

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

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**OFFICE OF CANNABIS MANAGEMENT,**

Petitioner,

-against-

**DECISION**

**Complaint No. 204202405220002**

**197 Madison St. Convenient Corp.**

Respondent.

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The Office of Cannabis Management requested a hearing, for an inspection which occurred on May 22, 2024. The hearing was held on January 14, 2026.

The Respondent failed to appear, and was not represented by counsel at the hearing

The Office of Cannabis Management (hereinafter “OCM”) was represented by Assistant Counsel Anthony Pitnell, Esq.

Investigative Specialist Jessica Jenkins testified on behalf of OCM.

Laurie J. Cartwright, Esq. was the presiding Administrative Law Judge (hereinafter “ALJ”)

**I. ISSUE**

The allegations set forth in the Notice of Violation and Order to Cease Unlicensed Activity and Notice of Hearing (hereinafter “NOV”) allege that the Respondent was offering cannabis products, as defined by Cannabis Law § 3, for sale without an appropriate registration, license, or permit. This allegation was based upon observations made during a regulatory inspection which was conducted at 197 Madison St. New York, NY 10002.

## II. APPLICABLE LAW

Cannabis Law Article 6 § 125(1): Prohibits the sale, cultivation, or distribution of cannabis or cannabis products without the appropriate license or registration.

The law 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 § 138-A(2): Authorizes the OCM to order any person engaged in unlicensed activity to cease such conduct and permits the seizure of unlawful cannabis products.

The law states 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 § 132(1)(a): Permits the imposition of a civil penalty up to \$10,000 per day for unlawful sales.

The law 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 § 132(1)(c): Requires penalties to be proportionate to the nature of the violation.

The law 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...”

9 NYCRR 133.16 (3) provide that, “If a party fails to appear at the hearing and no adjournment has been requested and granted for cause, the administrative law judge shall recommend a default order.”

### III. FINDINGS OF FACT

1. On August 18, 2025, a conference in this matter was held before Administrative Law Judge Joshua Pennel.
2. Prior to the conference, a Notice of Hearing and Official Notice of Conference dated August 5, 2025 was mailed to the Respondent notifying them that a conference would be held on August 18, 2025 at 1:00pm. This mailing was returned to sender as of August 11, 2025. Petitioner then sent a second mailing on August 11, 2025 to the address listed for Respondent with the Department of State. It is unclear if that mailing was marked delivered.
3. At the inception of the hearing on January 14, 2026, Petitioner introduced documents as part of Exhibit D to show proof of proper service. Exhibit D included an affidavit of service stating that on November 25, 2025, OCM employee Alicia Pasos, served the associated Notice of Violation, Notice of Conference and/or Hearing, Respondent Response Form, and Notice of Language Access and Administrative Hearing Rights on the corporation via both certified mail return-receipt to the store and through the New York State Department of State. The exhibit also included a receipt from the Department of State confirming their service of the documents. The Notice of Conference/Hearing Request specified that the hearing would take place virtually on “1/14/2026 at 3:00pm.” It further went on to notify the Respondent of the consequences of not attending, namely: “[y]our attendance at the Proceedings is required and failure to appear may result in a default judgement with financial penalties of up to and including ten thousand dollars (\$10,000) as authorized under Cannabis Law § 138-A.” (Exhibit D-2). As such, I deem service to have been properly effectuated by serving the corporation’s registered agent, the Department of State. (*See* Exhibit D).
4. Petitioner asked that I take judicial notice of the documents, which I declined. Instead, based on the signed affidavit of service by an OCM employee, they were admitted as self-authenticating documents.
5. Petitioner then presented their sole witness Supervising Investigator Jessica Jenkins.
6. Investigator Jenkins testified that she was a supervising investigator for OCM. She explained that she received training on how to conduct a lawful regulatory inspection including speaking with employees, if they’re present, and understanding the rules, regulations and laws they are to abide by. They were trained on what to confiscate, how to confiscate those products, and how to fill out the associated paperwork. They are also instructed on how to provide the completed documentation to Respondent or an individual who can take possession of the documents.
7. Investigator Jenkins stated that to her knowledge, at the time of the inspection the Respondent did not have a hemp or cannabis license.

8. Petitioner introduced the Notice of Violation, Order to Seal, and Order to Cease Unlicensed Activity issued on May 22, 2024, into evidence. (*See Exhibit A*). The document alleges that the investigator observed cannabis products in the form of cannabis flower, edibles, and concentrate in violation of Cannabis Law § 125, 138-A, 101, and 9 NYCRR §§ 120(i) and 114.14(d)(1). Though an Order to Seal was issued, Petitioner did not allege that Respondent’s behavior was an imminent threat to public health, safety, or welfare.
9. Investigator Jenkins said that the location was an indoor dispensary that contained products by various well-known brands in glass cases. According to her testimony customers could see an assortment of products that appeared to be offered for sale. “Dispensary” was inscribed on the store’s exterior sign, as was a picture of a green cannabis leaf. Additionally, there were light up “Runtz” and Cannabis leaf signs in the window of the store, and a small whiteboard near the entrance that listed the names of various cannabis strands. (*Exhibit B5*).
10. Investigator Jenkins testified that she observed the following products, featured in Exhibit B, offered for sale in violation of the Cannabis Law and regulations:
  - a. Exhibit B6: Approximately 4 Big Chief THC Cartridge Vapes and Approximately 4 California Honey Vapes
  - b. Exhibit B7: 4 California Honey Vapes, and Stiiizy, Fryd, and Backwoods products
  - c. Exhibit B8: 3-4 Cannabis products, bottom right
  - d. Exhibit B9: Cannabis Flower containers on the top shelf
  - e. Exhibit B10: Cannabis Infused product- 500mg
  - f. Exhibit B11: Cannabis related products- possibly flower
  - g. Exhibit B12: Cannabis Flower- Approximately 20 or more unlabeled vials
11. It was also noteworthy that the tobacco products on site, according to Investigator Jenkins, featured a sign saying, “not for sale.” (*Exhibit B4*).
12. At the conclusion of the inspection OCM Investigators issued a NOV and Order to Seal to 197 Convenient Corporation. Investigator Jenkins handed a copy of the NOV and OTS, as well as the vouchers, to the employee on site Pagan Dynairis. The paper containing those documents was posted outside of the store front as seen in Exhibit C.

