

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION
Inspection No. 130202508110004

Al Noor International

Respondent.

Respondent requested an emergency hearing on August 13, 2025, within seven (7) calendar days of the date of the inspection which occurred on August 11, 2025.

Herbert Greenman, Esq., represented the Respondent, Al Noor International.

Kevin Marek, Esq. represented the Petitioner, the Office of Cannabis Management (hereinafter “OCM”).

Investigative Specialist Roderick Harville and Detective Chuck Jaworski testified on behalf of OCM.

Ridha Nagi, owner of Al Noor International, and Badraddin Nagi, the owner of the building housing Al Noor International and the brother of Ridha Nagi, testified on behalf of the Respondent.

Laurie Cartwright, Esq., Administrative Law Judge (the Presiding Judge)

On August 15, 2025, Mr. Greenman requested an adjournment due to a scheduling conflict. OCM consented, and the adjournment was granted until September 9, 2025. On September 5, 2025, Mr. Marek requested an adjournment due to witness unavailability. Mr. Greenman consented, and the hearing was adjourned to September 17, 2025. On September 15, 2025, Mr. Greenman again asked for an adjournment due to witness availability. OCM consented to the adjournment, and the hearing was adjourned to October 16, 2025. The combined hearing on the Notice of Violation (hereinafter “NOV”) and Order to Seal (hereinafter “OTS”) began October 16, 2025, and continued on October 22, 2025.

I. ISSUE

The allegations set forth in the NOV indicate that the Respondent was offering cannabis products, as defined by Cannabis Law Article 3, for sale without an appropriate registration, license, or permit. This allegation was based upon observations made during a regulatory inspection was conducted at 1346 Electric Ave. Lackawanna, New York 14218.

The emergency hearing encompassed two issues: whether the padlocking provisions of Cannabis Law Article 6 § 138-b have been met by a preponderance of the evidence and whether the Respondent violated Cannabis Law § 125(1), 138(a), and § 132(1)(a), and if so, the appropriate civil penalty to be imposed.

II. APPLICABLE LAW

Cannabis Law § 125(1): Prohibits the sale, cultivation, or distribution of cannabis or cannabis products without the appropriate license or registration.

The law 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 § 138(1): Authorizes the OCM to order any person engaged in unlicensed activity to cease such conduct and permits the seizure of unlawful cannabis products.

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 § 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).

Penal Law §222.05(1) The following acts are lawful for persons twenty-one years of age or older: (a) possessing, displaying, purchasing, obtaining, or transporting up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis.

Cannabis Law § 132(1)(a): Permits the imposition of a civil penalty up to \$10,000 per day for unlawful sales.

The law 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 § 132(1)(c): Requires penalties to be proportionate to the nature of the violation.

The law 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...”

III. FINDINGS OF FACT

1. Respondent was offering cannabis products for sale without a license issued by OCM.
 - a. Detective Chuck Jaworski of the Lackawanda Police Department testified first. He explained that he has been a detective for the past 13 years. He attended a specialized narcotics training program run by the New York State Police in Albany. Detective Jaworski became involved with the investigation into Al Noor International after receiving anonymous calls and complaints regarding the sale of cannabis at the premises. After receiving the complaints, he stated that he conducted a two-week investigation of the business, followed by two separate undercover controlled purchases of 1/8 of cannabis flower for \$20. Each purchase was made at the premises from an individual named Sadiq (Exhibit B3) who reached under the counter, retrieved cannabis flower, and exchanged it for money. Detective Jaworski testified that the last purchase occurred within 10 days of the search warrant application.

