

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. 137202405210004**

**9<sup>th</sup> Sky High Corporation**

Respondent.

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The Office of Cannabis Management requested a hearing, for an inspection which occurred on May 21, 2024. The hearing was held on January 13, 2026.

The Respondent failed to appear, and as such was not represented by counsel at the hearing.

The Office of Cannabis Management (hereinafter “OCM”) was represented by Assistant Counsel Anthony Pitnell, Esq.

Investigative Specialist Joshua Coons testified on behalf of OCM.

Laurie J. Cartwright, Esq. was the presiding Administrative Law Judge (hereinafter “ALJ”)

**I. ISSUE**

The allegations set forth in the Notice of Violation and Order to Cease Unlicensed Activity and Notice of Hearing (hereinafter “NOV”) allege 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 170 9<sup>th</sup> Avenue, New York, NY 10011.

## II. APPLICABLE LAW

Cannabis Law Article 6 § 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 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-A(1-2): Authorizes the OCM to order any person engaged in unlicensed activity to cease such conduct and permits the seizure of unlawful cannabis products.

The law states 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 § 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...”

9 NYCRR 133.16 (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.”

### **III. FINDINGS OF FACT**

1. On August 19, 2025, a conference in this matter was held before Administrative Law Judge Joshua Pennel.
2. Prior to the hearing, Petitioner represented at the conference that a mailing was sent out to the Respondent notifying them of the conference date and time. Petitioner was unsure of whether the notice had been delivered but stated that it had not been returned to sender.
3. At the inception of the hearing on January 13, 2026, Petitioner introduced documents as part of Exhibit D to show proof of proper service. Exhibit D included an affidavit of service stating that on November 25, 2025, OCM employee Alicia Pasos, served the associated Notice of Violation, Notice of Conference and/or Hearing, Respondent Response Form, and Notice of Language Access and Administrative Hearing Rights on the corporation via both certified mail return-receipt and through the New York State Department of State. The exhibit also included a receipt from the Department of State confirming their service of the documents. The Notice of Conference/Hearing Request specified that the hearing would take place virtually on “1/14/2026 at 12:00pm.” It further went on to notify the Respondent of the consequences of not attending, namely: “[y]our attendance at the Proceedings is required and failure to appear may result in a default judgement with financial penalties of up to and including ten thousand dollars (\$10,000) as authorized under Cannabis Law § 138-A.” (Exhibit D-3). As such, I deem service to have been properly effectuated by serving the corporation’s registered agent, the Department of State. (*See* Exhibit D).
4. Petitioner asked that I take judicial notice of the documents, which I declined. Instead, based on the signed affidavit of service by an OCM employee, they were admitted as self-authenticating documents.
5. Petitioner then presented their sole witness Investigator Specialist 3 Joshua Coons.
6. Investigator Coons testified that he was a supervising investigator for OCM. He explained that he received both in office and field training on identifying cannabis products and the Cannabis Law. He stated that he was taught to identify cannabis products by the signs and symbols present on the inside or outside of the business, menus and price lists present, as well as packaging and out of state cannabis warning labels.
7. Investigator Coons checked the license status of the business and identified that they did not have a hemp or cannabis license.

8. Petitioner introduced the Notice of Violation, Order to Seal, and Order to Cease Unlicensed Activity issued on May 21, 2024, into evidence. (*See Exhibit A*). The document alleges that the investigator observed cannabis products in the form of cannabis flower, concentrate, and edibles in violation of Cannabis Law § 125, 138-A, 101, and 9 NYCRR §§ 120(i) and 114.14(d)(1). Exhibit A alleged, in addition to the violations of the above laws and regulations, that Respondent’s actions were an imminent threat to the public health, safety and welfare. It stated that the source of this threat was that Respondent was engaged in, “[u]nlicensed processing of cannabis products; [and] sales/offers to sell cannabis products not tested or labeled lawfully.”
9. Investigator Coons testified regarding his observations at the premises. From the outside of the premises, a large inflatable Raw branded joint is clearly visible, indicating the sale of cannabis products at the establishment. (*See Exhibit. B1*). Inside of the business, various cannabis products were located on glass shelves in a way that signified that they were being offered for sale.
10. Investigator Coons testified that he observed the following products, featured in Exhibit B, offered for sale in violation of the Cannabis Law and regulations:
  - a. Exhibit B6: 5 Camino Excite Wild Cherry Cannabis Infused Gummies (5mg)
  - b. Exhibit B7: 4 Grab-N-Go packs of Bursts by Sauce 4x 200mg infused gummies in multiple flavors
  - c. Exhibit B8: Approximately 10 Punch Bar edibles in multiple flavors, 1 package Puff LA Grape Gummies, and Flav Cannabis Infused Gummy Rings with Live Resin-Watermelon (1,000 mg)
  - d. Exhibit B9: contains a close-up of the Punch Bars featured in B8, showing they contain varying amounts of THC ranging from 225mg to 1,000 mg.
  - e. Exhibit B11: Approximately 3 Stiiizy pre-roll containers and two boxes containing up to 32 count Alien Labs “Premium Flower”, and 1 bottle Zkittle(s) brand pre-rolls
  - f. Exhibit B12: Various jars of pre-rolls, including an unknown number of Sherbinksi brand pre-rolls
  - g. Exhibit B13: 1 Mason jar halfway filled with cannabis flower
  - h. Exhibit B15: 3 Cartridges of Raw Garden Refined Live Resin Concentrate
  - i. Exhibit B16: Approximately 6 Dabwoods Premium Cannabis Disposable Vape Pens and 3 Runts Wild Berry Rechargeable Disposable Vape Pens<sup>1</sup>
11. Exhibit B22-25, also featured a scale, rolling tray with what appeared to be cannabis residue, rolling papers, a handheld grinder and a bump box, which indicated that processing was occurring on the premises.
12. Petitioner also introduced some of Respondent’s business records, which indicate that from February 26, 2024-March 3, 2024, Respondent’s net profit was approximately \$28, 715.

