

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION
Inspection No. - 118202405230004

**97 CONVENIENCE CORPS. d/b/a HI
SOCIETY,**

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.

Investigative Specialist 1 Zachary Roubelakis (hereinafter “Roubelakis”) 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 97 2nd Ave., New York, NY 10003.

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. Further, OCM requests a penalty under 138-b(8)(d) for the removal of the

warning sticker and NOV attached to Respondent’s storefront pursuant to an NOV and Order to Seal issued on May 22, 2024.

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(8)(d) states that the “mutilation or removal of [] a posted order or [] posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than five thousand dollars...”

III. FINDINGS OF FACT

1. On May 23, 2024, OCM conducted an inspection of 97 Convenience Corps. (hereinafter “97 Convenience”), located at 97 2nd Ave., New York, NY 10003 (Inspection #118202405230004). The previous day (May 22, 2024), the store had also been inspected and an NOV issued (Inspection #118202405220002). In both instances, an Order to Seal (hereinafter “OTS”) and an NOV were issued to 97 Convenience and the store was sealed. Respondent requested a hearing challenging the Order to Seal from May 22, 2024. The requested hearing was held on July 8, 2024, and a decision rendered on July 11, 2024, which upheld the OTS and

extended it for one (1) year. I take judicial notice of this hearing and incorporate the findings of that hearing into this decision.

2. OCM's notice of hearing failed to provide adequate notice to Respondent concerning the enforcement of an additional NOV and the request by OCM to enforce the provisions of Cannabis Law Article 6 §138-b. This decision, therefore, concerns only the NOV issued on May 23, 2024. Any further action by OCM to enforce the NOV stemming from the inspection on May 22, 2024, or the removal of the order/notice subsequent to the inspection on May 22, 2024, will require an additional notice of hearing.

3. 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 processes and while service by mail was incomplete, the service to the DOS (which occurred on November 25, 2025) satisfied the due process requirements necessary in this matter. OCM entered into evidence proof of service on DOS and I find that service was completed in a timely manner. 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.

5. The testimony and evidence support the finding that the products recovered from 97 Convenience were illicit. Many had out of state identifiers and/or were openly labeled as cannabis.

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

7. Respondent obtained counsel in 2024 who represented Respondent at the OTS hearing conducted in July of that year. Respondent never challenged the NOV or OTS at issue in this case. Respondent's attorney's representation was, therefore, confined to the matters related to the OTS issued on May 22, 2024.

IV. ANALYSIS AND CONCLUSIONS OF LAW

Service and Notice

I find the notice OCM provided Respondent adequate notice concerning the NOV dated May 23, 2024, and 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 issued on that date, 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). Additionally, the notice included a response form, which provided Respondent with instructions on how to appear, as well as a Notice of Language Access and Administrative Hearing Rights. Service was mailed to the store's location and provided to the New York Department of State pursuant to New York Business Corporation Law §306. Although the notice mailed to the store was returned to OCM as undeliverable, the Department of State accepted service on November 25, 2025 (see Ex. G).¹ Respondent failed to respond to the Notice of Hearing and failed to appear at the proceeding. Respondent's non-appearance occurred despite the efforts of OCM. This hearing, therefore, proceeded in Respondent's absence, nonetheless abiding by the 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.

The notice sent by OCM, while sufficient in part, was inadequate to place Respondent on notice of the NOV dated May 22, 2024, or OCM's request to enforce the provisions of Cannabis Law §138-b. Neither the date of the first inspection nor the inspection number related to the NOV issued on that date were referenced in the Notice of Hearing. Further, a maximum penalty of \$10,000 was stated on the notice. To now place Respondent in jeopardy or being penalized as much as \$30,000 (an additional \$10,000 for the other NOV, \$5,000 for the removal of the NOV, and \$5,000 for the removal of the order) is unjust. OCM may proceed with an additional hearing to enforce the second NOV and penalize Respondent for the removal of the notifications but will need to issue an additional Notice of Hearing.

