

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. 104202512030087

SCS Creations LLC/ Regime Smoke and Vape

Respondent.

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The Office of Cannabis Management requested a hearing, for an inspection which occurred on December 3, 2025. The hearing was held on March 12, 2026.

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

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

Investigative Specialist Sarah Tagliaferro 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 106 Cobblestone Court Drive Victor, NY 14564.

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 § 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. At the inception of the hearing on March 12, 2026, Petitioner introduced documents contained in Exhibit E and F to show proof of proper service. Exhibit E included an affidavit of service stating that on January 23, 2026, 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 and through the New York State Department of State to 106 Cobblestone Ct. Dr., Victor, NY 14564. 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 “March 12, 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 E6). As such, I deem service to have been properly effectuated by serving the corporation’s registered agent, the Department of State. (*See* Exhibit F).

2. The signed affidavit of service by OCM employee Alicia Pasos, and additional documents in Exhibit E and F were admitted as self-authenticating documents.

3. Petitioner then presented their sole witness Investigator Sarah Tagliaferro.

4. Investigator Tagliaferro testified that she was an Investigative Specialist for OCM. She explained that she received training on how to conduct a lawful regulatory inspection and process evidence. She explained that she has received training in identifying cannabis products, shadowed senior investigators, and studied and reviewed literature provided by the office. She also testified that she has trained with Light Lab to test cannabis products. When identifying products looks at the label for wording, cannabis percentage, affects listed, and symbols such as the cannabis leaf. She is familiar with various cannabis brands.

5. Investigator Tagliaferro stated that to her knowledge SCS Creations LLC did not have a valid New York State cannabis license, at the time of inspection. SCS Creations LLC did hold a valid hemp license, which expires May 7, 2026. (Exhibit B7).

6. A copy of the Notice of Violation, and Order to Cease Unlicensed Activity issued on December 3, 2025, can be observed in Exhibit A. The document alleges that the investigator observed cannabis products in the form of cannabis concentrate and cannabis edibles, in violation of Cannabis Law § 125, 138-A, 101, and 9 NYCRR §§ 120(i) and 114.14(d)(1).

7. Investigator Tagliaferro said concentrate and edibles were being sold at the premises. Exhibits were entered into evidence by Petitioner showing the products offered for sale. She explained that the owners of “Director’s Cut” products are the same owners as SCS Creations.

8. Investigator Tagliaferro testified that she observed the following products and lab results, featured in Exhibit C, offered for sale in violation of the Cannabis Law and regulations:

- a) Exhibit C1: Display case holding:
 - a. 6 packs of “Ink” Sativa Extract
 - b. 6 packs of “Ink” Hybrid Extract
 - c. 3 packs of “Ink” Indica Extract
 - d. 3 packs of “Ink” Indica Extract
 - e. 1 box of a 10 pack of “Ink” pre-rolls
 - f. 1 box of a 10 pack of “Ink” Hybrid pre-rolls
 - g. 1 box of a 10 pack of “Ink” Indica pre-rolls
 - h. 4 packs of “Directors Cut: Lemonade Stand” Sativa Gummies
 - i. 4 packs of “Directors Cut: Blockbuster” Gummies
 - j. 1 pack of “Directors Cut: Peach” Gummies

- b) Exhibit C4: Display case holding:
 - a. 4 packs of “Directors Cut: Lemonade Stand” Sativa Gummies

