be established before a sealing order can be enforced, sustained, and/or extended.

Appellant further argues that the ALJ erred in extending the OTS because the evidence failed to establish that the cannabis products found during the inspection were more than a de minimis part of Appellant's business activity. Appellant requests that the ALJ's decision be reversed, the NOV and accompanying OTS be vacated and rescinded, and the business permitted to reopen immediately.

Appellee asserts proper and sufficient service was demonstrated by a preponderance of the evidence in accordance with Cannabis Law § 138-b. Appellee contends that Appellant's argument regarding Appellee's affirmation of service be denied in its entirety because the New York State Administrative Procedures Act ("SAPA") § 306 does not require strict adherence to the rules of evidence be observed by the courts. Appellee also maintains that the credible testimony of Investigator Nunez established the procedure Appellee utilizes to complete and issue such affirmations. Appellee contends that Appellant's argument regarding service should also be denied in its entirety. Appellee also maintains that the ALJ properly determined that the unlicensed cannabis activity constituted more than a de minimis part of the Appellant's business activity.

## OPINION AND REASONING

A review of the instant record, including the hearing transcript, the ALJ's decision, and memorandum submitted by the parties, reflects that the ALJ considered the arguments, and the evidence at the hearing to support the decision in the case. While a party's appearance at a hearing should not deem service requisites satisfied, here there appears to be no dispute that service of the Order to Seal was effectuated on Appellant. In fact, Appellant does not claim a copy of the order was not received. Rather, Appellant argues that the lack of proper and sufficient evidence at the hearing establishing mailing to the business owner and real estate owner renders the service methods effectuated against Appellant insufficient to meet the jurisdictional mandates of Cannabis Law 138-b. Appellant has not cited or offered any support for their argument. The Board disagrees with Appellant under the facts of this case.

In an administrative proceeding the standard for service is whether the notice under all the circumstances is reasonably calculated to make the parties aware of the proceeding so that they have an opportunity to be heard. (See Reda v. Dep't of Health of City of New York, 137 Misc. 2d 61, 63, (Sup. Ct. 1987), aff'd, 143 A.D.2d 1073 (1988) *citing* Matter of Infante v Donohue, 42 Misc 2d 727 [Sup Ct, Albany County 1964].) When deciding if a defect in service is merely technical “courts must be guided by the principle of notice to the defendant—notice that must be ‘reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’” (Ruffin v. Lion Corp., 15 N.Y.3d 582–83 [2010], *citing* Raschel v. Rish, 69 N.Y.2d 694, 696 [1986], *quoting* Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314, [1950]). In this matter, there was substantial evidence at the hearing to support a finding that service was effectuated on Appellant that was reasonably calculated to provide notice. “Substantial evidence” means “such relevant proof as a reasonable mind may accept as adequate to support a conclusion or ultimate fact.” (300 Gramatan Ave. Assocs. v. State Div. of Human Rights, 45 N.Y.2d 176, 180 [1978]). The standard is a deferential one that “demands only that a given inference is reasonable and plausible, not necessarily the most probable.” (Matter of Café, La China Corp. v. N.Y.S. Liquor Auth., 43 A.D.3d 280, 281 [1st Dept. 2007]). This “minimal” threshold is lower than the preponderance of the evidence standard. (Matter of Haug v. State Univ. of N.Y. at Potsdam, 87 N.Y.S.3d 146 [2018]). It requires only that the agency's finding be based upon more than mere surmise, conjecture, speculation, or rumor. (300 Gramatan Ave. Assocs., 42 N.Y.2d at 180-81). Here, the ALJ's determination relied on the testimony of both Appellee and Appellant's witness. Each witness provided testimony establishing the service of the OTS by Appellee on Appellant's store manager. Appellant's witness also testified to providing the documentation to the business owner. Additionally, there was credible testimony establishing a copy of the OTS was posted on the exterior of Appellant's business.



Appellant does not cite any caselaw or other support for its conclusion that the ALJ's finding regarding service was not based on substantial evidence or a proper application of the law. Moreover, while Appellant argues that the affidavit of service establishing a copy of the OTS was mailed to the business owner was improperly considered by the ALJ, this argument is without merit. First, the record reflects that the ALJ denied Appellee's request to take judicial notice of the affidavit and instead requested Appellee seek to admit it through their own witness. Investigator Nunez testified he was aware of the procedures for the creation and mailing of an affidavit, but he did not have personal knowledge as to when the document was mailed. Over Appellant's objection, the ALJ admitted the document into evidence. Pursuant to Title 9 NYCRR § 133.18(d)(2), the formal rules of evidence do not need to be observed at hearings conducted by the OAH and presided over by an ALJ. Additionally, evidence at a hearing may include affidavits, affirmations, business records, or government records. (9 NYCRR § 133.18[d][9]). Therefore, the Board disagrees with Appellant that the affidavit of service was improperly admitted.

