STATE OF NEW YORK
OFFICE OF CANNABIS MANAGEMENT OFFICE OF
ADMINISTRATIVE HEARINGS
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IN THE MATTER OF
NEW YORK STATE OFFICE OF CANNABIS MANAGEMENT,

PETITIONER,

DECISION ON ORDER TO SEAL PREMISES

Ind. No. OAH2026-0001

-against-

194 QUICK STOP CORP,

RESPONDENT
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On August 3, 2026, 194 Quick Stop Corp. dba 194 Quick Stop ("Respondent") requested an emergency hearing on an immediate sealing order[1] issued by New York State Office of Cannabis Management ("Petitioner") for an inspection which occurred on July 29, 2026. The request was made within seven (7) days after the regulatory inspection and contained a verified statement of ownership. The Respondent subsequently waived the right to an emergency hearing and the non-emergency hearing occurred virtually on September 29, 2026, before the undersigned Administrative Law Judge Laura Krzeminski.

Respondent appeared by counsel and was represented by James Kirschner, Esq. at the hearing. Abdullah Saleh testified on behalf of Respondent.

Anthony Pitnell, Esq. represented the Petitioner, Office of Cannabis Management. Petitioner relied on photographs, documentary evidence and testimony from Investigator Bladimir Nunez.

HEARING ISSUE

The hearing was held pursuant to Cannabis Law § 138-b and 9 NYCRR § 133.25. The purpose of the hearing is to determine whether the immediate Order to Seal issued for respondent business premises was issued in accordance with the law and whether the sealing order should be extended for one year. *Cannabis Law 138-b (9); 9 NYCRR § 133.25 (g)(1).*

The statement of charges alleges respondent was engaging in sales and offers to sell cannabis, cannabis products, medical cannabis, cannabinoid hemp, and products marketed and labeled as such without a license, registration, or permit to do so in violation of Cannabis Law §§ 125, 132, and 101 and OCM regulations Title 9 NYCRR § 120 (i) and § 114.14 (d)(1) and such conduct was an imminent threat to public health, safety, and welfare.

For the reasons set forth below, I find that petitioner established by a preponderance of the evidence that the sealing order in this matter was issued in accordance with the Cannabis Law and related implementing regulation.

[1] Petitioner requested to consolidate the charges in the Notice of Violation in the moments prior to the hearing, and the Respondent objected. That request was denied for insufficient notice and the Petitioner will need to formally request a hearing to be heard on the Notice of Violation.

APPLICABLE LAW

The Marihuana Regulation and Taxation Act ("MRTA"), enacted in 2021, legalized adult-use cannabis and included enactment of Chapter 7-A of the New York State Consolidated Laws, known as the Cannabis Law. *Cannabis Law § 1.*

Cannabis Law Article 6 § 125 states that no person[2] shall cultivate, process, distribute for sale or sell at wholesale or retail or deliver to consumers any cannabis, cannabis product[3], medical cannabis or cannabinoid hemp or hemp extract product, or any product marketed or labeled as such, within the state without first obtaining the appropriate registration, license or permit.

In response to a violation of the Cannabis Law and related regulations, Petitioner is authorized to take enforcement action and impose sanctions, including but not limited to, issuing a NOV seeking civil penalties,[4] seizure of product, and a cease order. *Cannabis Law §§ 132; 138-a; 9 NYCRR §§133.25 (b) and (d).*

Petitioners are further authorized to issue an immediate sealing order for the building or premises of any business engaged in unlicensed activity upon the finding of an imminent threat to public health, safety, and welfare. *Cannabis Law §§ 138-b (1) and (3); 9 NYCRR §* 133.25 (f). Factors that determine an imminent threat to public health, safety, and welfare include are set forth in Cannabis Law § 138-b (4) and include but are not limited to documented sales to minors; unlicensed processing of cannabis products at the building or premises; and sales of, or offers to sell, cannabis products not tested or labeled lawfully in accordance with the cannabis law.

Upon finding such an imminent threat, an Order to Seal may be issued only if: no part of the premises to be sealed is used in part as a residence and pursuant to local law or ordinance is zone and lawfully occupied as a residence; and the unlicensed activity is more than a de minimis part of the business activity at the premises, or building, to be sealed pursuant to the order. *Cannabis Law § 138-b (6).*

9 NYCRR *§*118.1 defines processing to include "amongst other things, blending, extracting, infusing, packaging, labeling, branding or otherwise making cannabis products."