- b. 4 packs of “Directors Cut: Higher Definition” Gummies
- c. 4 packs of “Directors Cut: Big Apple” Sativa Gummies
- c) Exhibit C5: Photograph of Cannabis product “Directors Cut: Lemonade Stand” Sativa Gummies detailing 10MG of D9 THC per gummy
- d) Exhibit C6: Photograph of Cannabis product “Directors Cut: Higher Definition” THC Gummies” detailing “extra strength” of 30MG THC per gummy
- e) Exhibit C7: Photograph of Cannabis product “Directors Cut: Big Apple” Sativa THC Gummies” detailing 10MG of D9 THC per gummy
- f) Exhibit C9: Photograph of Cannabis product “Ink” Sativa pre-roll detailing the box of a 10 pack
- g) Exhibit C10: Photograph of Cannabis Product “Ink” Indica Extract detailing a 2 gram “premium sauce” extract
- h) Exhibit C11: Photograph of Cannabis Product “Ink” Hybrid Extract detailing a 2 gram “premium sauce” extract
- i) Exhibit C12: Photograph of Cannabis product “Ink” Hybrid pre-roll detailing the box of a 10 pack for sale
- j) Exhibit C13: Photograph of Cannabis product “Ink” Indica Extract detailing a 2 gram “premium sauce” extract
- k) Exhibit C14: Photograph of Cannabis Product “Ink” Sativa Extract detailing a 2 gram “premium sauce” extract
- l) Exhibit C17: 1 jar of “Elyxr LA” 40% THC-A Sativa “Snow Caps Blockberry”
- m) Exhibit C20: Cannabis product “Torch: Red Dragon” 3.5 gram disposable cannabis vape
- n) ¹Exhibit D1: Screenshot Directors Cut: Lemonade Stand” Sativa Gummies portraying 60mg THC total
- o) Exhibit D2-4: Cannabis Lab Analyzer of “Ink” Hybrid pre-roll portraying 91.4% total Cannabinoids
- p) Exhibit D5-7: Cannabis Lab Analyzer of “Ink” Hybrid Extract portraying 54.5% total THC

¹ The labs results reflected in Exhibit D were not accepted into evidence as an exact reflection of the products on Respondent’s shelves. They were not all taken from Respondent’s store, or necessarily produced from the same batch. I do, however find them to be competent probative evidence of whether or not the products contain greater than .3%THC. It is highly unlikely that commercially produced and branded products would drastically change formulations from one month to the next.

- q) Exhibit D8-10: Cannabis Lab Analyzer of “Ink” Sativa Extract portraying 73% total THC
- r) Exhibit D11-13: Cannabis Lab Analyzer of “Ink” Indica pre-roll portraying 84% total THC²
- s) Exhibit D15: Cannabis Lab Analyzer of “Torch: Red Dragon” 3.5 gram disposable cannabis vape displaying 70.34% total THC
- t) Exhibit D16: Cannabis Lab Analyzer of “Torch: Sherplato” 3.5 gram disposable cannabis vape displaying 78.28% total cannabinoids
- u) Exhibit D17: Cannabis Lab Analyzer of “Torch: Pink Panther” 3.5 gram disposable cannabis vape displaying 64.99% total THC
- v) Exhibit D18: Cannabis Lab Analyzer of “Torch: Jack Frost” 3.5 gram disposable cannabis vape displaying 68.34% total THC
- w) Exhibit D19: Cannabis Lab Analyzer of “Torch: Strawberry Mochi” 3.5 gram disposable cannabis vape displaying 64.39% total THC
- x) Exhibit D20: Cannabis Lab Analyzer of “Torch: Lucky Charms” 3.5 gram disposable cannabis vape displaying 66.64% total THC
- y) Exhibit D21: Cannabis Lab Analyzer of “Torch: White Guava” 3.5 gram disposable cannabis vape displaying 66.60% total THC
- z) Exhibit D22: Cannabis Lab Analyzer of “Torch: Purple Dynamite” 3.5 gram disposable cannabis vape displaying 63.41% total THC
- aa) Exhibit D23: Cannabis Lab Analyzer of “Torch: Gold Berry” 3.5 gram disposable cannabis vape displaying 67.75% total THC
- bb) Exhibit D24: Cannabis Lab Analyzer of “Torch: Holy Grail” 3.5 gram disposable cannabis vape displaying 70.09% total THC

9. In total, Investigator Tagliaferro testified that investigators recovered approximately 90- adult use vapes and 20 adult use edibles, from the display case and storage room at the premises. Investigator Tagliaferro testified that the owners or employee of SCS Creations informed her that the products in the storage room were also sold at the premises. At the conclusion of the inspection OCM Investigators issued a Notice of Violation to SCS Creations LLC to the Santana brothers, who Investigator Tagliaferro stated own the business. She also said that they accepted service; James Santana signed the NOV. (Exhibit A).

² Label and testimony does not specifically state which cannabis product featured in Exhibit C this reflects, but it appears to reflect the product seen in Exhibit C3 and C8.

