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

OFFICE OF CANNABIS MANAGEMENT,

Petitioner,

-against-

DECISION and ORDER
Inspection No. - 134202406040009

GENESIS 360, LLC,

Respondent.

The Office of Cannabis Management requested a hearing on May 8, 2026, for an inspection which occurred on June 4, 2024. The hearing was held on June 24, 2026.

The Respondent did not appear and was not represented by counsel at the hearing.

The Office of Cannabis Management was represented by Kevin Marek, Esq.

Investigative Specialist 2 Jillian Agnew (hereinafter "Agnew") 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 490 Monroe Ave., Rochester, NY 14607.

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 Cannabis Law Article 6 §132 is justified.

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…."

III. FINDINGS OF FACT

1. On June 4, 2024, OCM conducted an inspection of Genesis-360, LLC (hereinafter "Genesis"), located at 490 Monroe Ave., Rochester, NY 14607. OCM requested a hearing to determine the validity of the NOV and to have a penalty imposed. The hearing was held on June 24, 2026.

2. 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 these methods and while it is undetermined whether service by mail was completed, the mailing coupled with the service to the DOS satisfied the due process requirements in this matter. Service was completed in a timely manner and Respondent's failure to respond or appear at the hearing resulted in a default hearing being conducted.

3. The testimony and evidence support a finding that Respondent was offering cannabis for sale. Testimony and evidence presented detailed a publicly facing store with products on display in a manner consistent with a showroom. A "fair amount" of product discovered on site was marketed or labeled as cannabis.

4. The testimony and evidence support the finding that the products recovered from Genesis were illicit. Genesis did not possess an adult use cannabis license and did not possess proper authorization for its conduct.

5. The Office of Cannabis Management conducted a lawful regulatory inspection of the location. The products recovered was in plain view and the storefront was open at the time OCM entered.

IV. ANALYSIS AND CONCLUSIONS OF LAW

Service and Notice

I find that the notice OCM provided Respondent constituted adequate notice and service for the hearing held on June 24, 2026, and concerning the NOV issued on June 4, 2024. The notice provided to Respondent included the date of the alleged offense, the date of the hearing, the inspection number associated with the NOV, the pertinent sections of the law, specifically Cannabis Law Article 6, §138-a, and the penalty which may be assessed ($10,000).[1] OCM mailed copies of this Notice of Hearing on May 8, 2026, to the store address, as well as alternate contacts that OCM had on file concerning Genesis (Ex. A). Additionally, OCM provided service via the New York Department of State pursuant to New York Business Corporation Law §306 (Ex. A). Although it is unknown whether the notice mailed to the store was delivered, the combination of the mailing and the submission to the Department of State satisfies the notice and service requirements. OCM used procedures "reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections" (Reda v. Department of Health of City of N.Y., 137 Misc.2d 61 [Sup. Ct. 1987]; citing Mullane v Central Hanover Trust Co., 339 U.S. 306, 314 [1950]). This hearing, therefore, proceeded in Respondent's absence as a default hearing. The hearing nonetheless comports with the applicable requirements delineated in the New York Cannabis Law, 9 NYCRR §133 and the New York State Administrative Procedures Act. While adequate service allows the hearing to proceed, it does not remove OCM's burden to provide sufficient evidence that a violation occurred and that a penalty is warranted.

Upon arrival, investigators documented a lit neon sign that advertised the store as "Open" (Ex. D1). Agnew testified that the door was unlocked and had many of the hallmarks of a publicly facing store. The store included a point-of-sale system, credit card reader, an ATM, products with price tags, and a large inventory of items displayed in a manner consistent with items available for purchase (see Ex. D3-5). The store also possessed a hemp license and what appears to be a business license issued by the City of Rochester (Ex. D2). These factors, taken together, show by a

[1] OCM provided this notice 46 days in advance of the hearing. While this hearing did not delve into the applicability of 9 NYCRR §133.10(f) in this matter, this amount of notice would satisfy such a requirement.

preponderance of the evidence that Genesis acted as a store open to the public and was thus a place of business as defined in the Cannabis Law, which OCM is authorized to conduct regulatory inspections of. which OCM entered lawfully.

Agnew testified that "advertisements" were posted both inside and outside the store, which stated the presence of THC products on site (Ex. D9-10). Further, items displayed on the store's racks and shelving stated that the products contained cannabis, THC, or possess a symbol that would be readily apparent to consumers that the products were being advertised as containing THC (see e.g., Ex. E11-13). All products seized were labeled with wording or symbols that readily identified them as containing cannabis (see generally, Ex. E). Many blatantly stated that the products contained THC (see, e.g., Ex. E12) while others possessed warning labels (see, e.g., Ex. E4), "cannabis stamps," (see, e.g., Ex. E3), or designations that the products were suitable for use by consumers "21+" (see, e.g., Ex. E13). These items, all of which were on display in the shop at the time of OCM's inspection violate cannabis law as Agnew testified that Genesis did not possess an adult use license. Further, it appears that many of the items would have violated cannabis law regardless of Genesis' status as a license holder. The items found in the store did not meet New York State's packaging requirements and likely failed to undergo the necessary testing required of a product sold in New York State.[2] Further, some violated the safety standards of the cannabis law, containing high concentrates of cannabis, which far exceeded the THC levels established by the state (see Ex E11-13). Finally, some of the products were labeled with a price sticker, confirming that they were available for purchase (Ex. E19 & 23).

