

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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION
Inspection No. - 133202604290023

GREEN THREADS CLOTHING III, INC.

Respondent.

Respondent requested a hearing on April 30, 2026, for an inspection which occurred on April 29, 2026. The hearing was held on May 4, 2026.

Respondent failed to appear at the hearing.

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

Investigative Specialist I Eric Silvanic (hereinafter “Silvanic”) 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, and Order to Seal (jointly hereinafter “OTS”) 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 18 Dolson Ave., Middletown, NY 10940.

The scope of the emergency hearing was limited solely to the issue as to whether the padlocking provisions of Cannabis Law Article 6 § 138-B have been met by a preponderance of the evidence.

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 §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 § 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 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 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 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 9 NYCRR 133.25(f)(1)(i-vii).

III. FINDINGS OF FACT

1. On April 29, 2026, OCM conducted an inspection of Green Threads Clothing III, Inc. (hereinafter “Green Threads”), located at 18 Dolson Ave., Middletown, NY 10940 (Ex. A). At that time, an OTS was issued, and the premises were sealed. On April 30, 2026, Respondent requested an emergency hearing, which was held on May 4, 2026.
2. Respondent, despite requesting a hearing, failed to appear at the date and time of the scheduled hearing. Respondent received notification at the email address they designated and made no attempt prior or during the hearing to adjourn the hearing. The hearing proceeded as a default pursuant to 9 NYCRR 133.25(h)(5).
3. The testimony and evidence support a finding that Respondent was actively selling cannabis. Testimony presented by Silvanic detailed a purchase made from the store involving items that appeared to be cannabis and which the store sold as cannabis. Silvanic stated that OCM’s records showed that Green Threads had neither a hemp nor an adult-use license. Further, OCM seized an amount of cannabis from Green Threads well beyond what can be accounted for under personal use.

4. The activity occurring at Green Threads constituted more than a de minimis part of the business' commercial activity. OCM discovered a significant amount of product on site, including items commonly used to process cannabis, indicating a perpetual operation. Both the volume and variety of product recovered support a finding of more than de minimis. While no evidence was submitted concerning the non-illicit operations of Green Threads, I find that the illicit trade, when compared with the store's size and the number of legal products visible on display, make it more likely than not that cannabis transactions constituted more than a de minimis part of the store's business activity. Further, the store had signs and symbols that indicated that a customer could acquire illicit products from Green Threads. Factors delineated in Cannabis Law Article 6 §138-b (7) and OCM Regulations part 133.25(f)(3) are confirmed by the evidence and support a finding that the store's illicit activity constituted more than a de minimis part of the business activity.

5. The unlicensed activity being conducted at Green Threads constituted an imminent threat to public health, safety, and welfare based on sales of, or offers to sell, cannabis products that were not tested or labeled lawfully in accordance with Cannabis Law Article 6. Further, Green Threads likely engaged in processing cannabis but showed no evidence that it maintained the health and safety standards necessary for a processing operation.

6. The Office of Cannabis Management conducted a proper search of the location. Silvanic testified that a request for illicit cannabis, made by an employee of OCM, resulted in an offer to sell by an employee of Green Threads. OCM conducted a regulatory inspection after the offer to sell occurred.

7. Service was properly effectuated by OCM. The OTS issued on April 29, 2026, was given to an employee of the business and no evidence was submitted of the employee supplying OCM with an address for the owner. Further, notice was posted on the storefront, and Respondent requested a hearing using the information provided on the OTS.

8. Respondent's request to move the hearing was received after the completion of the hearing. Respondent was offered the opportunity to request the hearing be "reopened," but no further communication from Respondent occurred.

IV. ANALYSIS AND CONCLUSIONS OF LAW

Regulatory Inspection

Silvanic's testimony and evidence submitted shows that on the day of the inspection, Green Threads was open for business and actively engaged in commerce (Ex. C-1). An open sign was on the front door (Ex. C-1) and an employee of OCM entered the store through an open front entrance. Silvanic testified that this OCM employee requested cannabis products and the clerk in the store retrieved three bags and sold them to the undercover employee. These bags

were later identified as likely containing cannabis flower (Ex. D-1). The inside of the store also bore the hallmarks of a publicly facing store, including a point-of-sale system, ATM, credit card reader, and numerous products displayed in a manner consistent with that of a business (Ex. C-2-5 & 7). Additionally, receipts, likely from recent transactions, were on site (Ex. C-3). These factors, taken together show by a preponderance of the evidence, that Green Threads was a publicly facing store, open at the time of OCM's arrival, and likely selling cannabis products. The inspection conducted after the undercover buy was, therefore, justified, and OCM's actions were consistent with their powers under New York law.