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 of conference/ hearing request was sent out by certified mail-return receipt requested to the Respondent’s place of business and upon the Department of State. Respondent was properly served by service on their agent, the Department of State, pursuant to §306(b)(1) of the Business Corporation on January 23, 2026. (Exhibit F). 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 December 3, 2025. Investigator Tagliaferro testified to recovering a variety of cannabis products from the location during her inspection. Respondent had an active hemp license. (Exhibit B7). However, in addition to hemp products, Respondent sold cannabis edibles such as Director’s Cut, its own brand, and cannabis vapes and vape cartridges, such as those by Ink. Because of the opaque labeling, Investigator Tagliaferro testified that she and Investigator Eva Chumsky, who have been trained on the Light Lab3 Cannabis Analyzer testing device, tested the “Ink” products themselves. They ascertained that the tested products constituted cannabis products, not hemp. Investigator Tagliaferro explained that she was able to pull the certificates of analysis for “Torch” vapes found on site from the Torch website. The products featured in those certificates are all considered cannabis and not hemp products. Investigator Tagliaferro testified clearly and credibly that the products featured in Exhibit D were found on the premises and were all considered cannabis products and not hemp

products.³ She also testified that OCM seized 90 adult use cannabis vapes and 20 adult use cannabis edibles from the premises during the inspection on December 3, 2025.

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 without an appropriate license. 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. The products featured in Exhibit C, as Investigator Tagliaferro noted in her testimony, are intentionally vague as to their cannabis content. Thus, it is necessary to analyze whether each product or brand was being marketed or was labeled as cannabis. I find the Torch vape products featured in Exhibit C and D were marketed as cannabis. All a consumer needed to do access the certificate of analysis by scanning the QR code on the side of the box. The Directors Cut Lemonade Stand gummies are labeled as 10 mg of D9 THC. By accessing the webpage, as seen in Exhibit D 1, one can see that each gummy contains 10mg of THC, which is clearly marketed as delta 9 (D9) THC. Though the label's fine print claims the bag contains less than .3% THC by weight, basic math would help one ascertain that the bag contains 75g of gummies and 750mg of D9 THC, or 1%THC content. The Directors Cut Big Apple Gummies appear to be a flavor variation of the Lemonade Stand Gummies. The Directors Cut High-Definition gummies are marketed as containing 300mg of THCA per bag. THCA is converted to total THC by calculating 87.7% of THCA.⁴ In this case, the 75g bag of gummies contains 263mg of total THC or .35% THC. I find by a preponderance of the evidence that this product violates the 9 NYCRR §114.14(d)(1) in that it violates the product, packaging, and labeling requirements of 9 NYCRR §114.8(b)(1)(i) by being an orally consumed product containing more than 10mg of total THC per package. The Directors Cut products also generally violate 9 NYCRR §114.14(d)(1) by violating the packaging and labeling requirements of 9 NYCRR §114.9(a)(3) in that they do not list the number of milligrams per serving of CBD and Total THC or THC.

Penalty

I find by a preponderance of the evidence that SCS Creations was selling products marketed and labeled as cannabis. I find this even more problematic as the Respondent held an OCM issued Cannabinoid Hemp license. However, I do not find the volume or variety of cannabis products recovered or marketed to be as extensive as in other cases.

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 106 Cobblestone Court Drive Victor, NY

³ Hemp is defined in Cannabis Law Article 1 §3 (27) as “the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis.”

⁴ Cannabis Law Article 1§3(53)


14564. 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).

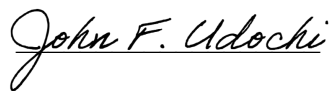
WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6 § 132(1), THE RESPONDENT IS HEREBY ORDERED TO PAY A \$ 8,000 FINE, AS A PROPORTIONATE PENALTY FOR THE UNLICENSED SALE OF CANNABIS AND CANNABIS MARKETED PRODUCTS ON DECEMBER 3, 2025.

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 J. Cartwright
Administrative Law Judge

Issuance and Publication Date: May 15, 2026


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:

Abir Ahmed, Esq.
William Pham, Esq.
Michael Waller, Esq.
Nickolas Perry
Sheila Wagner

