STATE OF NEW YORK
CANNABIS CONTROL BOARD

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FREES' ICE CREAM NOVELTIES LLC.,

APPELLANT-RESPONDENT,

DECISION ON APPEAL

-against-

INSPECTION NO.: 134262502120093

NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT,

APPELLEE – PETITIONER.

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Appellant-Respondent Frees' Ice Cream Novelties LLC ("Appellant") appeals from a decision and order of the Office of Administrative Hearings ("OAH") wherein the presiding Administrative Law Judge ("ALJ") extended a sealing order issued against Appellant's business. The sealing order was issued by Appellee-Petitioner New York State Office of Cannabis Management ("OCM") pursuant to New York State Cannabis Law ("Cannabis Law") Article 6 sections 138-a and 138-b and Title 9 of the Codes, Rules, and Regulations of the State of New York ("NYCRR") section 133.25.

Appellee-Petitioner OCM ("Appellee"), conducted a regulatory inspection of Appellant's place of business and determined Appellant was engaging in unlicensed activity in violation of the Cannabis Law and implementing regulations. Following the regulatory inspection, Appellee issued a Notice of Violation ("NOV"), an Order to Cease Unlicensed Activity ("cease order") and an immediate Order to Seal ("OTS") for Appellant's place of business because the unlicensed activity posed an imminent threat to the public health, safety, and welfare. Appellant requested a hearing with the OAH. Following the hearing, the presiding ALJ issued a decision extending the OTS for one year and ordering Appellant to pay a civil penalty for the violation.

Appellant timely submitted the instant appeal, and the exceptions noted therein, to the Cannabis Control Board ("CCB") for review pursuant to Cannabis Law sections 10(18) and 17(8) and 9 NYCRR section 133.25 subdivision k.

STATUTORY BACKGROUND

In March 2021, New York enacted the Marihuana Regulation and Taxation Act ("MRTA") legalizing adult-use cannabis and implementing a regulatory framework within the State of New York. The MRTA included enactment of Chapter 7-A of the New York State Consolidated Laws, known as the Cannabis Law. *(Cannabis Law § 1).*

Under the Cannabis Law, cannabis is defined as all parts of the plant of the genus Cannabis, whether growing or not, including its seeds, resin, and any derivative, mixture, or extract. *(Cannabis Law § 3 [5]).* The cannabis plant produces hundreds of natural compounds, including the most

common tetrahydrocannabinol ("THC"), the principal psychoactive compound in cannabis, and cannabidiol ("CBD"). THC is defined as meaning delta-9 THC; delta-8 THC; delta-10 THC and the optical isomer of such substances. *(Cannabis Law § 3 [52])*. CBD is one of the naturally occurring phytocannabinoids found in hemp and in all cannabis plant strains. While hemp is the same genus and species of the Cannabis plant as adult-use or medical cannabis, it contains lower levels of delta-9 THC, the psychoactive compound. The Cannabis Law defines hemp as the plant Cannabis sativa L. and any part of such plant, whether growing or not, with a delta-9 THC concentration of not more than three-tenths of a percent (0.3%) on a dry weight basis. *(Cannabis Law § 3 [27])*.

Cannabinoid hemp product means hemp, or any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three-tenths of a percent (0.3%) delta-9 THC. *(Cannabis Law, § 3[3])*. The licensing and production of the cannabinoid hemp program are coordinated between the New York State Department of Agriculture and Markets and OCM.[1] The Department of Agriculture and Markets oversees hemp cultivation and hemp used exclusively for industrial or food purposes. OCM regulates hemp that is used or marketed for its cannabinoid content, such as CBD, through its cannabinoid hemp program. Retailers selling cannabinoid hemp, in final form to consumers within the state, shall be required to obtain a cannabinoid hemp retailer license from the CCB. *(Cannabis Law § 93 [1])*.

Cannabis Law Article 5 governs the sale of cannabinoid hemp and gives Appellee the authority to promulgate regulations governing how cannabinoid hemp products are processed, distributed and sold within New York State. The CCB promulgated regulations, Title 9 NYCRR Part 114, governing the processing, distributing, and retail sale of cannabinoid hemp products in New York State. These regulations were adopted for the preservation of public health, safety, and welfare of consumers in New York State and to protect the public from intoxicating cannabinoid hemp products in New York State.[2] Pursuant to Part 114, a Cannabinoid Hemp Licensee must offer cannabinoid hemp products that, inter alia, comply with the packaging and labeling standards in section 114.9 and comply with product testing standards in section 114.10. *(9 NYCRR §§114.8 [8]-[9])*.