9 NYCRR §133.25 (f) (1) provides that "(ii) unlicensed processing of cannabis products at the building or premises;" and "(vii) cannabis products not tested or labeled lawfully in accordance with the Cannabis Law, including unlicensed out-of-state products cannabis products offered for sale and not tested or labeled lawfully" are prima facie evidence that imminent threat to public health, safety, and welfare exists for purposes of an order to seal.

9 NYCRR §133.25 (f)(2) provides that "Nothing in paragraph (1) of this subdivision should be construed to limit these factor(s) to be used solely for the basis for an Order to Seal, nor should they be construed to be the sole factors in which the office may use to determine that an imminent threat to public health, safety, and welfare exists."

9 NYCRR §128.1 (c) states: "Attractive to individuals under twenty-one means a cannabis product's label, package, advertisement, advertising, marketing that is pleasing or appealing to, or targets, individuals under the age of twenty-one by using or including, among other things: (1) Cartoons or mascots; (2) Similarities to products, or words that refer to products that are commonly associated with, or marketed in a manner so as to be attractive to, individuals under the age of twenty-one, including but not limited to, any imitation of food,

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[2] Under the Cannabis Law, "person" is broadly defined as "an individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity." *Cannabis Law § 3 (40-a*).

[3] Cannabis products, or adult-use cannabis products, means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer. *Cannabis Law § 3 (9).*

[4] Any person who … offers to sell, or sells cannabis, cannabis products, medical cannabis, or any product marketed or labeled as such, without a registration, license or permit therefor … may be subject to a civil penalty of not more than $10,000 for each day such violation continues and an additional civil penalty of no more than five times the revenue from such prohibited sales or, in an amount of no more than three times the projected revenue for any such product found in the possession of such person based on the retail list price of such products. *Cannabis Law § 132 (1)(a).*

candy, soda, drinks, cookies, or cereal (with the exception of using the name of a cultivar), in labeling, packaging, advertising, or marketing."

9 NYCRR §128. 3 (a)(1) provides that cannabis product packaging shall not "be attractive to individuals under that age of individuals twenty-one as defined age in section 128.1 of twenty-one as defined in section 128.1 of this Part"

9 NYCRR §128.5 (b) lists minimum requirements for New York State ("NYS") cannabis product labeling on a product's marketing layer, which includes:

> "(1) a list of all active and inactive ingredients, including but not limited to single ingredient cannabis products such as whole cannabis flower, in descending order of predominance by weight in the cannabis product. The ingredient list shall include and separately list any major allergens set forth in the Food Allergen Labeling and Consumer Protection Act of 2004, Title 21, as it relates to Food and Drugs, of the U.S. Code section 343, for misbranded food;" and
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> "(6) any one of the following three [New York State] universal symbols at a minimum size of 1.25 inch in height for the square symbol, 0.5 inch in width for the vertical symbol, and 0.5 inch in height for the horizontal symbol. The symbol and its colors cannot be altered unless authorized by the Board and it shall be made conspicuous by printing the symbol on, or outlining the symbol with, a contrasting color;"

9 NYCRR §128.5 (f) states that, "The retail package or, if it is used, the marketing layer, shall contain the following warnings, provided however, if the word "warning" is clearly associated with all warnings as a header then the word "warning" does not need to be included in the individual warnings where specifically indicated below: (1) "This product contains cannabis and THC"; (2) "KEEP OUT OF REACH OF CHILDREN AND PETS. For use only by persons 21 years of age and older"; (3) "Warning: Do not use if pregnant or nursing"; "Poison Center 1-800-222-1222"; (4) For cannabis products intended to be smoked, inhaled, or vaporized: (5) "Warning: Smoking or vaping is hazardous to health"; (6) For cannabis products intended to be ingested orally: "Warning: Effects of this product may be delayed by 4 or more hours"; (7) For topical products: "Warning: For topical use only. Do not eat or smoke"; and (8) Any other warning required by the board."

