

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION

Inspection No. - 110202405220002

**EIGHT AVENUE GIFT SHOP AKA
HIGH SOCIETY**

Respondent.

The hearing was scheduled for January 15, 2025, at 9:00 am.

Eight Avenue Gift Shop also known as High Society (hereinafter “Respondent”) did not appear, nor was Respondent represented at the hearing.

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

Bryant Paredes, Senior Investigator (hereinafter “Sr. Inv. Paredes”) testified on behalf of OCM.

John F. Udochi, Esq. Administrative Law Judge (the Presiding Judge)

I. ISSUE

The allegations set forth in the Notice of Violation, Order to Cease Unlicensed Activity, and Order to Seal (hereinafter “NOV”) asserts that 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 which was conducted at Respondent’s retail premises on 234 8th Ave, NY, NY 10011.

OCM advised on the record that the Order to Seal previously associated with the NOV has expired and is not being adjudicated in this proceeding. The only issues presented for decision are (1) liability on the NOV and (2) penalty to the extent authorized by law.

Therefore, the scope of the hearing involves determination whether OCM, by a preponderance of the evidence, was justified in issuing Respondent the NOV and what penalty

under Article 6 § 132 is justified. OCM requested the maximum fine of Ten Thousand Dollars (\$10,000).

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....”

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)).

III. FINDINGS OF FACT

1. On May 22, 2024, OCM Enforcement conducted an inspection of Respondent's retail business premises at 234 8th Ave., New York NY 10011 and issued a NOV dated May 22, 2024, which included an Order to Seal. OCM alleges that, at the time of the inspection, the premises was offering cannabis products for retail sale and that cannabis activity was more than a *de minimis* part of the business operations (see, Ex. A1).
2. OCM asserts that Respondent's representative or employee identified as Jaliel Davis (see, Ex. A1 and A4) declined to sign the NOV at the time of service on May 22, 2024.
3. The NOV was reinstated on August 5, 2025 and an affidavit of service dated January 12, 2026 was sworn to by OCM employee, Alicia Pasos, Legal Assistant II, deposing to the fact that on November 25, 2025, she served the NOV, the Notice of Conference/Hearing, the Respondent Response Form, and the Notice of Language Access and Administrative Hearing Rights to Respondent at the service address of 234 8th Ave., New York NY 10011 (see, Ex. A5).
4. Alicia Pasos further deposed that service was sent by certified mail, (return receipt requested) and by service through the New York State Department of State (hereinafter "DOS") to Respondent at the service address of 234 8th Ave., New York NY 10011 (see, Ex. A5- A6).
5. A copy of OCM's outgoing certified-mail process, bearing a USPS Certified Mail envelope with tracking number 7017 0190 0001 1707 4803, sent to Respondent's address on file with DOS was provided at the hearing (see, Ex. A7). DOS is the registered agent for Respondent.
6. A copy of the DOS Receipt for Service of Process served on Respondent at 234 8th Ave., New York, NY 10011 on November 25, 2025, as noted on the receipt was provided at the hearing (see, Ex. A6).
7. Respondent did not submit a response to OCM's Notice of Conference/Hearing Request and did not appear, nor was an answer filed by Respondent.
8. On May 22, 2025, OCM and the New York State Department of Taxation and Finance (hereinafter "Department of Taxation and Finance") conducted an inspection of Respondent's retail premises operating under the name, Eight Avenue Gift Shop also known as High Society at 234 8th Ave., New York NY 10011. During the inspection, OCM Enforcement observed numerous products offered for sale to the public, including flower, pre-rolls, edibles, vape products, and packaged plant material. The inventory of the products was documented on the OCM Enforcement Division Form Voucher Number A-4183 and the Department of Taxation and Finance Voucher/Receipt for Evidence/Property EN-651 Form. The inventory of the products on both forms was dated May 22, 2025 (see, Ex. B1 - B9).
9. The exterior signage displayed at the retail premises, including promotions such as "Spend \$40 for a free preroll," demonstrated that the premises was holding itself out as a cannabis retail establishment (see, Ex. C2). Interior photographs show cannabis products openly displayed

for sale. A “Deal Of The Week” signage, a point-of-sale register, and a digital scale used to weigh product for retail transactions was also on display (see, Ex. C4, C7 - C9, D1 - D5).