Pursuant to Cannabis Law section 125, "[n]o person[3] shall cultivate, process, distribute for sale or sell at wholesale or retail or deliver to consumers any cannabis, cannabis product, medical cannabis

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[1] New York State Office of Cannabis Management. (January 2026). *Hemp: Supporting Agricultural Innovation. Overview*. https://cannabis.ny.gov/hemp.

[2] New York State Office of Cannabis Management. (January 2026). *Cannabinoid Hemp Regulations Guidance for Licensees*. cannabinoid-hemp-regulations-guidance-for-licensees_v2.pdf

[3] Under the Cannabis Law, "person" is broadly defined as "an individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity." *(Cannabis Law § 3 [40-a])*.

or cannabinoid hemp[4] or hemp extract product, or any product marketed or labeled as such, within the state without first obtaining the appropriate registration, license or permit" that is required under the law. Cannabis products, or adult-use cannabis products, means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer. *(Cannabis Law § 3 [9]).*

Appellee is authorized to conduct, without notice, site visits and inspections, of any person, any premises, or place of business cultivating, processing, distributing, selling, or offering for sale cannabis, cannabis product, cannabinoid hemp or cannabinoid hemp extract product, or any product marketed or labeled as such in this state, or engaging in an indirect retail sale, without obtaining the appropriate registration, license, or permit. *(Cannabis Law § 11 [3]; 9 NYCRR § 133.25 [a]).* Unlicensed activity includes "any activity, within the authority of the office or the board to regulate, for which a person should have obtained a license, registration, or permit issued by the office or board, but failed to do the same. *(9 NYCRR § 133.1[i]).* Additionally, any activity beyond the scope of any license, registration, or permit issued by the office or board may be considered unlicensed activity. *(Id.).*

In response to a violation of the Cannabis Law and related regulations, Appellee is authorized to take enforcement action and impose sanctions, including but not limited to, issuing a notice of violation ("NOV"), seeking civil penalties, seizure of product, and a stop order to cease unlicensed activity ("cease order"). *(Cannabis Law §§ 132; 138-a; 9 NYCRR § 133.25 [b]).* Appellant may also seize any cannabis, cannabis product, cannabinoid hemp, or cannabinoid hemp extract product, or any product marketed or labeled as such found in the possession of the person engaged in the unlicensed activity. *(9 NYCRR § 133.25 [d]).* Unlicensed activity is defined as "any activity, within the authority of the office or the board to regulate, for which a person should have obtained a license, registration, or permit issued by the office or board, but failed to do the same. *(Cannabis Law § 131[3][a]; 9NYCRR § 133.1[i]).* It also includes any activity beyond the scope of any license, registration, or permit issued by the office or board may be considered unlicensed activity. *(Id.).*

Appellant is further authorized to issue an immediate sealing order for the building or premises of any business engaged in unlicensed activity upon a finding of an imminent threat to public health, safety, and welfare. *(Cannabis Law § 138-b [1]; 9 NYCRR § 133.25 [f]).* Cannabis Law section 138-b [4] provides factors OCM shall consider when for determining whether there is an imminent threat to public health, safety, and welfare. Upon finding such an imminent threat, an OTS may be issued 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 zone and lawfully occupied as a residence; and (b) the unlicensed activity is more than a de minimis part of the business activity on the premises or in the building to be sealed pursuant to the

[4] Cannabinoid hemp products include "any hemp, or any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three-tenths of a percent (0.3%) delta-9 THC." *(Cannabis Law, §§ 3 [3] and 90 [2]).*

order. In assessing whether unlicensed activity is more than a de minimis part of the business activity at the premises, OCM "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." *(Cannabis Law § 138-b [7]).*

Following the issuance of an OTS, Cannabis Law section 138-b subdivision 2 provides that a copy "shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed." Section 138-b subdivision 2 further provides that "[a] copy of the order shall also be mailed to any address for the owner of the business at any address provided by the person to whom such order was delivered pursuant to this subdivision." An OTS must explicitly state the procedure to request an emergency hearing on the sealing order within seven (7) days. *(Cannabis Law § 138-b[2]; 9 NYCRR § 133.25 [g][1]).*

