

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION
Inspection No. 125202601300009

BOX 27 INC.

Respondent.

Respondent requested a hearing to adjudicate the Order to Seal, Notice of Violation, and Order to Cease Unlicensed Activity (hereinafter “OTS” and “NOV”) issued by the Office of Cannabis Management (hereinafter “OCM”).

Respondent’s request occurred on February 13, 2026, and the inspection occurred on January 30, 2026.

A hearing was scheduled for March 19, 2026, and adjourned upon request of the parties to March 26, 2026. The hearing was conducted on March 26, 2026.

The Office of Cannabis Management was represented by Anthony Pitnell, Esq.

Investigative Specialist Carisse Dillon (hereinafter “Dillon”) appeared as a witness for OCM.

The Respondent, was represented by James Kirshner, Esq.

Venkata Rakesh Ganta, appeared as a witness for Respondent.

Administrative Law Judge Laurie Cartwright, Esq. (Presiding Judge).

I. ISSUE

The allegations set forth in the NOV indicate that the Respondent was offering cannabis products, as defined by Cannabis Law Article 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 645 Rogers Ave., NY 11226.

The scope of the hearing involved a determination of whether OCM, by a preponderance of the evidence, met the requirements articulated in the padlocking provisions of Cannabis Law Article 6 § 138-b, if it was justified in issuing to Respondent the NOV, and what penalty, if any, under Article 6 § 132 is justified. OCM requested the maximum fine of \$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 cultivates for sale, offers to sell, or sells cannabis, cannabis products, medical cannabis, or any product marketed or labeled as such, without having an appropriate registration, license or permit therefor, including a person whose registration, license, or permit has been revoked, surrendered or cancelled, where such person is engaging in activity for which a license would be required under this chapter, maybe 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. Investigator Dillon testified that she is an Investigative Specialist 1 for OCM. Her role entails conducting regulatory inspections to investigate unlicensed businesses and illegal activity. She explained that she received on the job and field training from her immediate supervisors, including concerning OCM databases and identifying cannabis products. She stated that when she identifies cannabis products, in particular cannabis flower, she looks for a pungent odor, greenish hue, and spiky-densely packed clusters of buds. When inspecting product packaging she looks for symbols such as the delta-9 symbol and California cannabis labels. She also looks to see if the packaging is attractive to minors by featuring graphics such as imagery reminiscent of food, candy, or characters.

2. Investigator Dillon testified to her regulatory inspection of Box 27 Inc. at 11:35am on January 30, 2026. She explained that OCM received a complaint of an unlicensed retailer opening up next to a childcare center, and so the office conducted surveillance and recognizance. She stated that she searched the OCM database and determined that the Respondent did not have a license to sell cannabis. As a result, OCM applied for and was granted an access and seizure order to be able to search non-public areas of the Respondent's store and seize cannabis and cannabinoid hemp products. (Exhibit A).

3. Investigator Dillon said that she was buzzed into the primary segment of the store and smoke shop by an employee on the date of inspection. She stated the store appeared to be open for business and described the interior and exterior of the premises, including the open sign displayed at the time of inspection. The store, which had a light up cannabis leaf in the window, was located directly next to "My Little Sprouts Child Care," which had a sign saying "PRE SCHOOL THRU KINDEGARTEN," Ages 2-5. Respondent's premises had a small sneaker store to the left, upon entry, and a smoke shop straight ahead. (Exhibit B6 and 8). She stated that she conducted her inspection during the store's business hours, which were posted as seven days a week from 9am to 2am.

4. A small to moderate variety of cannabis products were on display through the glass/plexiglass counter. Specifically, edibles, concentrate, vapes, and cannisters of cannabis flower were visible with signs listing the name of the varietal, strain, and price when paying by cash or card. (Exhibit B18, and 21-22; Exhibit C11).