- b. The validity of the search warrant and scope of the search was not contested by Respondent. Detective Jaworski stated that he did not speak to the owner of the store at any time during his investigation or the execution of the search warrant.
- c. Investigator Harville testified that he participated in the regulatory search of Al Noor International on August 11, 2025. He explained he has conducted approximately 15-20 regulatory inspections on behalf of OCM. He also stated he has training and experience in conducting regulatory inspections for cannabis. According to Investigator Harville, his training consisted of identifying cannabis product, looking at packaging for signs and symbols on each package to ensure that they are compliant with New York State Cannabis Law. He also added that he was accompanied by five other OCM Investigators and additional Lackawanna Detectives, including Detective Jaworski, during his inspection.
- d. Investigator Harville testified that his participation in the regulatory search and search warrant execution involved waiting for the Lackawanna Police Department to clear the premises and standing by while other investigators searched the premises and found cannabis product, at which point they would call him over and he would take a photograph.
- e. He testified that he spoke with two employees during the regulatory inspection, the clerk Sadiq (Exhibit B3) and Abrahaam (Exhibit B4), who identified himself as the cleaner. Inexplicably Abrahaam's name, not Sadiq's, appears on all but one of the vouchers issued to the business, which were not filled out by Investigator Harville but by another investigator.
- f. The Petitioner did not introduce any pictures of the full interior of the store. The outside of the store was featured in Exhibit D1. The entire area behind the counter, where Investigator Harville testified the cannabis products were found, was featured in Exhibit D2.
- g. Investigator Harville testified that the following cannabis products and implements, for which we have pictures, were recovered from behind the counter:
 - i. A small loose baggie of cannabis flower (Exhibit D4)
 - ii. A grinder with a small amount of cannabis residue. (Exhibit D4)
 - iii. Packages of empty bags. (Exhibit D3)
 - iv. A rolling tray with a small amount of cannabis residue. (Exhibit D6)
 - v. Cannabis Flower in a small plastic container. (Exhibit E1)
 - vi. Approximately four 3.5g bags of cannabis flower labeled Milk Shake, Runtz X Cereal Milk, in a personal satchel. (Exhibit E3)
 - vii. Four small containers of cannabis product. (Exhibit E5)
 - viii. Two 3.5g packages of cannabis flower. (Exhibit E6)
 - ix. Two 2g Vapes. (Exhibit E7).
 - x. A couple of small Ziplock bags of cannabis flower. (Exhibit E11)

- xi. Three packages of edibles; two by Mellow Fellow and one by Sweet Dreams. (Exhibit E12)
 - h. The vouchers issued to the business were entered into evidence. Investigator Harville did not testify about them, nor did he fill them out. Most of the products listed on the voucher seem to be featured in the photographs entered into evidence, excluding the majority of the 20- 3.5-gram packages of cannabis flower, the majority of which were not depicted. (Exhibit C1). The vouchers list the following product: 45.83g loose cannabis flower, 20-3.5g packages of cannabis flower, 2- 2.0g cannabis vape, 1-2ml THCP and Delta 8 vape, 2- 9g packages of Delta 9 edibles- 40mg a package¹, 1 large bag of various cannabis packaging. The amount of flower equates to 4.09 ounces. (Exhibit C).
2. Investigator Harville stated that no part of the sealed premises was used in part as a residence or pursuant to local law or ordinance, zoned and lawfully occupied as a “residence.” The Respondent and her brother also testified that the sole part of the premises that was sealed was the store. The apartments above were not sealed.
3. The unlicensed activity which warrants an order to seal does not constitute more than a “de minimis” part the business activity.
- a. The cannabis products found at the location were almost exclusively comprised of cannabis flower, namely 4.09 ounces.
 - b. I find the testimony of Respondent and her brother, Mr. Naji, to be credible. Mr. Naji testified that they had purchased and stocked the premises with \$20,000 worth of food that was sold at the location. Mr. Naji explained that they converted the location, which was originally a bar, into a deli featuring freezers, coolers, and a pizza franchise. He added that the deli sold food, including halal meats, and was running as a completely halal store without tobacco, alcohol, or lottery tickets. While I do note that the advertisements on the outside of the store include tobacco, in addition to advertisements for Ice Cream, Boars Head Deli Meats, and Hunt Brother’s Pizza; they importantly do not include any reference to cannabis products or cannabis consumption materials or implements.
 - c. The Petitioner did not enter any testimony or photographs which would counter Mr. Naji and Ms. Naji’s testimony that the location was functioning as a deli and small grocery store. In fact, the only photographs of the store itself that were entered into evidence were: photographs of the exterior (Exhibit F1 and Exhibit D1) and one photograph of the area behind the counter after the search, which left the area in a complete state of disarray. There were no photographs entered of advertisements or marketing content in connection with cannabis sales nor were

¹ The two packages of Mellow Fellow edibles contained 20mg total per package of Delta 9 THC per the label. The other 20mg per package was CBD. While Respondent did not have a hemp license, Petitioner has charged them with violations of the cannabis regulations, not the hemp regulations.

there signs or symbols advertising the sale of cannabis or indicating that it is sold on the premises.

IV. ANALYSIS AND OPINION

While Petitioner has demonstrated that products labeled as cannabis were being sold at the location, Petitioner has not demonstrated by a preponderance of the evidence that this activity was more than a de minimis part of the business activity occurring on the premises. The store per the testimony of both Ms. Naji and Mr. Naji, functioned as a deli, meat and fresh produce store serving their community with fresh food and Middle Eastern and Halal goods. Prior to the opening of the location, Mr. Naji stated he had given Ms. Naji \$20,000, which she used to provision the store with food products. There was little to no testimony from Investigator Harville or Detective Jaworski regarding what either of them observed inside the store during the inspection and search warrant execution. Investigator Harville's role seemed to be limited to photographing and vouchering items.

