

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION
Inspection No. 301202408140020

MR. RAW SMOKES AND BEERS, CORP.

Respondent.

Respondent requested a hearing to adjudicate the Notice of Violation and Order to Cease Unlicensed Activity (hereinafter “NOV”) issued by the Office of Cannabis Management (hereinafter “OCM”). Respondent’s request occurred on August 19, 2024, and stemmed from an inspection conducted on August 14, 2024. A hearing was conducted on September 10, 2025.

The Office of Cannabis Management was represented by Abir Ahmed, Esq.

Supervising Investigator Dawn Kiely (hereinafter “Kiely”) appeared as a witness for OCM.

The Respondent, Tawfiq Ahmed, Owner of Mr. Raw Smokes and Beers Corp., did not appear.

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

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 which was conducted at 1182 Myrtle Ave., Brooklyn, NY 11221.

The scope of the hearing involves determination of whether OCM, by a preponderance of the evidence was justified in issuing to Respondent the NOV and what penalty, if any, under Article 6 § 132 is justified. OCM requested the maximum fine of \$10,000.

APPLICABLE LAW

Cannabis Law Article 6 §125(1) 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 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 §132(1)(a) provides that “Any person who cultivates for sale, offers to sell, or sells cannabis, cannabis products, medical cannabis, or any product marketed or labeled as such, without having an appropriate registration, license or permit therefor, including a person whose registration, license, or permit has been revoked, surrendered or cancelled, where such person is engaging in activity for which a license would be required under this chapter, maybe subject to a civil penalty of not more than ten thousand dollars for each day during which such violation continues...”

Cannabis Law Article 6 §132 (1)(c) 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....”

FINDINGS OF FACT

1. On August 14, 2024, the Office of Cannabis Management (“OCM”) conducted a regulatory inspection at 1182 Myrtle Ave., Brooklyn, NY 11221, during which cannabis products were observed offered for sale without a license.
2. OCM thereafter issued a Notice of Violation (“NOV”) alleging violations of Cannabis Law Article 6, including unlicensed sale of cannabis products under §125(1).
3. Respondent filed a Request for Hearing on August 19, 2024, listing an email address for service. OAH used that address for all correspondence. An initial conference was held on February 24, 2025, with counsel for Respondent present, and counsel agreed to a hearing date of March 10, 2025.

4. Multiple adjournments were granted. On March 7, 2025, OCM requested adjournment due to settlement discussions and a March 14, 2025, hearing date was set, followed by a March 21, 2025, control date. On March 21, 2025, Respondent's counsel withdrew representation and indicated she would withdraw the hearing request. OCM counsel requested the matter proceed under 9 NYCRR §133.10(a).

5. Upon withdrawal, Respondent's counsel provided Respondent's phone number and stated Respondent had no email, although OCM confirmed an email address for Respondent in licensing records and continued to serve that address. The hearing was rescheduled to April 2, 2025. Respondent did not appear. OCM mailed written notice by certified mail to Respondent's home and business addresses on April 7 and April 18, 2025 (Ex. D). USPS confirmed delivery to the business address. The notices advised that failure to appear could result in a hearing in absentia and a monetary penalty. Subsequent hearing dates were set for July 28, 2025, August 20, 2025, and finally September 10, 2025.

6. Notice of new conference/hearing dates was issued to Respondent by email and/or by certified mail to Respondent's business and home addresses. The hearing was scheduled for September 10, 2025. On September 10, 2025, OAH emailed Respondent the virtual link. The Respondent did not appear. The hearing proceeded at approximately 11:08 a.m., and a default was entered. The NOV had been left with Respondent's employee at the time of inspection.

7. The hearing proceeded solely to determine whether OCM proved the allegations in the NOV by a preponderance of the evidence. At the hearing, Supervising Investigator Kiely credibly testified that approximately half of the products visible on glass shelving were cannabis products. She further testified, that cannabis-themed signage and advertisements were displayed (Ex. B6).

8. Supervising Investigator Kiely credibly stated that cannabis products, including Stiiizy THC pods and prohibited Delta-8/THCA products, were stored in an unlocked storeroom (Ex. C5) and that equipment consistent with cannabis processing was found (Ex. C7, C8, C10). The Respondent offered illicit cannabis products for sale without the required license.

9. OCM requested a civil penalty of \$10,000. No testimony or evidence was submitted by OCM to quantify the volume of seized products or to support aggravating circumstances warranting the maximum penalty.