10. OCM and the Department of Taxation and Finance seized and inventoried a substantial amount of packaged flower units, pre-rolls, and related products, including items labeled and sold as cannabis flower. The seized products include:

10 CBD edibles, 41 Delta 8 edibles, and 19 Hemp Pre-rolls (see, Ex. B1).

1 Evidence bag #: J1000662 – containing canned drinks –pre-packaged edibles - gross weight 23.67 lbs., 29 12 fl. oz edible drinks, and 1 fl. oz. edible drink (see, Ex. B2).

1 Evidence bag # J1000644 containing Cannabis concentrate gross weight 14.38 lbs., 94 1 grams, 46 2 grams, 4 - .038 oz., 13 - .5 grams, and 3 – 1.5 grams (see, Ex. B3).

1 Evidence bag #: J1000645 – containing cannabis pre rolls – gross weight 8.52lbs., 10 - 3.5g, 4 – 3g, 25 – 1.5g, 3 – 1g, 10 - .75g, 34 – 2.5g, 21 – 1.3g, 2 – 2g, and 1 – 1.2g (see, Ex. B4).

1 Evidence bag #: J1000646 – containing loose Cannabis flower - gross weight 2.52 lbs. (see, Ex. B5).

1 Evidence bag #: J1000647 – containing pre-packaged Cannabis flower - gross weight 2.92 lbs., 124 – 3.5 grams of pre-packaged Cannabis flower (see, Ex. B6).

1 Evidence bag #: J1000648 – containing edibles - gross weight 22.62 lbs., 4 – 8g edibles, 7 – 55g edibles, 2 – 70g edibles, 2 - 75g edibles, 8 – 94g edibles, 1 – 25g edibles, 4 – 39g edibles, 15 – 22g edibles, 26, - 72g edibles, 2 – 100g edibles, 31 – 40g edibles (see, Ex. B7).

9 – 42g edibles and 82 – 20g edibles (see, Ex. B8).

1 Evidence bag #: 110875 – containing pre-packaged edibles - gross weight 5.13 lbs., and 105 – w. prepackaged edibles (see, Ex. B9).

11. Sr. Inv. Parades testified that the seized flower and pre-roll products were sold and marketed as cannabis at Respondent’s retail premises on 234 8th Ave., New York NY 10011 and were not *de minimis* in quantity or in relation to the overall retail business operations.

12. Sr. Inv. Parades testified that Respondent did not possess a valid cannabis license issued by OCM authorizing the retail sale of cannabis. Sr. Inv. Parades further testified that the unlicensed activity warranted the issuance of the NOV.

13. The Cannabis Law Article 6 §138-b (7) and OCM Regulations part 133.25(f)(3) enumerate the factors to consider when determining if unlicensed activity occurring within a business is more than *de minimis*. The number of illicit products seized at Respondent’s retail premises was significant and constituted a sizable portion of the retail business. A substantial amount of cannabis products was found in the unlicensed retail premises at 234 8th Ave., New York NY 10011 (see, Ex. B2 – B9).

14. The unlicensed activity being conducted at Respondent’s retail premises constituted an imminent threat to public health, safety, and welfare in that there were sales of, or offers to unlawfully sell, cannabis products in violation of Cannabis Law Article 6.

15. The NOV and the accompanying Notice of Conference/Hearing, the Respondent Response Form, and the Notice of Language Access and Administrative Hearing Rights, in addition to the

DOS receipt for service of process was served at Respondent's service address on 234 8th Ave., New York NY 10011 (see, Ex. A5 - A12).

16. OCM's Affidavit of Service and the DOS Receipt for Service of Process confirm that the papers identified in the affidavit were served at Respondent's service address on 234 8th Ave., New York NY 10011 on November 25, 2025 (see, Ex. A5 and A6).

IV. ANALYSIS AND CONCLUSIONS OF LAW

Jurisdiction and Default

This matter was heard as a default inquest pursuant to the New York State Cannabis Law, 9 NYCRR Part 133, and the State Administrative Procedure Act.

A respondent's default does not establish liability. A default operates only as a waiver of the respondent's right to contest the evidence. Therefore, OCM retains the burden to establish jurisdiction, the alleged statutory violations, and penalty authority by a preponderance of the evidence. Accordingly, before receiving substantive proof, OCM had to establish proper service as a jurisdictional predicate and default as a requirement to proceed without Respondent.

OCM introduced into evidence the operative NOV, together with an affidavit of service, USPS certified-mail material, and a DOS receipt for service dated November 25, 2025. The affidavit of service attests that OCM served Respondent with the NOV, Notice of Conference/Hearing, Respondent Response Form, and Notice of Language Access and Administrative Hearing Rights.