He did not give testimony regarding the share of cannabis in proportion to the sales of other product from the store. The quantity of cannabis flower, the main form of cannabis recovered from the location, totaled just over 4 ounces. The quantity of concentrate recovered totaled approximately 44g over 5 products. The voucher depicts that Respondent's store contained approximately 1oz of flower over the personal use limit and a little under double the personal use limit of concentrate. While there is no singular way to show that the sales of cannabis at a given location are more than a de minimis part of the business activity, the law and regulations give four examples; two of which are not alleged or applicable in this case. The remaining two: volume and variety, I find were also not proven. The diversity of product was limited to unlabeled cannabis flower and a handful of concentrate brand varieties with only one or two products from each brand and type/flavor. However, this does not equate to variety. There was so little cannabis recovered, if half of the cannabis flower or concentrate were sold, the location would have contained less than the amount legal for personal use. The evidence presented lacked, by a fair preponderance that the cannabis recovered was more than a de minimis part of the business. Petitioner did not present any information regarding the business activity at the location, or advertisements, marketing, or photographs of the interior of the location. Any of which could have shown that the business's cannabis sales were a greater than de minimis part of its business. Despite this, I am asked by Petitioner to find that more than a de minimis amount of the business activity of this location consisted of cannabis sales. I cannot do so, because that finding is not supported by the evidence presented.

As in the case of *OCM v. Havensmoke LLC*, Inspection No.118202506170126 (2025), the assertions made, by Investigator Harville during his testimony and counsel during summation, that there was a large volume and variety of product present at the location, were conclusory at best. Petitioner failed to expound upon that analysis or present analogous cases. In *Havensmoke LLC*, there were cannabis signs and symbols in the interior, as well as a larger amount of cannabis flower than what was found at this location. In *OCM v. Stonedhenge Smokeshop*, Inspection No.104202406130017 (2024), a store with a larger variety and volume of cannabis products was unsealed for failure to prove that the business activity was more than de minimis.

Though it should be noted that the store *Stonedhenge Smokeshop* was far larger than Respondent's store; I also note that as in the instant matter, OCM failed in that case to submit evidence regarding the volume of cannabis products in the store in contrast to the other products sold at the location, making it impossible to assess the proportion of illicit to licit business activity. This is particularly true, in light of Ms. Naji and Mr. Naji's testimony that the location had a large volume of food products for sale.

V. PENALTY

Though this tribunal is vacating the OTS, a fine of less than \$10,000 is still warranted. Comparison to previous enforcement actions further supports the imposition of a small penalty. In *AAA Mount Vernon Gas, Inc.*, Inspection No. 20320241106003 (2024), where the quantity of cannabis was small, limited to a vending machine containing 50-100 products, a \$3,000 penalty was imposed. In *Haven Smoke LLC*, 38 products were recovered in addition to cannisters containing loose cannabis flower and a \$3,500 fine was imposed. In this case far fewer products were recovered, namely a handful of concentrate items and approximately 4oz of flower. However, I do take into account that a few of the concentrate packages, depicting food such as cookies, could be attractive to minors.

As such, a \$1,500 fine is warranted, reasonable, proportionate, and consistent with prior precedent. It reflects the gravity of the offense and considers mitigating factors such as the very limited quantity of product located at the premises, the multiple categories of food products sold by the Respondents, and the lack of advertising or cannabis symbols at the location.

This tribunal, upon full consideration of the evidence, arguments, and applicable law, determines and orders as follows:

1. The Order to Seal is **VACATED**.
2. Petitioner has failed to satisfy the requirement of § 138(b)(6)
3. The Notice of Violation and Order to Cease Unlicensed Activity is hereby **AFFIRMED**.
4. Respondent is found to have violated Cannabis Law §§ 125(1) 138(a), and 132(1)(a).
5. A civil penalty of **\$1,500** is assessed under Cannabis Law § 132(1)(c).

WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 §138-b (9), THE ORDER TO SEAL, ISSUED ON AUGUST 11, 2025, IS HEREBY VACATED FROM THE DATE OF THIS DECISION.

WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 § 132(1), THE RESPONDENT IS HEREBY ORDERED TO PAY A \$1,500 FINE, AS A PROPORTIONATE PENALTY FOR THE UNLICENSED SALE OF CANNABIS AND CANNABIS MARKETED PRODUCTS ON AUGUST 11, 2025.

This constitutes the final decision of the Office of Administrative Hearings. A copy of this decision shall be served upon the parties.

Dated: November 21, 2025

Laurie Cartwright
Laurie Cartwright
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 §§ 133.23(g)(5) and 133.25(k).

This decision was sent via email on November 21, 2025 to the following:

Nickolas Perry
Sheila Wagner
Celena Ditchev, Esq.
Kevin Marek, Esq.
Herbert Greenman, Esq