Illicit Product

While the "undercover buy" established the active nature of Green Threads cannabis sales, it also provided the first variety of cannabis possessed by the store (Ex. D-1). The inspection of Green Thread uncovered a number of cannabis products, all of which were illicit due to the lack of an adult-use license. Silvanic testified that he searched OCM's records and found no record of either an adult-use cannabis or hemp license. The volume seized from the store constituted a moderately large amount, well beyond the amount allowed for personal use under New York Cannabis Law. Silvanic testified that many of the products were labeled as cannabis or had telltale qualities that he was able to identify, using his training and skills, as cannabis products. He detailed the labeling, packaging, and symbols present on the products as indicators of cannabis and the evidence supports this finding. A complete accounting of the illicit product was detailed using vouchers which show a significant amount of illicit product (see Ex. B). In total, nearly 200 individual products were recovered from Green Threads. This number does not include the loose flower recovered or Green Threads ability to process cannabis, which was likely occurring on site. Many of the products recovered on site were labeled with a price tag, indicating that they were available for purchase (see i.e., Ex. D-18-19, 21, & 23). I find that Silvanic, as a trained employee of OCM, is qualified to identify cannabis and that the products he seized from Green Threads constituted illicit cannabis products.

Residence

Silvanic testified that he saw no evidence that the store was being used as a residence. The store did not possess a kitchen, shower, dresser, or stored clothing. None of the typical accoutrements of a residence were present and I find that Green Threads was entirely a commercial property and did not have any part of it being used as a residence.

De Minimis

The volume of cannabis product recovered from Green Thread is sufficient to show that the illicit sales constituted more than a de minimis part of the store's business activity. Hundreds of illicit products were discovered on site and seized by OCM (see Ex. B & D). These products demonstrate a significant large operation that likely generates a consequential amount of sales for Green Threads. Further, OCM discovered paraphernalia on site that leads to the conclusion that Green Threads was processing cannabis and selling the resulting products. Scales with visible cannabis residue and empty packaging were found in the store (Ex. C-7-8). It should be noted that the empty packaging recovered matched bags being offered for sale (compare C-7 & D-3). Further, bulk cannabis flower can be seen in evidentiary pictures (e.g., Ex. D-4). These factors, taken together, show by a preponderance of the evidence that Green Threads was processing on site. This allowed for the sale of a large amount of product that could easily be

replenished in a perpetual cycle of cannabis sales. This processing adds greatly to the volume recovered from the store. Further, while a large amount of the product recovered came in the form of loose flower, other varieties were also present. Vapes, gummies, pre-roll cannabis cigarettes, concentrate, and even cannabis infused sugar were all recovered by OCM (Ex. D). These products came in an extensive variety of forms, brands, flavors, and strains. This array of products likely demonstrates that Green Threads was offering a wide variety of products to meet the individual tastes of their consumers. Finally, the décor of the store displayed many cannabis related signs and symbols, which would identify Green Threads as a store that likely sold cannabis products. A sign next to the front door showed a joint and the phrase “pass the grass,” in an obvious reference to cannabis (Ex. C-2). The inside also contained products that were linked with cannabis, including glassware, lighters, trays, and rolling paper (Ex. C-3, 5-7, & 9). While these products are not unlawful, they are associated with cannabis and likely serve as an indicator to customers that cannabis may be found on site. Additionally, products on display and for sale in the store contained cannabis related imagery (Ex. C-5 & 9-12). Finally, a mural painted in the store contained many visual references to cannabis (Ex. C-11-12).

The law identifies four distinct factors that can be considered when determining whether the illicit activity of an entity is more than a de minimis part of the entities’ business activity. Any single factor can be determinative and Green Threads meets three of the four. A large volume and a wide variety of illicit products, coupled with a litany of cannabis related signs and symbols, demonstrates by a preponderance of the evidence that Green Threads illicit activity was more than a de minimis part of its overall business activity. Green Threads is a relatively small store and the factors discussed above show that the sale of illicit products likely made up a significant amount of its sales. The store is seemingly designed around the theme of cannabis and catered to the individual taste of consumers with the wide variety of product. I find that OCM proved by a preponderance of the evidence that Green Threads’ actions were more than a de minimis part of its business activity.

Imminent Threat to Public Health, Safety, and Welfare

The products seized from Green Threads were not labeled or tested in accordance with New York law. There is no evidence that any testing was conducted and none of the products had the necessary confirmation of testing or required New York State warnings (see generally Ex. D). Many of the products possessed stamps that lead to the conclusion that they were produced out of state (i.e., Ex. D-6-8, 10, 15, 17, 19-20, 22, 24, & 30). Other products contained generic warnings that the product contained cannabis (Ex. D-11, 18, & 26). The THC contents in some of the products far exceeded that allowed under New York Law, making them particularly potent and adding to the threat presented (Ex. D-16). Finally, as shown above, Green Threads likely engaged in the processing of cannabis on site and there is no evidence that it abided by the health and quality control regulations required of a processor in New York. None of the products appear to have the necessary New York State stamp that would attest to them having undergone health and safety screening. Instead, the products are produced by an out-of-state or unknown producer using unknown safety standards. The actions of Green Threads pose an imminent threat to the public health, safety, and welfare.