The DOS receipt constitutes competent proof that the NOV and accompanying documents were served through Respondent's registered agent for service of process. OCM further represented, and the Office of Administrative Hearings' docket reflects that no answer, response, or hearing request was filed within the response period stated on the Official Notice of Conference/Hearing (see, Ex. A9). In addition, Respondent failed to appear at the hearing.

Based on these documents presented in the record, and OCM's representations through counsel, I conclude that OCM satisfied those requirements. It should be noted that I declined to take judicial notice of service and instead required that these documents be admitted into evidence, which OCM did after amending Exhibit A on the record to include the Notice of Conference/Hearing, Respondent Response Form, and Notice of Language Access and Administrative Hearing Rights to include all the relevant documents served on Respondent.

Accordingly, I find that Respondent was properly served, that the time to respond expired, and that no appearance or answer was filed. Respondent is therefore in default, and OCM was permitted to proceed by inquest.

Scope of the Inquest

Respondent's default does not relieve OCM of its burden of proof. Further, the Order to Seal previously issued in this matter had expired. Therefore, the scope of the proceeding was limited to adjudication of the NOV and the imposition of any lawful civil penalty.

The Inquest

In addressing the NOV, OCM presented testimony of Sr. Inv. Paredes, an experienced enforcement witness who testified under oath. Sr. Inv. Paredes testified that he is employed by OCM as an investigative specialist/senior investigator and has received formal training in cannabis identification, product labeling, and the distinction between cannabis and hemp products, including refresher trainings during his employment. He testified that he has participated in over one hundred regulatory inspections.

Sr. Inv. Paredes testified that on May 22, 2024, he participated in a regulatory inspection of the premises known as Eight Avenue Gift Shop, also known as High Society, during business hours while it was open to the public. He testified that the entry into the premises was lawful and within OCM's regulatory and inspection authority.

OCM introduced and authenticated the NOV, identification photographs of individuals present at the premises, the affidavit of service, and the DOS receipt (see, Ex. A1 – A6). Sr. Inv. Paredes testified that the NOV prepared in the regular course of OCM's enforcement activities accurately reflected the inspection. Further, he testified that the identification photographs were true and accurate depictions of individuals present at the premises during the inspection (see, Ex. A3 – A4). He also testified that Respondent did not possess an adult-use cannabis license or a New York State hemp license.

The inventory and vouchers of products seized in connection with the inspection was also introduced by OCM and authenticated by Sr. Inv. Paredes. Although some vouchers reflect hemp-designated products (see, Ex. B1), due to contemporaneous enforcement practices, Sr. Inv. Paredes credibly testified that products seized by the Department of Taxation and Finance were strictly cannabis (see, Ex. B2 – B9). He further testified that photographs were taken to document cannabis products even where vouchers alone did not specify cannabinoid content.

OCM presented photographs of the interior and exterior of the premises and close-up photographs of products displayed for sale. Sr. Inv. Paredes testified that these photographs were taken during the inspection, in the regular course of OCM enforcement practice, and that they fairly and accurately depict what he observed.

The photographic evidence shows extensive retail displays of cannabis products, promotional signage advertising cannabis sales (including “spend \$40 for a free preroll”), a point-of-sale system with a credit card reader and register, and digital scales used to weigh product, including a scale with visible cannabis residue (see, Ex. C1 – C10 and D1 – D5). Sr. Inv. Paredes credibly testified that the presence of scales indicated on-site processing, weighing, and packaging of cannabis products.

It is significant to note Sr. Inv. Paredes also testified to the fact that the products depicted in the exhibits (see, Ex. C5 – C10 and D1 – D5) were identified as cannabis based on multiple objective indicia, including explicit labeling stating “contains THC,” the presence of California cannabis warning symbols, strain identifiers (indica/sativa/hybrid), and other cannabis-specific markings. He further testified that the products were marketed and held out to the public as cannabis.

The evidence further established that the volume and variety of cannabis products present at the premises were substantial, including hundreds of units of packaged flower, pre-rolls, edibles, vapes, drinks, and pills. This evidence demonstrates that cannabis sales were not incidental or *de minimis* but rather constituted a primary retail business activity albeit unlawful, conducted openly to the public.