A party may request, or OCM initiate, an administrative proceeding to enforce a cease order and to order a financial penalty be assessed for the violation. *(9 NYCRR §§ 133.25 [i]; 133.10 [a]).* The OAH, through the service of ALJs, shall conduct all adjudicatory proceedings which devolve upon the CCB by requirement of statute. *(9 NYCRR § 133.16).* An ALJ shall have all the power and authority of presiding officers or hearing officers as defined by the SAPA other pertinent statutes, and regulations. *(Id.).* The ALJ is responsible for reviewing the statement of charges and all motions filed as well as issuing decisions on motions and after hearings. *(9 NYCRR §§ 133.17 [a]; 133.21 [a]; 133.25 [i]).* An ALJ's decision shall include their findings of facts, legal conclusions, and a penalty. *(9 NYCRR §§ 133.21; 133.25 [i][2]).* The presiding ALJ must issue a written decision at the conclusion of the hearing. *(9 NYCRR §§ 133.25[h][4]] and [i][2]).*

Pursuant to Title 9 NYCRR section 133.25, actions relating to unlicensed activities, any of the parties may appeal the ALJ's decision within thirty (30) calendar days from the date a copy of the decision is received. *(9 NYCRR §133.25 [k]).* Such an appeal shall be made by filing with the CCB, and serving the other party(ies), a written memorandum of law stating the arguments, identifying that part of the ALJ's decision and order to which objection is made, specifically designating the portions of the record relied upon, and stating the grounds for exceptions." *(Id.).* Upon the filing of an appeal, the CCB shall, based solely on the record on appeal, either confirm the decision in writing, make a written, superseding decision including a statement as to why they have not confirmed the ALJ's decision, or remand the matter for additional proceedings. *(Id.).* The record on appeal shall consist of the evidentiary exhibits from and transcript of the hearing, and the memorandums of appeal, opposition, and cross-appeal. *(Id.).*

PROCEDURAL BACKGROUND

Regulatory Inspection

Appellant conducts business as Frees' Ice Cream Novelties, LLC. The address of Appellant's business is 12 Common Drive, Cooperstown, NY 13326. On February 12, 2025, Appellee OCM conducted a regulatory inspection, No. 134262502120093, of Appellant's business pursuant to Cannabis Law section 138-a and 9 NYCRR section 133.25 subdivision a. Based on observations made during the inspection, Appellee OCM issued a NOV alleging unlicensed cannabis sales in violation of the Cannabis Law. Appellee OCM also issued a cease order, pursuant to Cannabis Law section 138-a subdivision 1 and section 133.25 subdivision c of Title 9 NYCRR, and an immediate OTS pursuant to Cannabis Law section 138-b subdivision 3.[5] Appellant requested a hearing with the OAH on February 25, 2025.

Administrative Proceedings

A hearing was held before the OAH on March 10, 2025. Appellant and Appellee were represented by counsel. The scope of the hearing was to determine whether the OTS issued by Appellee OCM against Appellant's business premises was in accordance with Cannabis Law section 138-b and whether Appellant should be assessed a civil penalty pursuant to Cannabis Law section 132.

Appellee OCM presented testimony and photographic evidence in support of the OTS that was issued and in support of establishing Appellant was in violation of the Cannabis Law. Appellant testified to he was the business owner and present on the date the inspection took place.

Hearing Decision

On March 17, 2025, the presiding ALJ issued a decision extending the OTS for one-year, from the date of the decision, and ordering Appellant to pay a $5,000 civil penalty. The ALJ determined that Appellant was engaged in the unlicensed sale, at the premises inspected, of cannabis and cannabis products without a license, registration or permit to do so. The ALJ further determined that Appellee OCM lawfully issued the OTS because the unlicensed activity constituted an imminent threat to public health, safety, and welfare and was more than a de minimis part of the Appellant's business activity. The ALJ reasoned that when taken as a whole the credible testimony of the investigator coupled with the photographic evidence submitted by

[5] Appellee's OTS, NOV, and Cease Order are on a single page, 8 x14, document, that also contains a Certificate of Service.