5. Investigator Dillon testified to recovering multiple cannabis products from the back of the store, which were also being displayed at the counter in the front of the store, including: Flav edibles, Switch vapes, raw wrapped pre-rolls, Whole Melt Extracts, and small, bright multi-colored, round containers with concentrate. In the rear of the store, nine vacuum sealed bags of cannabis flower were recovered from a shelf in the safe. The pocketed door sleeve of the same safe contained cannabis flower, concentrate, edibles, and switch vapes. (Exhibit B 29-33).

Additionally, there was a vacuum sealing machine and bags, similar to the bags found in the safe, as well as a label maker, heat sealer, and clear jars. (Exhibit B36-38). Investigator Dillon also recovered cannabis flower, bulk and individually packaged, as well as pre-rolls in jars and vacuum sealed bags. (Exhibit C1-6). Vast amounts of bulk packaged flower were found throughout the rear of the store on shelves and from large laundry bags was labeled with various strains, namely: Berry Blass, Laughing Buddha, Platinum, Bubble Gum, LCH Gumdrops aka Tokyo Gumdrops, and Brunt. (Exhibit C). Cannabis flower bags were seen in cannisters in the front of the store under the names Laughing Buddha and Platinum 4.

6. There was a bed and pillow at the location, but no kitchen, shower, or dresser. Investigator Dillon testified that the employee on site stated that no one resided at the location.

7. The store had a POS system, which showed sales information. The business, by its own records, grossed \$41,281.64 from January 1 through January 30, 2026. (Exhibit B12).

8. At the conclusion of her investigation, Investigator Dillon served the NOV and OTS on the store clerk/cashier personally, as evidenced by her testimony and his signature. (Exhibit E). A copy of the NOV and OTS was also posted on the exterior of the building.

IV. ANALYSIS & CONCLUSIONS OF LAW

I find that cannabis products were being offered for sale at Box 27 Inc. located at 645 Rogers Avenue, Brooklyn, New York 11226, on January 30, 2026. Investigator Dillon testified to her training and experience in identifying cannabis products. During the course of the hearing, many exhibits were introduced to show the plethora of cannabis contained in the rear of the store. Additionally, exhibits were introduced detailing the cannabis products contained at the sales counter, displayed in public view, including cannabis flower in clear containers with signage advertising both card and cash sales price. Multiple products displayed in the front of the store, were also stocked in large quantities in the back of the store such as: Flav edibles, Switch vapes, raw wrapped pre-rolls, Whole Melt Extracts, and small, bright multi-colored, round containers with concentrate, and cannabis flower in Laughing Buddha and Platinum.¹ Moreover, approximately 70 large bags of cannabis flower can be seen in Exhibit C52, alone. The vouchers also list the following cannabis products: 35-3.5 g cannabis flower packages, 143-1oz cannabis concentrates, 36-2g cannabis vapes, 326- cannabis pre-rolls, 18 cannabis concentrates of unknown weight, 18-75g cannabis edibles, 42-80g cannabis edibles, and 102-94g cannabis edibles. (Exhibit D).

I find by a preponderance of the evidence that the premises was not being used as a residence. Investigator Dillon testified that nothing indicated the store was being used as a residence. Though there was a small bed/cot at the store, there was no kitchen, shower, or dresser and the employee said that no one resided there.

The unlicensed activity which warranted an order to seal constituted more than a “de minimis” part of the business activity. The Cannabis Law Article 6 §138-b (7) and OCM

¹ The large bag of cannabis flower labeled “Brunt,” possibly is an abbreviation of the B-Runtz seen on the cannister in B17, but Petitioner did not present testimony to that effect.