9 NYCRR §128.5 (g) further provides that "In addition to the required warnings in subdivision(f) of this section, the retail package or marketing layer shall include any one of the following rotating health warnings as determined by the office: (1) Cannabis can be addictive."; (2) "Cannabis can impair concentration and coordination. Do not operate a vehicle or machinery under the influence of cannabis."; (3) "There may be health risks associated with consumption of this product."; or (4) Other warnings as determined by the office."

9 NYCRR § 123.6 (f)(1) lists the requirements for orally ingested cannabis products stating that "all cannabis products processed for distribution for retail sale shall: if in the form of an orally ingested product, conform to the product potency limit of 10 milligrams (mg) total THC per serving, and 100 mg total THC per package, provided, however, that tinctures shall conform to the product potency limit of 10 mg total THC per serving, and 1,000 mg total THC per package."

Cannabis Law Article 6 §138-b(2) states that "Any order to seal shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed. A copy of the order shall also be mailed to any address for the owner of the business at any address provided by the person to whom such order was delivered pursuant to this subdivision. The order shall remain in effect pending a hearing and final determination of the board, or until such order is vacated by the office pursuant to subdivision six of this section. An order to seal shall explicitly state the procedure to request a hearing within seven days.

Findings of Fact

Based on the credible testimony and documentary evidence presented at the hearing, I find the following facts.

1. On July 29, 2026, OCM conducted an inspection of 194 Quick Stop Corp located at 194 Bay Street,

Staten Island, NY 10301. At that time, a Notice of Violation ("NOV"), Order to Cease Unlicensed Activity ("Cease Order") and an Order to Seal ("OTS") were issued, and the premises were sealed.

2. Respondent conducts business as 194 Quick Stop Corp. doing business as or under the name of "194 Quick Stop" (hereinafter "194 Quick Stop"), as indicated by the business' exterior signage. *Petitioner's Exhibit ("Pet. Ex.") A1 and H.*

3. Petitioner has not issued respondent any license, permit, or registration authorizing respondent to engage in the sale or offers to sell of cannabis, cannabis products, medical cannabis, or cannabinoid hemp.

4. The investigator testified that the inspection he conducted that day was multiple community complaints that the Respondent was selling cannabis [without a license] and that they received those complaints within the months of June and July about the Respondent's business selling cannabis [without a license.

5. The investigator testified, and the evidence reflects that 194 Quick Stop was open for the public and operating when Petitioner's undercover employee entered into the business to conduct a controlled purchase. The investigator further testified that there was a "positive hit" meaning that the undercover employee was offered cannabis for sale.

6. The investigator testified that the Petitioner had conducted a prior undercover purchase on June 20, 2026, at the Respondent's business, which he believed also reflected a "positive hit."

7. After the purchase, the officer prompted the investigator to enter the store and conduct their inspection.

8. Upon entering the store, the investigator noted, and the exhibits reflect, that the cannabis flower that was offered for sale was in plain view on the counter at the store. *Pet. Ex. A4 and Ex. A9.*

9. The investigator testified, and the exhibits show, that the cannabis products were found in behind the sales counter in open boxes, various open plastic bags, in a book bag, in an open cabinet, and on a shelf. *Pet Ex., A18-A28.* Pet. Ex. A36 further shows cannabis concentrate and pre-rolls on a shelf with a price tag of $30.00.

10. Pet Ex. A32 depicts a scale with what appears to be a scale which has cannabis residue on it. The investigator testified that they observed [this] cannabis residue which indicates unlicensed processing, such as rolling their own flower. Notably, other photographs depict a scale next to what appears to be empty packaging with a similar appearance to other products containing cannabis flower, as well as similar empty packaging depicted in Pet Ex. A-35, A29, and A38, respectively, further evidencing packaging of cannabis products which is a form of processing.

11. The investigator testified, and the exhibits reflect that 194 Quick Stop was used as a retail space and not a residence. Pet. Ex. B. None of the accoutrements typical of a residence, such as a kitchen, shower, or dresser with clothes, can be seen in these pictures. *Id.* Mr. Saleh stated that the business was a "corner grocery store" and made no indication that the premises were used as a residence.

12. The Respondent indicated that the cannabis products sold did not amount to more than a de minimis number of sales in the store. Specifically, Mr. Saleh testified, and Pet. Ex. A2-A8, depicts, that 194 Quick Stop sells various items including beverages, eggs, milk, juice, paper good, ramen, chips, candy and roach spray. One of their biggest sellers are ramen because they are inexpensive.