Appellee OCM supported a finding that Appellant was engaged in unlicensed activity that was a danger to public health, safety, and welfare.

As part of the decision, the ALJ concluded that while Appellant held a valid cannabinoid hemp license issued by Appellee, Appellant was engaged in the sale of products that were not lawfully sold with a cannabinoid hemp license. The ALJ concluded that the Cannabis Law requires the inclusion of a portion of tetrahydrocannabinolic acid ("THC-A") when totaling the delta-9 THC content. The ALJ cited the definition of "total THC," as including the sum of the percentage of THC-A, by weight or volume, multiplied by 0.877, plus, the percentage by weight or volume measurement of THC. *(Cannabis Law § 3 [53]).* Additionally, the ALJ relied upon the definition of total delta-9 THC concentration and the formula provided for determining the amount. Specifically, the ALJ cited cannabinoid hemp regulation definitions in which the calculation or formula provided for determining the total delta-9 concentration is the delta-9 THC amount plus 0.877 multiplied by the THC-A amount *(∆9-Tetrahydrocannabinol + [0.877 x THC-A]). (9 NYCRR § 114.1 [ag]).* Using this calculation and based upon the totality of Appellee OCM's evidence, the ALJ determined Appellant was engaged in the sale of products that contained more than .3% delta-9 THC and that such products are lawfully sold with an adult-use cannabis retail dispensary license, which Appellant did not have.

The ALJ also relied on Appellee OCM's photographic evidence depicting significant amounts of products on display, products affixed with price tags, and a volume and variety of products, including flower, vape, concentrate and edibles. The ALJ described what appeared to be a small shop with so many products on display it could not reasonably be claimed as a de minimis part of the business activity. Finally, the ALJ found that the photographic evidence depicted a significant number of products that were not tested or labeled in accordance with the Cannabis Law. Based on the lack of any New York State inspections or testing, the ALJ determined the products presented a danger to the public's health, safety and welfare.

Arguments on Appeal

Appellant submitted an appeal to the CCB asserting the ALJ improperly vacated the OTS. Appellee OCM requested the ALJ's decision be vacated and the OTS be reinstated.

First, Appellant asserts that there was insufficient evidence to support the ALJ's determination. Specifically, Appellant argues that the ALJ relied upon a flawed analysis in determining Appellant was engaging in unlicensed activity. Appellant takes exception with the ALJ's application of the total THC formula when determining whether the products were lawfully sold by a cannabinoid hemp licensee arguing the total THC content is only for concentrated cannabis and not cannabinoid hemp products. Second, Appellant asserts the OTS was erroneously

extended because the unlicensed cannabis activity was not more than a de minimis part of Appellant's business activity at the premises inspected. Specifically, Appellant argues that because they held a retail hemp license "virtually all of the items and products offered for sale within its business were being sold lawfully." Finally, Appellant asserts the OTS was erroneously extended because Appellee OCM failed to establish proper and sufficient service of the sealing order in accordance with Cannabis Law section 138-b.

QUESTIONS PRESENTED

Whether the ALJ erroneously included the total THC and a percentage of the THC-A when determining whether the products observed for sale were lawfully sold with a cannabinoid hemp license and whether there was sufficient evidence to support the determination that Appellant was engaged in unlicensed activity that was more than a de minimis part of the business activity?

ANALYSIS AND OPINION

Following a review of Appellant's appeal, the CCB finds that the Appellant has not demonstrated a basis to disturb the factual findings and conclusions of law made by the presiding ALJ. The decision is supported by a preponderance of the evidence and is in accordance with the law. Based on the following reasons, the CCB confirms the ALJs decision and denies Appellant's appeal.

In an administrative proceeding the standard for service is whether the notice under all the circumstances is reasonably calculated to make the parties aware of the proceeding and afford an opportunity to be heard. *(Ruffin v. Lion Corp., 15 N.Y.3d 582, 583 [2010]; Raschel v. Rish, 69 N.Y.2d 694, 696 [1986]; Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314, [1950]).* When deciding if a defect in service is merely technical, the guiding principle is notice to the defendant—notice that must be '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. *(Ruffin, 15 N.Y.3d at 582–83).* In this matter, there appears to be no dispute that service, of the NOV, cease order and the OTS, was effectuated on Appellant at the time of the inspection. In fact, Appellant does not dispute personal service or that the NOV, cease order and OTS were conspicuously posted at the business premises. Rather, Appellant argues that the lack of proper and sufficient evidence at the hearing establishing certified mailing to the business owner and to the real estate owner renders the service methods effectuated by Appellee OCM insufficient. This argument is unpersuasive and lacks merit. The presiding ALJ found there was sufficient evidence to support a finding that the service effectuated was reasonably calculated to provide notice. Most notably, the ALJ relied upon the testimony of Appellee OCM's witness establishing personal