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<sup>1</sup> The Exhibit does not clearly show this product labeled as cannabis, but the Investigator testified that it was a cannabis product and that it contained the California Cannabis warning label.

13. At the conclusion of the inspection OCM Investigators issued a Notice of Violation and Order to Seal to 9<sup>th</sup> Sky High Corporation. The paper containing those documents was posted outside of the store front as seen in Exhibit C.

#### **IV. ANALYSIS & CONCLUSIONS OF LAW**

##### ***Service and Notice***

OCM regulations dictate the service requirements for the NOV, preliminary conference, and hearing. OCM regulation §133.14 states that service of notices and papers connected with a hearing, should be made by electronic mail or regular first-class mail. Service of the Notice of Hearings, per §133.10(f) should be made at least 45 days prior to the scheduled hearing and sent either by certified or registered mail, or by a method that is consistent with CPLR Article 3. CPLR §311 prescribes the process by which corporations should be served. Personal service is to be made upon, “an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service. A business corporation may also be served pursuant to section three hundred six or three hundred seven of the business corporation law...” §306(b)(1) of the Business Corporation allows for service of process on the secretary of state as an agent for the corporation. It requires that service by this method be completed by delivering the items to be served to the “secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany.”

In this case, a notice for the preliminary conference was sent out by certified mail-return receipt requested to the Respondent’s place of business. The place of business had been padlocked by OCM, and it is unclear whether the notice of conference was delivered prior to the conference. Nevertheless, Respondent was properly served by service to their agent, the Department of State, pursuant to §306(b)(1) of the Business Corporation. (Exhibit D-3). As such, a default was granted and the hearing moved on to inquest. A default does not establish liability. It waives only Respondent’s right to contest the evidence. OCM must still prove, by a preponderance of the evidence, (i) the statutory violations alleged and (ii) penalty authority and proportionality. The matter therefore properly proceeded as a default inquest.

##### ***Validity of the Regulatory Inspection & Determination Concerning Notice of Violation***

During the regulatory inspection of 9<sup>th</sup> Sky High Corporation on May 21, 2024, Investigator Coons, in addition to other OCM investigators, observed on display numerous

products purporting to be cannabis in glass compartments running along the inside perimeter of the store. (See Exhibit B3-5). He noted that he was able to determine these products were cannabis products based on his training and experience. He observed edibles, pre-rolls, flower, and concentrate products, the vast majority of which were labeled as cannabis and had out of state cannabis warning labels, indicating that they were cannabis products that were not lawful to sell or offer to sell in New York.

Cannabis Law §125 prohibits the sale of any product that is or is marketed and labeled as: cannabis, cannabis product, cannabinoid hemp, or hemp extract product. Cannabis Law § 138-a allows OCM to order an entity that is unlawfully selling cannabis or products marketed or labeled as such to cease selling and allows OCM to seize the unlawful products found at their business. In the instant matter, Investigator Coons observed products marketed and labeled as cannabis, in addition to the processing of cannabis, on site. Though neither Cannabis Law § 138-A nor §125 require there to be an imminent threat to public health or a large volume or variety of product for a violation to be upheld, it is of note that both circumstances were present at this location. There was open and ongoing processing as demonstrated by the presence of a grinder, and pre-roll components on a rolling tray. (See *Exhibit B23*). Additionally, there were at least 12 brands represented amongst the flower, pre-rolls, edibles, and concentrate offered for sale at the location.

### *Penalty*

I find by a preponderance of the evidence that 9<sup>th</sup> Sky High Corporation was offering for sale a wide breadth of product, in terms of brands and product form. They also were processing cannabis using containers and surfaces that appear dirty and unhygienic to the eye. (See Exhibit B22 and B25). I also find that a cursory observation of one week of records suggests that the business was netting a large profit each week. As such, I find the maximum penalty to be proportionate and reasonable.

## V. 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 170 9<sup>th</sup> Avenue New York, NY 10011. In so doing, Respondent violated Cannabis Law Article 6 and is ordered to pay a fine of \$10,000.

1. The Notice of Violation and Order to Cease Unlicensed Activity is hereby **AFFIRMED**.
2. Respondent is found to have violated Cannabis Law §§ 125(1) and 132(1)(a).
3. A civil penalty of **\$10,000** is assessed under Cannabis Law § 132(1)(c).

**WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 § 132(1), THE RESPONDENT IS HEREBY ORDERED TO PAY A \$10,000 FINE, AS A PROPORTIONATE PENALTY FOR THE UNLICENSED SALE OF CANNABIS AND CANNABIS MARKETED PRODUCTS ON MAY 21, 2024.**

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

*Laurie Cartwright*  
Laurie Cartwright  
Administrative Law Judge

Dated: February 12, 2026

This decision was sent via email on February 12, 2026 to the following:

Abir Ahmed, Esq.  
Nickolas Perry  
Sheila Wagner  
Celena Ditchev, Esq.

This decision was sent via certified mail on February 12, 2026 to the following:

9<sup>th</sup> Sky High Corporation  
170 9<sup>th</sup> Avenue  
New York, NY 10011