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. One of the factors in analyzing if the unlicensed business activity was more than de minimis, includes determining whether a large volume or variety of illicit cannabis products was found on the premises during the inspection. In this case Investigator Dillon recovered an extremely large volume of cannabis product from the premises, approximately 190 bags of unweighted cannabis flower in addition to 702 other products, 326 of which were individual pre-rolls. There was diversity of cannabis product in both form and varietal of cannabis, in addition to multiple flavors of cannabis edibles. Approximately 11 strains of cannabis were displayed in cannisters at the counter, in addition to a smattering of concentrates, and vapes in different varietals and strains. (Exhibit B18). Cannabis flower individually bagged came in packaging resembling common food products such as Cheetos, Oreo, Ritz, Haagen-Daas, and Doritos. (Exhibit C1-3). Cannabis Edible gummy rings by Flav were offered in various flavors including Apple, Peach, Blue Raspberry, and Cherry. (Exhibit C15-24). Though the business also sold sneakers in a separate section of the store, only approximately 38 pairs of sneakers or sneaker boxes can be seen on display. (Exhibit B6). There did not seem to be large quantities of sneakers stocked in the rear area of the store with the cannabis products, or in the safe. Additionally, it would be very difficult to infer that the majority of Respondent's gross sales of \$41,281.64, displayed on the screen by the salesclerk, came from the small sneaker store in front of Respondent's store. The fact that the exterior signs held the premises out as a smoke shop, not sneaker store, cuts against an argument that Respondent's gross sales were mainly from the sneaker business.

Therefore, I find that the volume and variety of cannabis present, in conjunction with the very limited number of non-cannabis products at Respondent's store and large gross sales, indicate that Respondent's unlicensed activity was more than a de minimis part of the business activity at the location. Additionally, I find by a preponderance of the evidence that the unlicensed activity occurring at Box 27 Inc. constituted an imminent threat to public health, safety, and welfare in that: it was in proximity to a school, and there were sales of, or offers to sell, cannabis products that were not tested or labeled lawfully in accordance with Cannabis Law Article 6. Respondent's business was situated immediately next to a daycare program for children ages 2-5 from 7:30am-6pm. The listed school day overlapped heavily with Respondent's listed business hours of 9am-2am. (Exhibit B1). Investigator Dillon testified to the ways in which packaging at Respondent's business did not reflect New York State's packaging and labeling requirements. She explained that the products did not display the universal New York cannabis symbol, and some of the packaging such as Oreo and Cheetos packaging that could be attractive to minors. Large quantities of cannabis product recovered from Respondent's business including a plethora of unlabeled -loose pre-rolls, Flav Cannabis Infused Gummy Rings, and bags of unweighted-vacuum sealed cannabis flower were completely unlabeled. Moreover, Smoothie Bar Vapes, and Tasteiz cannabis flower had California cannabis warning symbols. Due to Respondent's proximity immediately next to a school, and quantity of cannabis product not labeled lawfully in accordance with the Cannabis Law, I find that Respondent's business constituted an imminent threat to public health.

Respondent's Responsive Pleadings

Respondent filed a responsive pleading and amended responsive Pleading on March 25, 2026. The amended responsive pleading asserted three affirmative defenses, which I will address below:

1) “The Agency lacks personal jurisdiction over Respondent in that service of the Notice of Violation, Order to Cease Unlicensed Activity, and Order to Seal, were not made in accordance with legal requirements.”

Respondent’s counsel argued during the hearing that this matter should be dismissed as there is no evidence that Investigator Dillon or Petitioner served the OTS by mail on Respondent at their address, as required, if it is provided, per Cannabis Law Article 6 §138-B (2). In this case, the owner’s name and address was posted conspicuously on the wall of the rear storeroom, above the safe. Failure to serve the Respondent by mail in this case, is not a fatal jurisdictional defect. In an administrative proceeding proper service is determined whether the notice is reasonably calculated under all circumstances to make the parties aware of the proceeding and afford them 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]). While Respondent’s appearance through counsel does not necessarily mean that the service requirements have been met, in this case there is no assertion that Respondent did not receive the OTS and NOV, nor is there an assertion that he was unaware that the premises were inspected and sealed. While Petitioner ought to have served Respondent by mail at the address posted on the wall and identified by the store clerk, personal service was effectuated on the Respondent’s employee. That employee, a witness at this proceeding, was a person of suitable age and discretion who identified themselves as an employee, owner, and someone who was in control of the premises. The certificate of service reflects his signature. Additionally, Petitioner OCM established the NOV and OTS were conspicuously posted on the exterior of Respondent’s business. (Exhibit F). Thus, the subsequent reliance on technicalities to overcome the service methods that were effectuated is not persuasive, particularly where prejudice has not been asserted nor demonstrated. (See, e.g., Buscher v. Ehrich, 12 A.D.2d 887, 888 [1961]; see also, Matter of Shopsmart Convenience dba The Garden v. OCM, Insp.207 2024 0717 0025 [CCB, November 2024]; Matter of 7th Avenue Organic v. OCM, Insp. , [CCB, March 2025]; Matter of Frees’ Ice Cream Novelties LLC v. OCM, Insp. 134 2625 0212 0093 [CCB, February 2026]).