13. The investigator testified, and the evidence reflects, that the entirety of all the cannabis and cannabis products that were observed and seized were from behind the sales counter, that none were not on display in the smoke shop, and that the store did not advertise cannabis for sale in the interior or exterior of the store. *Pet. Ex. A2-A8, and see Pet. Ex. A18-A28.*

14. The cannabis products seized were documented across 36 photographs and nine vouchers. *Pet. Ex. B, C, D, E, F, and G.* The photos reflect a seizure of a volume and variety of cannabis products including cannabis flower, cannabis concentrates, cannabis pre-rolls, cannabis edibles, cannabis vapes, and products marketed and labeled as such were found. *Id.*

15. The cannabis products seized were documented by Petitioner across nine evidence vouchers. *Pet. Ex. G.* Specifically, Petitioner seized four vapes of various sizes, 21 concentrates of various sizes, 52 pre-rolls of various sizes, 127 3.5 g. packaged flower, 64 packages of edibles of various size, and unweighted loose cannabis flower. Id.

16. The investigator testified and the photographic evidence in Pet. Ex. B1-B2 and B6-B10 depicts cannabis flower in packaging that is attractive to children and that appears to be a fake versions of popular candies and cereal marketed to children. The products include multiple flavor profiles and are labeled as such: "Skittles," "Cinnamon Toast Crunch," Wendy's "Frosty," and "Icee". *Id.*

17. There are multiple packages of flower and pre-rolls with non-compliant packaging depicted in Pet Ex. A16, A23, and B, some of which are also indicative of cannabis coming into the state from California. These products include those depicted in Pet. Ex. B11-B18, which shows that the products contain a symbol containing the letters "CA" below a triangle which contains within it an exclamation point next to a cannabis leaf. The packages seen in these exhibits are further labeled and marketed as "cannabis flower" with a variety of flavors and strains, such as the candy and cereal flavors mentioned above and Tyuana Twist, Strawberry

Cheesecake, Miami Vice, Lemon Cherry Cheesecake, Spicy Chili mango, and SFV OG. *Pet. Ex. B.*

18. The edibles as seen in Pet. Ex. D1-D6, came in multiple flavors and strain combinations and contain 1000 -2000 mg of THC. Additionally, multiple flavors and strains of concentrates were on offer as well as different brands in the form of vapes. *Pet. Ex. C1, C3-C4, and E2-E4. Pet. Ex. C and E4* further indicates cannabis coming into the state from California as the products also includes a symbol containing the letters "CA" below a triangle which contains within it an exclamation point next to a cannabis leaf.

19. Pet. Ex. C2 and E1 shows a picture of tincture with a brand name of "Tommy Chongs" which is indicative of cannabis, based on the California cannabis symbol and the word "cannabis" on the package.

20. None of the cannabis products seized possessed the necessary NYS state stamp that proves that the product is a licensed NYS product which underwent the necessary New York State testing. *Pet Ex. A23, B, C, D, E.* The products further fail to show the proper NYS warnings on the package. *Id.*

21. A copy of the NOV, Cease Order, and OTS was personally served on the cashier, who refused to execute the certificate of service and denied knowing who the owner was. *Pet. Ex. H.* Respondent's business premises was then sealed and a copy of the NOV, cease order, and OTS document was posted at the business premises. *Pet. Ex. I.*

22. Respondent indicated that service to the owner of the premises was insufficient.[5]

23. Petitioner did not submit any proof of mailing of the NOV/Cease Order/OTS to the Respondent or the Landlord.

LEGAL ANALYSIS AND CONCLUSIONS OF LAW

In an administrative proceeding challenging an OTS with immediate effect, the Petitioner bears the burden of establishing its case by a preponderance of the evidence. See Cannabis Law § 17(2); 9 NYCRR § 133.25(f). The burden of proving a fact by the preponderance of the evidence "simply requires the trier of fact to believe that the existence of a fact is more probable than its nonexistence." Chepilko v. Henry, 722 F. Supp. 3d 329, 343 (S.D.N.Y. 2024), appeal dism. (Feb. 2025), [citations omitted].