service was made on Appellant at the time of the inspection and a copy of the NOV, cease order and OTS was conspicuously posted on the outside of the business premises after it was sealed. Additionally, the ALJ relied upon Appellee OCM's evidence which included a photograph of the NOV, cease order and OTS issued at the time of the inspection depicting Appellant's signature as the individual who accepted personal service. Finally, the ALJ considered the ability of the Appellant to request a hearing as well as meaningfully participate in the hearing as demonstrating service was effectuated in a manner that was reasonably calculated to provide notice.

Additionally, Appellant improperly argues Appellee OCM failed to establish proper and sufficient service on Appellant, the business owner, by not establishing service on the real estate owner and that such prerequisites are jurisdictional. The defense of lack of jurisdiction based on improper service is personal in nature and may only be raised by the party improperly served *(Lehman Brothers Bank v Hickson, 186 AD3d 1348 [2d Dept. 2020]; Rhoe v Reid, 166 AD3d 919 [2d Dept. 2018]; Rhoades v Westchester County Bd. of Elections, 115 AD3d 958 [2d Dept. 2014]; Wells Fargo Bank, N.A. v Bowie, 89 ad3D 931 [2d Dept. 2011]; Home Sav. of America, F.A. v Gkanios, 233 AD2d 422 [2d Dept. 1996]; Advance Serv. Grp., LLC v. Vision Home Builders LLC, 83 Misc.3d 1230(A), 2024 N.Y. Slip Op. 50843(U) [Sup Ct, Kings County 2024]; see also, Matter of Gift Shop and Candy Corp. v. OCM, Insp. No. 202 2024 0522 0001[CCB, Nov. 2024]; Matter of Cross Bay Snacks Inc. v. OCM, Insp. No. 105 2024 0530 0001 [CCB, Dec. 2024]; Matter of 360 Garden Delight Inc. v. OCM, Insp. No. 207 2024 0717 0025 [CCB, Dec. 2024]; Matter of Zen Zone 1 Corp. v. OCM, Insp. No. 115 2024 0604 0005 [CCB, Feb. 2025]; Matter of Z Snacks Inc. v. OCM, Insp. No. 102 2024 0605 0002 [CCB, Feb. 2025]).* Thus, Appellant cannot raise a challenge based on improper service on behalf of another party, here the real property owner. The reliance on technicalities to overcome the service methods that were effectuated is not persuasive, particularly where no allegations of prejudice have been asserted by Appellant either at the hearing or in the exceptions noted in the instant appeal. *(see, e.g., Buscher v. Ehrich, 12 A.D.2d 887, 888 [1961]).*

Appellant further asserts that the ALJ relied upon a flawed analysis in determining that Appellant was engaged in unlicensed activity. Specifically, Appellant argues the ALJ erroneously applied "total THC" and the conversion factor for determining total THC found in Cannabis Law section 3, because the law only applies total THC to concentrated cannabis and not cannabinoid hemp or hemp extract. Appellant contends the flawed analysis resulted in the ALJ erroneously including a portion of the THC-A content in determining whether the products were lawfully sold with a cannabinoid hemp license. These arguments are without merit and misstate the Cannabis Law and the cannabinoid hemp regulations promulgated by the CCB in Title 9 NYCRR Part 114. First, the cannabinoid hemp regulations include the same definition for total THC as the Cannabis Law, i.e., the sum of the percentage of THC-A by weight or volume, multiplied by 0.877, plus, the