OPINION AND CONCLUSIONS OF LAW

Under Cannabis Law §138-a and 9 NYCRR §133.25(g), OCM may proceed where service of an NOV is posted at the premises and mailed to the respondent. Service is constitutionally sufficient where notice is "reasonably calculated" to apprise the party of the action. *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950); *Matter of Block v. Ambach*, 73 N.Y.2d 323 (1989).

In this case, the Respondent requested the hearing and provided an email for service. The Respondent was notified via email and certified mail, and received notice that the hearing would

proceed in his absence. “Due process does not require actual receipt of notice before a person's liberty or property interests may be adjudicated; it is sufficient that the means selected for providing notice was ‘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’” Matter of Beckman v. Greentree Sec. 87 N.Y.2d 566 at 570 quoting Mullane v. Central Hanover Bank & Trust Co. 339 U.S. 306, at 314. Respondent’s failure to appear does not bar adjudication. A default may be entered. SAPA §306(1). The record establishes that notice was transmitted by email, certified mail, and through participation of counsel. The NOV was also left with Respondent’s employee at the time of inspection. Therefore, the Respondent’s nonappearance after proper notice constitutes default, and the matter may proceed in Respondent’s absence.

At the hearing, Supervising Investigator Kiely testified that Respondent was engaged in the unlicensed sale and advertisement of cannabis products. Approximately half of the products displayed on shelving next to the register, inside the premises, were cannabis products. The location contained cannabis-related advertising, including figurines with cannabis imagery, a sign reading “I [leaf] THC” (Ex. B6), and a sandwich board listing “Smoke Dispensary... Flower, Edibles, Pre Rolls, Disposable Carts.”

Supervising Investigator Kiely further testified that THC products including Stiiizy pods, Delta-9 products, and prohibited THCA/Delta-8 products were found in an unlocked storeroom (Ex. C5). While uncertain as to some products (such as ELF THC), she testified that illicit cannabis inventory was plainly present. She also testified that indicators of processing were present, including empty packaging, a blender containing cannabis residue (Ex. C7), a pre-roll maker (Ex. C10), a scale and a label maker (Ex. C8), consistent with on-site preparation of illicit cannabis products for sale.

Supervising Investigator Kiely’s testimony was admitted without contradiction due to the Respondent’s default. Her testimony supports a finding that Respondent engaged in unlicensed cannabis commerce in violation of Cannabis Law §125(1).

Cannabis Law §125(1) prohibits the sale or offering for sale of cannabis or cannabis products without a license. Investigator Kiely’s sworn testimony, supported by photographic exhibits, established the possession of regulated cannabis products for sale and that unlicensed cannabis was offered for sale. Therefore, by default and by uncontroverted evidence, the Respondent violated Cannabis Law §125(1).

PENALTY

Under Cannabis Law §132(1)(a), a civil penalty of up to \$10,000 per day may be imposed. Cannabis Law Article 6 §132 (1)(c) 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.” OCM did not supplement the evidence and testimony given in this case, by Investigator Kiely, with arguments to justify the request for a \$10,000 fine. As such, I can only rely on her testimony and the evidence introduced, in assessing an amount proportionate to the violation.

The number of cannabis products found at the location was not considerable. OCM did not individually identify each of the products recovered from the location. Investigator Kiely testified that some of the product on the shelf of pre-rolls featured in Exhibit C1 contained cannabis. She did not specify how many products were vouchered as cannabis products. Similarly, she stated about 50% of the box of products in Exhibit C5 contained cannabis product, but did not quantify the number of products.


Given the lack of specificity as to the quantity of cannabis products recovered from the location, in addition to the low volume of cannabis, I find that a limited fine is warranted. I do note that the presence of processing equipment, as well as “Stay Puft” packaging marketed towards children, warrants a fine that is more than negligible. As such I find a fine of \$3,000 is proportionate and reasonable to the offense, as there was no evidence quantifying the amount of cannabis seized or other compelling justification for the maximum penalty.

Therefore, a **\$3,000** civil penalty is proportionate and supported by the record.

DECISION

WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 §132, THE RESPONDENT IS HEREBY ORDERED TO PAY A \$3,000 FINE FOR VIOLATIONS UNDER §125, AND AS A PROPORTIONATE PENALTY, FOR UNLICENSED SALE OF ILLICIT CANNABIS ON AUGUST 14, 2024.

Dated: October 28, 2025


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 NYCRR 133.25(k). This decision was sent via email on October 28, 2025, to the following:

Abir Ahmed, Esq.
Tawfiq Ahmed
Nickolas Perry
Sheila Wagner
Celena Ditchav