Based on the record, I find that OCM established through the sworn testimony of Sr. Inv. Paredes and corroborating documentary evidence that a substantial quantity and variety of products marketed or labeled as cannabis, including flower, pre-rolls, edibles, drinks, and related products, were present and offered for retail sale through established point-of-sale infrastructure (see, Ex. B2 – B9, C3). The photographic evidence depicts retail displays and commercial sales activity inconsistent with incidental or peripheral conduct, and no evidence was presented to rebut OCM’s proof. At the time of inspection, OCM also issued an Order to Seal based on the sale and offer for sale of cannabis products not shown to be tested or labeled in compliance with Cannabis Law Article 6, as supported by Sr. Inv. Paredes’s credible testimony regarding product labeling and packaging indicators, and corroborated by the photographic record (see, Ex. C1 – C10, D1 – D5). Although the Order to Seal has since expired and is not continued as part of this determination, the facts supporting its issuance further corroborate OCM’s proof of unlicensed cannabis activity forming the basis of the NOV adjudicated herein.

Therefore, based on the sworn testimony of Sr. Inv. Paredes and the documentary evidence introduced by OCM, I conclude that OCM has established by a preponderance of the evidence that Respondent engaged in the unlicensed retail sale and processing of cannabis, or products marketed or labeled as cannabis, in violation of Cannabis Law § 125(1).

V. PENALTY

Cannabis Law § 132(1)(a) authorizes the imposition of a civil penalty where a respondent sells cannabis, cannabis products, cannabinoid hemp or hemp extract products, or products marketed or labeled as such without the required registration, license, or permit. Any penalty imposed must be proportionate to the nature of the violation. Cannabis Law § 132(1)(c).

Although Respondent is in default, OCM bears the burden of establishing both penalty authority and justification for the amount sought. Based on the sworn testimony of Sr. Inv. Paredes and the documentary evidence submitted by OCM and admitted into the record at the default inquest, I find that a civil penalty is warranted.

Accordingly, it is determined that Respondent engaged in the sale of illicit cannabis and cannabis products without a license, registration, or permit to do so, at the retail premises on 234 8th Ave, NY, NY 10011. In so doing, Respondent violated Cannabis Law Article 6. The NOV citing the Order to Cease Unlicensed Activity is hereby affirmed, and a penalty is assessed.

Therefore, I find that a civil penalty of Ten Thousand Dollars (\$10,000) is proportionate and authorized under Cannabis Law § 132(1)(a) and (c) based on the hearing record, which established that:

1. Respondent operated a retail premises offering products marketed or labeled as cannabis for sale to the public without any adult-use cannabis or hemp license.
2. A substantial quantity and wide variety of products—including flower, pre-rolls, edibles, vapes, drinks, and related items were present and offered for sale, demonstrating ongoing retail operation rather than incidental possession. This is further supported by the presence of scales, promotional marketing, point-of-sale equipment, and display cases stocked with cannabis products as a deliberate and profit-driven activity.
3. The products were marketed or labeled as cannabis or THC and were offered for sale outside the regulated marketplace without the required registration, license, or permit, thereby impacting public health, safety, and welfare.

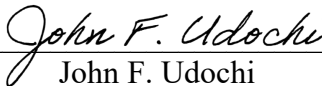
VI. DECISION

NOW, THEREFORE, it is hereby:

1. **ORDERED**, that Respondent is **ADJUDGED IN DEFAULT**, having been properly served and having failed to answer, request a hearing, or appear; and it is further
2. **DETERMINED**, that OCM has proven by a preponderance of the evidence that Respondent violated Cannabis Law § 125(1) by engaging in unlicensed activity involving cannabis, cannabis products, cannabinoid hemp or hemp extract products, and products marketed or labeled as such; and it is further
3. **ORDERED**, that to the extent an Order to Seal was issued in connection with the May 22, 2024, inspection, the record reflects that such order has expired and is not continued, the scope of this proceeding is limited to adjudication of the Notice of Violation penalty authority; and it is further
4. **ORDERED**, that Respondent shall pay a civil penalty in the amount of **Ten Thousand Dollars (\$10,000.00)** pursuant to Cannabis Law § 132(1)(a), as required to be proportionate under Cannabis Law § 132(1)(c); for violations under § 125(1) for the unlicensed sale of illicit cannabis set forth in the **Notice of Violation issued on May 22, 2024 at 12:30 pm** (see, Ex. A1).

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

Dated: February 3, 2026



John F. Udochi
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 the Regulations at 9 NYCRR §§ 133.23(g)(5) and 133.25(k).

This decision was sent via email on February 3, 2026, to the following:

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

This decision was sent via certified mail on February 3, 2026, to the following:

Eight Ave Gift Shop Inc.
d/b/a High Society
234 8th Ave
New York, NY 10011