

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION
Inspection No. - 134202405230005

THE GOOD TREE, INC.,

Respondent.

The Office of Cannabis Management requested a hearing for an inspection which occurred on May 23, 2024. The hearing was held on January 13, 2026.

The Respondent did not appear and was not represented by counsel at the hearing.

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

Senior Investigative Specialist 2 Jillian Agnew (hereinafter “Agnew”) testified on behalf of OCM.

Joshua Pennel, Esq. Administrative Law Judge (the Presiding Judge)

I. ISSUE

The allegations set forth in the Notice of Violation/Order to Cease Unlicensed Activity (hereinafter “NOV”) asserts that the Respondent was offering cannabis products, as defined by Cannabis Law Article 3, for sale without an appropriate registration, license, or permit. These allegations are based upon observations made during an inspection conducted at 470 9th Ave., New York, NY 10018.

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 under Cannabis Law Article 6 §132 is justified.

II. 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 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 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....”

III. FINDINGS OF FACT

1. On May 23, 2024, OCM conducted an inspection of The Good Tree, Inc. (hereinafter “Good Tree”), located at 470 9th Ave., New York, NY 10018. OCM requested a hearing to determine the validity of the NOV and requested a fine of \$10,000. The hearing was held on January 13, 2026.

2. OCM effected service upon Respondent by both mailing a hearing notice to the business address and serving the New York Department of State (hereinafter “DOS”) on behalf of the corporation. OCM submitted an affidavit attesting to both of these methods and while service by mail was incomplete, the service to the DOS satisfied the due process requirements necessary in this matter. Service was completed in a timely manner and Respondent’s failure to respond to the hearing notice or appear at the hearing resulted in a default hearing being conducted.

3. The testimony and evidence support a finding that Respondent was actively selling cannabis. Testimony presented detailed a publicly facing store with products on display in a manner consistent with a showroom. Many of the products contained price tags leading to the conclusion that the items recovered were for sale.

4. The testimony and evidence support the finding that the products recovered from Good Tree were illicit. Good Tree did not possess an adult use cannabis license and did not possess proper authorization for its conduct.

5. The Office of Cannabis Management conducted a proper search of the location. Much of the product recovered was in plain view and the storefront was open at the time they were entered.

IV. ANALYSIS AND CONCLUSIONS OF LAW

Service and Notice

I find the notice OCM provided Respondent constituted adequate notice for the hearing held on January 13, 2026, and concerning the NOV issued on May 23, 2024. OCM mailed a copy of the Notice of Hearing more than forty-five (45) days prior to the date of the hearing (see 9 NYCRR §133.10(f)) and the notice provided the date of the alleged offense, the inspection number associated with the NOV, the pertinent sections of the law, specifically Cannabis Law Article 6, §138-a, and the penalty which may be assessed (\$10,000). Service by mail was made to the store's location and provided to the New York Department of State pursuant to New York Business Corporation Law §306 (see Ex. E). Although the notice mailed to the store was returned to OCM as undeliverable, the Department of State accepted service on November 25, 2025 (id.). Respondent's non-appearance occurred despite OCM's efforts to serve notice. This hearing, therefore, proceeded in Respondent's absence, as a default hearing. The hearing nonetheless comports with the applicable requirements delineated in the New York Cannabis Law, 9 NYCRR §133, and the New York State Administrative Procedures Act. While adequate service allows the hearing to proceed, it does not remove OCM's burden to provide sufficient evidence that a violation occurred and that a penalty is warranted.

Validity of the Regulatory Inspection

Agnew testified that upon arrival at Good Tree, she observed a sign outside the store welcoming people to Good Tree. This sign blatantly advertised cannabis products and stated the store was open (Ex. B-1). The store also displayed a neon sign reading "OPEN" in their front window; the sign was illuminated at the time of the inspection and Agnew testified that the doors were unlocked (Ex. B-1). Agnew testified that the New York State Department of Taxation and Finance first entered the store to conduct an inspection and after viewing the products labeled as cannabis, informed Agnew of its presence, who then entered the store. Upon entering, Agnew immediately observed a store that possessed a wide-array of products on display, some of which advertised themselves as cannabis products and others which Agnew suspected of being cannabis products due to her training and experience (see, e.g., Ex. B-2). Many of these products were displayed alongside a price, which led Agnew to believe the store was offering them for sale (see e.g., Ex. C-1, 3, 22-25, & 27). Good Tree also possessed a point-of-sale system, including a