Genesis was open at the time of the inspection and evidence suggests that it operated consistently as a publicly facing store, displaying products and in possession of a hemp and business license. This status allowed OCM to enter the store on the date in question. The store openly advertised that they sold THC products and displayed products labeled as containing cannabis in numerous locations around the store. OCM was, therefore, allowed to inspect the location using its powers under the New York Cannabis Law. The products recovered from the store were illicit due in part to Genesis' lack of an adult use license. OCM showed by a preponderance of the evidence that the products did not undergo any testing or abide by safety measures and some of the products far exceeded the dosage amount required under New York law. Genesis was, therefore, in violation of Article 6 of the Cannabis Law. I find that OCM demonstrated by a preponderance of the evidence that the NOV issued to Genesis on June 4, 2024, was properly issued. Genesis violated the law and a penalty under Article 6 §132 is warranted.

Penalty

Cannabis Law § 132(1)(c) requires that any civil penalty imposed be proportionate to the nature of the violation. In determining the appropriate penalty, I have considered the quantity and nature of the illicit products established by the record. When describing the amount recovered from Genesis, Agnew stated that there was a "fair amount of product" discovered on site. This statement, I take to mean that there was a "middling" amount and believe that the evidence submitted supports such a finding. Hundreds of products were documented on the vouchers used in this case (see generally Ex. C). While a small number of these products may have been hemp and fall outside the confines of Art. 6, the vast majority were marketed or labeled as cannabis or containing THC.

[2] While a few of the products had a "NY" stamp affixed on the packaging, Agnew testified that these were counterfeit and did not match the labeling requirements under New York law (see Ex. E3, 7, & 9).

Especially troubling are the products that contain high concentrations of THC, which far exceed the safety measures put in place to protect the health and safety of the consumer. None of the products appear to have been tested, placing further risks on the consumers who may have purchased these products. While the volume recovered from Genesis is not in the upper echelons of recoveries by OCM, the hundreds of products that were illegally possessed and on display for sale, coupled with the safety risks posed by those products, warrant a medium-high penalty.

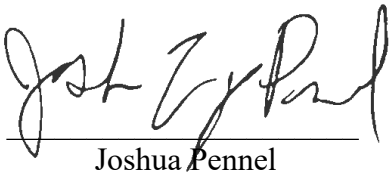
DECISION

Based on the foregoing, the Respondent is determined to have engaged in the sale of illicit cannabis and cannabis products without a license, registration, or permit to do so, at the location of at 490 Monroe Ave. Rochester, NY 14607. In so doing, Respondent violated Cannabis Law Article 6.

WHEREFORE, PURSUANT TO CANNABIS LAW ARTICLE 6, RESPONDENT IS HEREBY ORDERED TO PAY A $8,000 FINE UNDER CANNABIS LAW ARTICLE 6 §132 FOR VIOLATIONS UNDER §125, AND AS A PROPORTIONATE PENALTY, FOR THE UNLICENSED SALE OF ILLICIT CANNABIS ON JUNE 4, 2024.

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

Dated: 08/10/2026



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 e-mail on 08/10/2026, to the following:

Kevin Marek, Esq.
Nickolas Perry
Sheila Wagner

This decision was sent via mail on 08/10/2026, to the following:

Genesis-360, LLC
490 Monroe Ave.
Rochester, NY 14607

Genesis-360, LLC
165 King Gate South
Rochester, NY 14617

Law Offices of Rebecca Indralingam
28 East Main St., Suite 900
Rochester, NY 14614

Payment of the Civil Penalty due under this Stipulation and Order must be paid by certified check or money order, made out to "New York State Office of Cannabis Management", including a reference to M&M Convenience and Smoke Shop dba M&M Convenience & Tobacco /Inspection No. 121 2026 0321 0027 in the memo section, and mailed to the following address: NYS Office of Cannabis Management
Administrative Unit: Fees & Fines, PO BOX 2071, Albany, NY 12220.

If any penalty is not paid within six months, the amount thereof will be entered as a judgment in the office of the clerk of the county of Albany and in any other county in which the person resides, has a place of business, or through which it operates. If such judgment has not been satisfied within thirty days thereafter, no license, registration, or permit shall be issued by the CCB to such person for three years thereafter. *Cannabis Law § 138-a (14).* Unpaid civil penalties provided for in Cannabis Law § 132 may be recovered by Petitioner OCM or the Attorney General on behalf of the CCB in an action or proceeding brought pursuant to Cannabis Law § 138-a. *Cannabis Law § 132 (7)*.