Service

I find that OCM met the requirements of service under Cannabis Law 138-B. The OTS was given to an employee of suitable age and in apparent control of Green Threads (Cannabis Law 138-B(2); Ex. A-3). The document was also placed on the store front along with a notice that OCM had been present on site (Ex. E). The OTS listed the purported violations and the laws under which OCM acted. Further, a hearing was requested using the process outlined on the OTS indicating that Respondent had full knowledge of the proceedings.

The hearing proceeded as a default after Respondent failed to appear. Prior to the hearing, Respondent was contacted by OCM and the Office of Administrative Hearings (hereinafter "OAH") using the email address Respondent supplied in his submission requesting a hearing. Neither OCM nor OAH received any request to delay or move the hearing date or time from Respondent prior to the hearing. OAH sent an email once the hearing began inquiring as to the Respondent's absence. After a reasonable time, awaiting the Respondent's presence and receiving no response to OAH's communication, the hearing proceeded without them (see 9 NYCRR 133.25(h)(5)). Subsequent to the conclusion of the hearing, the Respondent emailed OAH, apologized for missing the meeting and asked that the hearing be rescheduled. I denied this request (see 9 NYCRR 133.11(a)). I explained that the Notice of Hearing stated that "the scheduled time and date of this hearing will not be changed without prior approval" and that the request had come after the conclusion of the hearing. However, I did offer the opportunity for Respondent to request that the hearing be "reopened." I instructed Respondent to send me information supporting this request, including a "reasonable excuse" for his absence and "a summary of any meritorious defenses [Respondent] would introduce" at the hearing, but no further communication from the Respondent occurred.

Injunction

OCM presented evidence that the seal placed on Green Threads had been broken, the padlock removed, and that the business had reopened. A police report submitted to OCM details an investigation conducted by the City of Middletown Police Department (Ex. F). It outlines the observations of an officer who states that the store is open and in operation. This action violates Art. 6 §138-B of the cannabis law and, pursuant to that violation, OCM requested an injunction allowing it to reseal the store.

OCM cited Art. 6 §138-A(4) as its legal basis for requesting an injunction. This section states that injunctive relief may be sought against any person "engaging in conduct in violation of this section." While I agree that OCM may seek injunctive relief, I do not believe that such relief can be granted in this instance. Primarily, the question is whether an administrative hearing can result in such a finding. While the powers of an Administrative Law Judge are broad as it relates to hearings, including the powers "defined by the State Administrative Procedures Act and other pertinent statutes, and these regulations," (9 NYCRR 133.16) I do not believe that these powers extend to the issuing of injunctions. The Office of Administrative Hearings derives its authority from Cannabis Control Board (hereinafter "CCB") and there is no evidence in the law that the CCB is authorized to grant injunctions. This power seems confined to civil proceedings under the CPLR, a section of law that does extend to the CCB, an ALJ, or this

proceeding (N.Y. C.P.L.R. 6301 (McKinney)). Therefore, I am unable to grant OCM's request for an injunction.¹

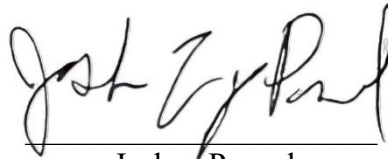
V. DECISION

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 18 Dolson Ave., Middletown, NY 10940. In so doing, Respondent violated Cannabis Law Article 6. The Order to Seal is hereby affirmed.

WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 §138-b (9), THE ORDER TO SEAL, ISSUED ON APRIL 29, 2026, IS HEREBY EXTENDED FOR ONE YEAR FROM THE DATE OF THIS DECISION.

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

Dated: May 8, 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 May 8, 2026, to the following:

¹ While injunctive relief is not allowed in this proceeding, the law outlines several steps that OCM can take to remedy this issue. First, there may be inherent powers within OCM that allow for a resealing of the premises. I have found that Green Threads actions on the date of the inspection presented an imminent threat to the public health, safety, and welfare. Allowing them to operate with impunity, would seem antithetical to the powers granted to OCM They may also partner with law enforcement to perform the same action (Can. Law Art. 6 § 138-B(8)) Further, OCM is allowed to conduct a subsequent inspection of Green Threads. OCM insinuated at the hearing that Green Threads was continuing with illicit activities, indicating that a subsequent finding may be made. Additionally, OCM could issue a NOV alleging violation of the cannabis law and regulations for the removal and mutilation of the secure padlock and seek a \$5,000 civil penalty. (see Can. Law § § 138-B (d); 16 (1); 9 NYCRR 133.25 (g)(3). Finally, removal of the seal constitutes a Class-B misdemeanor under the New York criminal law (see Can. Law Art. 6 §138-B). Referring this matter to either the district attorney or attorney general is prescribed under cannabis law Art. 6 §§138-A & 138-B.

Amr Elmaliki

Kevin Marek, Esq.

Nickolas Perry

Sheila Wagner