Furthermore, the defense of lack of jurisdiction based on improper service is personal in nature and may only be raised by the party improperly served (see Lehman Brothers Bank v Hickson, 186 AD3d 1348 [2d Dept. 2020]; Rhoe v Reid, 166 AD3d 919 [2d Dept. 2018]; Rhoades v Westchester County Bd. of Elections, 115 AD3d 958 [2d Dept. 2014]; Wells Fargo Bank, N.A. v Bowie, 89 ad3D 931 [2d Dept. 2011]; Home Sav. of America, F.A. v Gkanios, 233 AD2d 422 [2d Dept. 1996]; Advance Serv. Grp., LLC v. Vision Home Builders LLC, 83 Misc.3d 1230(A), 2024 N.Y. Slip Op. 50843(U) [Sup Ct, Kings County 2024]). Thus, Appellant cannot raise a challenge based on improper service on behalf of another party, here the real property owner.

Additionally, there is no merit to the argument that the ALJ lacked jurisdiction to adjudicate the matter due to improper service. The jurisdiction and powers of an administrative body derives from the statute which created it. (Drolet v. New York State Racing & Wagering Bd., 115 Misc. 2d 7, 10 (1982) *citing* Foy v. Schechter, 1 N.Y.2d 604 [1956]). Here, the OAH, through the service of ALJs, is authorized pursuant to 9 NYRR § 133.16 to conduct all adjudicatory proceedings which devolve upon the Board by requirement of statute. Here, the adjudicatory proceeding was indeed required by statute and thus the OAH had subject matter jurisdiction over the proceeding. The proceeding was a hearing to determine the legality of the OTS issued by Appellee against Appellant's business operating at the location inspected. As such, there is no question the OAH and the presiding ALJ had subject matter jurisdiction over the proceeding. The reliance on technicalities to overcome the service methods that were effectuated is not persuasive, particularly where no allegations of prejudice have been asserted by Appellant either at the hearing or in the exceptions noted in the instant appeal. (See, e.g., Buscher v. Ehrich, 12 A.D.2d 887, 888 [1961]). Any defect in service here was "merely technical" as the service effectuated was reasonably calculated to make Appellant aware of the proceeding. (Ruffin, 15 N.Y.3d at 582).

Appellant also contends that the record does not support the ALJ's determination that the unlicensed cannabis activity was more than a de minimis part of Appellant's business activity. Appellant asserts that the vast majority of products sold were legal products covered by Appellant's Cannabinoid Hemp License issued by Appellee. Appellant, however, fails to point to any evidence to support that assertion. Additionally, Appellee's evidence showed the presence of a large quantity of cannabis products or those marketed and labeled as cannabis. Moreover, Appellant's witness testified that the sales of cannabis products amounted to about fifty percent of the business activity.

As the finder of fact, an ALJ must weigh the evidence and decide whether relevant and probative proof has been adduced to a level which, at minimum, is slightly "less than a preponderance of the evidence" (300 Gramatan Ave. Assocs., 42 N.Y.2d at 180-181). In reviewing a determination of an ALJ, the Board retains the authority to reverse or modify decisions but accords due deference to the ALJ in terms of factual findings and credibility assessments (see e.g., Matter of Simpson v Wolanski, 38 NY2d 391, 394 (1975); see also Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, 34 NY2d 222, 230[1974]). Here, there is substantial evidence in support of the ALJ's determination that the unlicensed cannabis activity was more than a de minimis part of Appellant's business activity. The record establishes the presence of multiple signs and symbols on the exterior and interior of Appellant's business indicating cannabis was being sold at the premises. In addition to the signage at Appellant's business, there was substantial evidence that there was a large variety and volume of cannabis products on display at Appellant's business during the inspection. Furthermore, the ALJ considered Appellant's witnesses testimony admitting to selling cannabis products without a license, which they approximated as half of the business activity. Thus, substantial evidence supports the ALJ's finding that the unlicensed cannabis activity at Appellant's place of business, was more than a de minimis part of the business activity and that it constituted an imminent threat to public health, safety, and welfare.

#### CONCLUSION

Based on the foregoing, the Board finds that the Order to Seal was not erroneously extended. Accordingly, the decision of the Administrative Law Judge is affirmed.

The foregoing constitutes the final decision of the Board.

DATE:            March 20, 2025