register, receipt printer, and credit card machine (Ex. B-3). Agnew also observed an individual who appeared to be staffing the store at the time of their arrival (Ex. B-6). Finally, Agnew discovered receipts which led her to believe that the store had conducted business on premises (Ex. D-42). Agnew's testimony, which is supported by evidence, shows that Good Tree was open and operating as a publicly facing business at the time of the inspection. The showroom had products readily on display and observable, many of which stated that the products contained cannabis. Agnew's training and experience allowed her to identify other products on display which she suspected of containing cannabis. The regulatory inspection was, therefore, valid and products recovered from the store were legally seized.

Determination Concerning Notice of Violation

Agnew stated that Good Tree contained a large assortment of cannabis products and products suspected of being cannabis, in a variety of forms, including flower, concentrate, and edibles. Hundreds of products were recovered from the store, many with obvious labels identifying the contents containing cannabis (Ex. D-2, 4-5, 7-8, 10, 12, 14-20, & 22-33). Further, many of the packages with cannabis products were marked with out-of-state stickers in packaging that did not comport with New York State requirements (Ex. D-4, 7-8, 10, 17, 19, 27, 33).¹ Scales, trays, empty and unused packages, rolling papers, a grinder, labels, and loose cannabis were also discovered in the store, indicating that Good Tree processed cannabis for sale on site (Ex. A-1, C-4-6, D-34-36 & 39-40). Finally, Agnew testified that Good Tree did not possess an adult-use cannabis or processing license. The evidence submitted supports Agnew's testimony that Good Tree possessed, displayed, processed, and, by a preponderance of the evidence, sold illicit products out of its store. The store advertised its sales of cannabis and possessed a quantity of cannabis that can only suggest that the product was not for personal use but that sales were occurring.

Good Tree's actions, which OCM proved by a preponderance of the evidence, constitute a violation of cannabis law. A wide variety of cannabis was discovered in a store that was openly advertising and selling illicit products. Further, the processing which was likely occurring on site demonstrates a sophisticated operation which would allow for a large number of sales. Many of the products were labeled as cannabis or had designations which Agnew testified suggested the products contained cannabis. Many of the products would have been illicit even if the store had possessed an adult use license based on their out-of-state origin. I therefore conclude that the NOV was properly issued and that a penalty is warranted.

Penalty

Due to the overwhelming evidence and the magnitude of the recovery from Good Tree, I am compelled to impose the maximum penalty. Cannabis law requires a "proportional" penalty, and I believe the evidence supports a large penalty both due to the size of the illicit product recovered and the likelihood that processing was occurring on site. It is unlikely that any of the products were tested for safety or quality assurance, creating hazards for the consumers. Further, Good Tree's processing likely failed to undergo the health and safety checks required of a processing operation. This adds to the dangerous nature of the products being sold and further reinforces the need for the maximum penalty.

¹ Some products labeled as cannabis were advertised as containing Delta-8. While Delta-8 products are different than Delta-9 cannabis, they are, nonetheless, illicit under New York State Cannabis Law (see, New York Cannabis Law Art. 1 §3(52)).

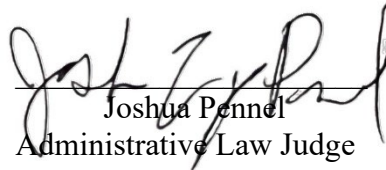
V. DECISION

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 470 9th Ave., New York, NY 10018. In so doing, Respondent violated Cannabis Law Article 6 and is ordered to pay a fine of \$10,000.

WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6, RESPONDENT IS HEREBY ORDERED TO PAY A \$10,000 FINE UNDER CANNABIS LAW ARTICLE 6 §132 FOR VIOLATIONS UNDER §125, AND AS A PROPORTIONATE PENALTY, FOR THE UNLICENSED SALE OF ILLICIT CANNABIS ON MAY 23, 2024.

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

Dated: February 6, 2026


Joshua Pennel
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 §§ 133.23(g)(5) and 133.25(k).

This decision was sent via email on February 6, 2026, to the following:

Abir Ahmed, Esq.

Nickolas Perry

Sheila Wagner

Celena Ditchev, Esq.

This decision was sent via certified mail on February 6, 2026, to the following:

The Good Tree, Inc.

470 9th Ave.

New York, NY 10018