#### **IV. ANALYSIS & CONCLUSIONS OF LAW**

##### ***Service and Notice***

OCM regulations dictate the service requirements for the NOV, preliminary conference, and hearing. OCM regulation §133.14 states that service of notices and papers connected with a hearing, should be made by electronic mail or regular first-class mail. Service of the Notice of Hearings, per §133.10(f) should be made at least 45 days prior to the scheduled hearing and sent either by certified or registered mail, or by a method that is consistent with CPLR article 3. CPLR

§311 prescribes the process by which corporations should be served. Personal service is to be made upon, “an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service. A business corporation may also be served pursuant to section three hundred six or three hundred seven of the business corporation law...” §306(b)(1) of the Business Corporation allows for service of process on the secretary of state as an agent for the corporation. It requires that service by this method be completed by delivering the items to be served to the “secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany.”

In this case, a notice for the preliminary conference was sent out by certified mail-return receipt requested to the Respondent’s place of business. The place of business had been padlocked by OCM. The first Notice of Conference was returned to sender, and it is unclear whether the second notice of conference sent to the address on file with the Department of State, was delivered prior to the conference. Nevertheless, Respondent was properly served by service on their agent, the Department of State, pursuant to §306(b)(1) of the Business Corporation on November 25, 2025. (Exhibit D-10). As such, a default was granted and the hearing moved on to inquest. A default does not establish liability. It waives only Respondent’s right to contest the evidence. OCM must still prove, by a preponderance of the evidence, (i) the statutory violations alleged and (ii) penalty authority and proportionality. The matter therefore properly proceeded as a default inquest.

### ***Validity of the Regulatory Inspection & Determination Concerning Notice of Violation***

During the instant hearing, Petitioner presented evidence of the cannabis products on display at the premises during the regulatory inspection on May 22, 2024. Exhibits B3-4 show the display, according to Inspector Jenkins, as seen when entering the location. Exhibit B5 also shows the menu of cannabis strains available. This, in addition to the close-up photographs of the glass sales cases, shows that the products were being marketed and offered for sale. These displays especially evidence an intent to sell, when contrasted with the shelves containing tobacco product labeled as not for sale. Investigator Jenkins stated that she was able to identify the products on site as cannabis products because of the marijuana leaf and California warning symbol on many of the products, as well as her familiarity with some of the brands as well-known purveyors of cannabis products.

Cannabis Law §125 prohibits the sale of any product that is or is marketed and labeled as: cannabis, cannabis product, cannabinoid hemp, or hemp extract product. Cannabis Law § 138-a allows OCM to order an entity that is unlawfully selling cannabis or products marketed or labeled as such to cease selling and allows OCM to seize the unlawful products found at their business. Neither Cannabis Law § 138-A nor §125 require there to be an imminent threat to public health or a large volume or variety of product for a violation to be upheld. However in the instant case,

within the moderate amount of product, there were a variety of brands and strains of cannabis represented.

***Penalty***

I find by a preponderance of the evidence that 197 Convenient Corporation was offering for sale a moderate amount of product from a variety of purveyors. They were openly advertising a varied selection of cannabis strains, and I credit Investigator Jenkins' testimony regarding the variety of product on offer. However, due to the lack of testimony and evidence regarding the number of products recovered, such as vouchers, moderate amount of product, the blurred pictures and unclear information regarding certain products, I cannot issue a fine in the full amount requested.

**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 197 Madison St. New York, NY 10002. In so doing, Respondent violated Cannabis Law Article 6 and is ordered to pay a fine of \$8,000.

1. The Notice of Violation and Order to Cease Unlicensed Activity is hereby **AFFIRMED**.
2. Respondent is found to have violated Cannabis Law §§ 125(1) and 132(1)(a).
3. A civil penalty of **\$8,000** is assessed under Cannabis Law § 132(1)(c).

**WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 § 132(1), THE RESPONDENT IS HEREBY ORDERED TO PAY A \$8,000 FINE, AS A PROPORTIONATE PENALTY FOR THE UNLICENSED SALE OF CANNABIS AND CANNABIS MARKETED PRODUCTS ON MAY 22, 2024.**

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

*Laurie Cartwright*

Laurie Cartwright  
Administrative Law Judge

Dated: February 25, 2026

This decision was sent via email on February 25, 2026 to the following:

Anthony Pitnell, Esq.  
Nickolas Perry  
Sheila Wagner  
Celena Ditchev, Esq.

This decision was sent via certified mail on February 25, 2026 to the following:

197 Madison Convenient Corp.  
d/b/a 36 Convenience Corp.  
197 Madison St.  
New York, NY 10002