Violation

Roubelakis testified that upon arrival at 97 Convenience, he found the doors open, and a neon sign illuminated in the window (Ex. B-1). He also stated that he had been at the store the day before and knew it to be a publicly facing business. Inside, he noted a point-of-sale system, cash drawers, and a bill counter (see Ex. D). An individual (Ex. E-4) stood behind the counter and acted in a manner consistent with that of a store employee. Further, Roubelakis testified that the store had a showroom which held products displayed for sale (Ex. E3) with prices prominently displayed (see e.g., F-4). These factors demonstrate a business that was open at the time of the inspection and one that routinely offered sales to the public. Finally, many of the products on display were either cannabis or products which Roubelakis, due to his training and experience, suspected to be cannabis (see generally, Ex. F). The inspection conducted on May 23, 2024, was, therefore, a proper and authorized inspection of a store open to the public and the items seized were in plain view of Roubelakis.

Roubelakis stated that, although he has conducted more than 400 inspections during his time with OCM, the recovery which occurred at 97 Convenience on May 23, 2024, was one of

¹I find that the attorney's representation of Respondent is limited to the NOV issued on May 22, 2024. Further, I find that OCM's service to the New York Department of State is adequate to provide Respondent notice. The determination, that Respondent may still be represented by counsel concerning the first inspection serves as an additional rationale for denying OCM's request to utilize this hearing to prosecute the NOV from May 22, 2024, and the removal of the notice from 97 Convenience's storefront.

the largest he had ever witnessed. He stated that the store contained a large assortment of cannabis and products suspected of being cannabis, in a variety of forms, including flower, concentrate, and edibles. The evidence submitted supports Roubelakis' testimony. Hundreds of products were recovered from the store, many with blatant labels identifying the contents as cannabis (see Ex. F). Further, many of the packages contained out-of-state stickers and the product's packaging did not comport with New York State requirements, confirming that at least some of the products were illicit based solely on the fact that they were not from New York (see e.g., Ex. F-7). Scales and empty packaging were also recovered (see Ex. D & F-11), which suggests that 97 Convenience was engaged in the processing of cannabis as cannabis flower was also recovered.

The evidence recovered from 97 Convenience shows by a preponderance of the evidence that the store was engaged in illicit cannabis sales. 97 Convenience did not possess an adult use license.² The volume, price tags, and showroom display of the cannabis products can only suggest that the store was making sales. Most or all of the products were labeled as cannabis or had designations which Roubelakis testified suggested the packages contained cannabis products. 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 97 Convenience, I impose the maximum penalty. I believe the evidence supports Roubelakis' assertion that the recovery from 97 Convenience was substantially large and warrants a proportionately large penalty. It is unlikely that any of the products were tested for safety or quality assurance. Further, there is evidence that 97 Convenience was processing cannabis and did not possess an appropriate license or 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. However, I will note that the volume of cannabis recovered, discounting any processing, warrants the maximum penalty.

V. DECISION

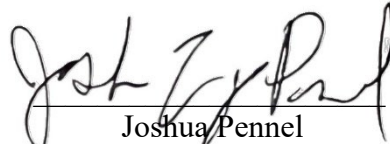
The Respondent engaged in the sale of illicit cannabis and cannabis products without a license, registration, or permit to do so, at the location of 97 2nd Ave., New York, NY 10003. In so doing, Respondent violated Cannabis Law Article 6 and is ordered to pay a fine of \$10,000.

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.

² Although no direct evidence was submitted as to whether 97 Convenience possessed an adult use cannabis license, the previous hearing (issued on July 11, 2024, and incorporated into this decision) noted evidence that the store did not possess a license.

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

Dated: March 3, 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 March 3, 2026, to the following:

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

The decision was sent via certified mail on March 3, 2026, to the following:

97 Convenience Corps.
d/b/a Hi Society
97 2nd Ave.,
New York, NY 10003