2) “The Office of Cannabis Management (OCM) conducted an unauthorized inspection of the Respondent’s business on January 30, 2026 because the inspection was outside the authority granted to OCM for regulatory inspections under the Cannabis Law.”

The scope of Petitioner’s search was based on an access and seizure order (Exhibit A) obtained from New York Supreme Court Justice Reginald A. Boddie on January 27th, 2026, granting them access to non-retail and non-public areas of the premises for the inspection and seizure of cannabis product. Thus, OCM had authorization for the scope of the search conducted

3) “OCM’s inspection of the Respondent’s business on January 30, 2026 was unauthorized and unlawful because it was conducted while Respondent was not open for business to the public.”

Investigator Dillon testified that at the time of inspection, 11:35am, Respondent’s open sign was in the window, the time was within Respondent’s posted business hours, and Respondent’s employee let her into the store. Respondent’s clerk testified during the proceeding. He stated that he came in at around 10:00am on the date of inspection, later than normal because his boss had

informed him earlier that morning that the machine for card payments wasn't working. He explained that at the time investigators entered he was trying to get the system working properly again. Based on the testimony of Investigator Dillon and Respondent's witness Venkata Rakesh Ganta, I find by a preponderance of the evidence that Box 27 was open for business at the time of Petitioner's regulatory inspection.

Penalty

Based on the foregoing, I find by a preponderance of the evidence that cannabis was being sold at Box 27 on January 30, 2026. Respondent displayed cannabis products for sale openly and stored very large volumes of cannabis flower, in addition to other products at his store. He also had equipment to vacuum pack cannabis, a form of processing. Given the large quantities of cannabis at Respondent's store I find the maximum fine appropriate.

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, 645 Rogers Avenue, Brooklyn, NY 11226. In so doing, Respondent violated Cannabis Law Article 6 and is ordered to pay a fine of \$ 10,000.

The Notice of Violation and Order to Cease Unlicensed Activity is **AFFIRMED**. **It is further ordered that:**

1. Respondent is found to have violated Cannabis Law §§125(1), 132(1)(a), and 132(1)(c).
2. The sealing requirements of Cannabis Law §138-b have been met by a preponderance of the evidence, and the Order to Seal is hereby **AFFIRMED**.
3. A civil penalty of \$10,000 is assessed under Cannabis Law § 132(1)(c).

WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 §138-b (9), THE ORDER TO SEAL, ISSUED ON JANUARY 30, 2026, IS HEREBY EXTENDED FOR ONE YEAR FROM THE DATE OF THIS DECISION, AND PURSUANT TO CANNABIS LAW ARTICLE 6 § 132(1), THE RESPONDENT IS HEREBY ORDERED TO PAY A \$10,000 FINE, AS A PROPORTIONATE PENALTY FOR THE UNLICENSED SALE OF CANNABIS AND CANNABIS MARKETED PRODUCTS ON JANUARY 30, 2026.

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

Dated: April 22, 2026

Laurie Cartwright
Laurie J. Cartwright
Administrative Law Judge

Issuance and Publication Date: May 15, 2026

John F. Udochi
John F. Udochi
Chief 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 May 15, 2026, to the following:

Nickolas Perry
Sheila Wagner
Anthony Pitnell, Esq.
James Kirshner, Esq