

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

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**OFFICE OF CANNABIS MANAGEMENT,**

Petitioner,

-against-

**DECISION**  
**Inspection No. - 10420405290001**

**SWEET PUFFS II, LLC.,**

Respondent.

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The Office of Cannabis Management requested a hearing for an inspection which occurred on May 29, 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.

Investigator Sarah Tagliaferro (hereinafter “Tagliaferro”) 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 5310 Southwestern Blvd., Hamburg, NY 14075.

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 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 29, 2024, OCM conducted an inspection of Sweet Puffs II, LLC (hereinafter “Sweet Puffs”), located at 5310 Southwestern Blvd., Hamburg, NY 14075.
2. OCM requested a hearing to determine the validity of the NOV issued after the inspection of Sweet Puffs and requested a penalty of \$10,000. The hearing was held on January 13, 2026.
3. OCM effected service upon Respondent by both mailing a hearing notice to the address of record and serving the New York Department of State (hereinafter “DOS”) on behalf of the corporation. OCM submitted an affidavit attesting to both of these processes and while service by mail was incomplete, the service to the DOS satisfied the due process requirements necessary in this matter. OCM also contacted the attorney of record for Sweet Puffs who stated that he no longer represented Respondent. 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.

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

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

6. 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 with adequate notice concerning the hearing held on January 13, 2026, and concerning the NOV issued on May 29, 2024. Respondent's failure to appear at the hearing has necessitated a default hearing. 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 under the law (\$10,000). OCM mailed service to the address of record and provided it to the New York Department of State pursuant to New York Business Corporation Law §306 (see Ex. D). Although the notice mailed to the store was returned to OCM as undeliverable, the Department of State accepted service on November 25, 2025 (Ex. D). OCM also contacted the attorney who had previously represented Respondent with a copy of the notice. The attorney informed OCM that he did not represent Respondent. Respondent's non-appearance occurred despite OCM's efforts to serve notice. This hearing, therefore, proceeded in Respondent's absence, nonetheless abiding by 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 for the hearing to proceed, it does not relieve OCM's burden of providing sufficient evidence that a violation occurred and that a penalty is warranted.

##### ***Validity of the Regulatory Inspection***

Tagliaferro testified that upon arrival at Sweet Puffs, she observed an illuminated neon sign in the store window stating that the store was "OPEN." The store had a sticker on the front door advertising the credit cards accepted as payment and had a warning that appears to forbid those under a certain age from entering the store (Ex. B-1). The store also had two illuminated neon signs in the shape of cannabis leaves (Ex. B-1). Tagliaferro testified that the door was open when she arrived and the store appeared open for business. Upon entering the store, she observed a variety of products on display some of which, she testified, had price tags indicating that the items were for sale and that the store transacted business with the public. Additionally, the store contained an ATM which further supports OCM's assertion that the store was a store open to the

public and transacting business (Ex. B-3). In addition to the products visible in the pictures OCM submitted into evidence, a wide-array of products were on display in the glass cases within the showroom, some of which advertised themselves as cannabis products and others which were suspected of being cannabis products (see, e.g., Ex. B-2 and Ex. C). Many of these products were displayed alongside a price, which led Tagliaferro to believe the store was selling the illicit products to the public (Ex. C-1-3). None of the products recovered appeared to have been secreted in the store and were, therefore, in plain view during the inspection. Tagliaferro stated that New York State Taxation and Finance first entered the store to begin the regulatory inspection and notified OCM once illicit cannabis was discovered. I find that Sweet Puffs operated as a store open to the public and in operation at the time the regulatory inspection began. Items labeled as cannabis or suspected of being cannabis were on display in the showroom, many of which were labeled in such a manner as to believe that they were for sale. New York State Taxation and Finance were more likely than not present on site to conduct a regulatory inspection of New York State licensed business, during which they discovered the illicit products. These products were prominently displayed and in plain view of those conducting the inspection. For these reasons, I find that Sweet Puffs was open and acting as a publicly facing store at the time of the inspection and that the regulatory inspection was properly conducted. OCM's seizure of illicit products from the store was legal and valid.

#### ***Determination Concerning Notice of Violation***

Tagliaferro stated that Sweet Puffs contained various types of cannabis products and also products suspected of containing cannabis. The evidence submitted showed a limited number of edibles and vapes (Ex. C-1-2), although an exact number of products recovered was not provided by Tagliaferro or OCM. Tagliaferro did testify, however, that a large quantity of loose flower was recovered from the store; this is supported by evidence submitted (Ex. C-3). In total, Tagliaferro testified that eleven (11) pounds of loose flower was recovered from Sweet Puffs. It was this large amount that led Tagliaferro to testify that the total amount of illicit product recovered from Sweet Puffs was on the "higher end" of recoveries in which she had participated. There was no evidence that the loose flower had undergone any testing or quality control and the other illicit items recovered had a "CA" stamp, identifying them as having originated outside New York State. The products stated on the packaging that they contained cannabis and likely did not follow the New York State guidelines concerning health and safety.

Sweet Puffs actions, which OCM proved by a preponderance of the evidence, constitute a violation of cannabis law. While only a few edibles and vape products were seized, OCM confiscated eleven (11) pounds of loose cannabis. Most of the products recovered were on display and possessed prices indicating that they were readily available to consumers. Further, such a quantity of loose flower far exceeds any personal use quantity and can only lead to the conclusion that Sweet Puffs was selling the loose cannabis flower. The loose flower was, in part, discovered in a large bag from which it is likely Sweet Puffs was selling in smaller quantities, a form of processing (Ex. C-3). It is unlikely that any health or safety precautions or inspections occurred at Sweet Puffs. Further, the individual items recovered were not tested under New York State's regulations, presenting a public health risk to anyone who purchased and consumed the products. I therefore conclude that Sweet Puffs was offering for sale illicit cannabis products and that the NOV was, therefore, properly issued.

***Penalty***

Due to the evidence presented – particularly the large amount of cannabis flower recovered from Sweet Puffs –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 health and safety risks which occurred due to the lack of product testing and sanitation measures. It is unlikely that any of the products were tested for safety or quality assurance, creating hazards for the consumers. Further, Sweet Puff’s act of processing cannabis 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.

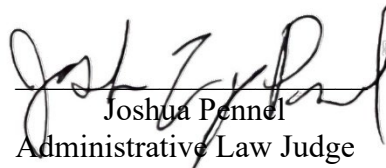
**V. DECISION**

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 5310 Southwestern Blvd., Hamburg, NY 14075. 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 11, 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 11, 2026, to the following:

Abir Ahmed, Esq.

Nickolas Perry

Sheila Wagner

Celena Ditchev, Esq.

This decision was sent via certified mail on February 11, 2026, to the following:

Sweet Puffs II, LLC.

5310 Southwestern Blvd.

Hamburg, NY 14075