percentage by weight or volume measurement of THC. *(Cannabis Law § 3 [53]; 9 NYCRR § 114.1 [ah])*. Additionally, pursuant Title 9 NYCRR section 114.9, the packaging and labeling of cannabinoid hemp products, "except for flower products, topical products, and concentrated hemp products intended for inhalation or vaporization, all cannabinoid hemp products distributed or offered for retail sale in New York State shall include … "total THC" or "THC" which …. shall include detectable levels of total delta-9, delta-8, and delta-10 and any other marketed cannabinoid."[6] *(9 NYCRR § 114.9 [a][3]; [emphasis added])*. Moreover, under the Cannabis Law and promulgated regulations, delta-9 THC is not evaluated alone. The law and regulations require that a portion of THC-A be included when calculating total delta-9 THC, using a defined conversion factor. *(Cannabis Law § 3 [52]; 9 NYCRR § 114.1 [ag])*. The cannabinoid hemp regulations define and establish the conversion factor for total delta-9 THC concentration as the sum of the delta-9 THC + (0.877 x THC-A). *(9 NYCRR § 114.1 [ag])*. As a result, THC-A must be treated as contributing to total delta-9 THC. This conversion factor, as defined, is a component to establishing a regulated market that protects public health, safety, and welfare through compliance and enforcement efforts. Therefore, it was not, as Appellant argues, error of law for the ALJ to utilize the defined conversion factor when determining whether the products observed were lawfully sold with a cannabinoid hemp license and whether Appellant was engaged in unlicensed activity.

In reviewing a determination of an ALJ, the CCB retains the authority to reverse or modify decisions but accords due deference to the factual findings and credibility assessments of the ALJ. *(see e.g., Matter of Simpson v Wolanski, 38 NY2d 391, 394 (1975); see also Matter of Pell v Board of Educ. of Union Free School Dist. No. 1 of Towns of Scarsdale & Mamaroneck, 34 NY2d 222, 230[1974])*. Here, the ALJ's decision sufficiently details the factual findings and conclusions of law in which they relied upon in determining Appellant was engaged in unlicensed activity by offering products for sale without the requisite license. Similarly, the decision details the evidence relied upon in determining the unlicensed activity was a danger to public health, safety, and welfare and was more than a de minimis part of Appellant's business activity. The ALJ relied upon the investigator's testimony and experience along with photograph exhibits in determining the products observed for sale were not labeled or packaged in accordance with the Cannabis Law and thus presented a danger to public health, safety, and welfare. The ALJ also detailed what was described as "dozens if not hundreds of products" on display for sale with price tags and labels that identified products as containing cannabis. The ALJ further relied upon the testimony of the investigator and their observations of customers purchasing cannabis. The decision described the premises as a small

[6] Marketed cannabinoids means any hemp-derived Phytocannabinoid and includes but is not limited to THC-A. (*9 NYCRR 114.1 [d]*).

commercial premises with signs and symbols depicting cannabis along with a volume and variety of products that were not lawfully sold with Appellant's cannabinoid hemp license. Based upon the totality of the evidence, the ALJ determined Appellant was engaged in unlicensed activity, such activity was an imminent danger to public health, safety and welfare and that the unlicensed activity was more than a de minimis part of Appellant's business activity.

The Cannabis Law expressly prohibits the cultivating, processing, distributing for sale, offers for sale or the delivery to consumers any cannabis, cannabis product, cannabinoid hemp, hemp extract product, or any product marketed or labeled as such, within the state without obtaining the appropriate registration, license, or permit from OCM. *(Cannabis Law § 125 [1]; [emphasis added])*. Any activity conducted in violation of Cannabis Law section 125 has been deemed as presenting a danger to public health, safety, and welfare. *(Cannabis Law § 125[1-b])*. Here, the ALJ's determination sufficiently details the evidence relied upon in determining the Appellant was engaging in the sale of cannabis and cannabis products without having obtained the requisite license. While Appellant had a valid cannabinoid hemp retail license, Appellant did not have a license to sell adult-use cannabis and was not otherwise authorized to sell cannabis, cannabis products, or products that exceed lawful amounts of THC, THC-A, and other cannabinoids marketed for consumption.

The record on appeal submitted by Appellant has not demonstrated a basis to vacate or otherwise disturb the factual findings and conclusions of law made by the presiding ALJ.[7]

CONCLUSION

Based on the foregoing, Appellant's appeal is dismissed and the decision in the matter is confirmed. This constitutes the final decision and order of the CCB.

DATED: February 5, 2026

[7] Appellant submitted a written memorandum of law in support of the appeal and the exceptions noted therein. Appellee OCM did not submit an opposition in response to the appeal.