To sustain an immediate OTS under the general statutory framework, the Petitioner must establish by a preponderance of the evidence that the Respondent was engaging in unlicensed activity in violation of the Cannabis Law, that such activity posed an imminent threat to public health, safety, and welfare, that no part of the sealed premises is lawfully used as a residence, and that the unlicensed activity constitutes more than a

[5] It is noted that no testimony was given as to how service was insufficient, however, Respondent submitted Responsive Pleadings indicating an Affirmative Defense of failure to serve the Respondent in accordance with statutory requirements.

de minimis part of the business activity. See Cannabis Law §§ 138-b(3), (4), (7); 9 NYCRR § 133.25(f).

Service

Respondent contends that the OTS should be dismissed for improper service. Respondent asserts that OCM committed a fatal jurisdictional error by failing to properly serve the Respondent[6]. Specifically, Respondent argues service was defective because service was "not made in accordance with legal requirements" inferring that the Office failed to mail the NOV, Cease Order, AND OTS to the business owner's residence and failed to prove timely mailing to the landlord under 9 NYCRR 133.25(g)(2).

The Respondent's arguments are unpersuasive and unsupported by law. In an administrative proceeding, the question of proper service is 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 a party's appearance at a hearing should not be deemed to satisfy service requirements, here there appears to be no dispute that service of the OTS was effectuated on Respondent. In fact, there is no allegation that the Respondent did not receive a copy of the sealing order or was otherwise unaware that the premises were inspected and sealed. Concededly, two methods of service were employed. Personal service was effectuated on the cashier who stated that they did not know who the owner was. Although that person refused to sign the certificate of service, a person of suitable age and discretion who identified themselves as an employee in apparent control of the premises was served the NOV, Cease Order, and OTS. Additionally, Petitioner established that the NOV, Cease Order, and OTS were conspicuously posted on the exterior of 194 Quick Stop.

Furthermore, while there is no evidence that Petitioner mailed a copy of the OTS to the business owner, there is also nothing in the record to confirm that Petitioner was provided with an alternate address for Respondent by any reasonable means, such as from the employee during personal service or through standard investigative searches. (See Cannabis Law § 138-b [2]; 9 NYCRR § 133.25 [2]). In fact, when the cashier was served, they denied knowing who the owner of the business was. Therefore, Respondent's inference regarding the Petitioner's failure to search the entirety of its records for alternate addresses to overcome the service methods that were effectuated is not persuasive, particularly where no allegations of prejudice have been asserted or 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. 102202406180011, [CCB, March 2025]; *Matter of Frees' Ice Cream Novelties LLC v. OCM*, Insp. 134 2625 0212 0093 [CCB, February 2026]). Any defect in service here was "merely technical" as the service methods effectuated by petitioner on the respondent were reasonably calculated to make petitioner aware of the proceeding. *Ruffin, 15 N.Y.3d at 582.*

Accordingly, the Petitioner was under no legal obligation to mail the July 29, 2026 NOV/Cease Order/OTS to the business owner's home address, and the service executed upon the cashier on-site is sustained as legally sufficient.

Respondent further asserts that the Office's failure to provide notice to the Landlord pursuant to 9 NYCRR 133.25(g)(2) is also a fatal jurisdictional error. In this case, there is no evidence indicating that the NOV, Cease Order, and OTS was sent to the landlord. In any event, any failure to provide service to the landlord is irrelevant, as it did not cause any prejudice to the Respondent and does not invalidate the service made upon Respondent. Because this defense is personal to the property owner, Respondent lacks standing to assert a jurisdictional challenge based on improper service on behalf of a third party. Indeed, the Cannabis Control Board has held that 'the defense of lack of jurisdiction based on improper service is personal in nature and may only be raised by the party improperly served' (*Matter of Z-Snacks LLC*, INSPECTION NO.: 102202406050002**]**, at [Page 9], *adopted by* CCB [2025-11] [citing *Lehman Bros. Bank v Hickson*, 186 AD3d 1348 [2d Dept 2020]; *Rhoe v Reid*, 166 AD3d 919 [2d Dept 2018]]). Consequently, Appellant cannot raise a challenge based on improper service on behalf of another party, here the real estate owner."

It is within the trier of fact's discretion to determine whether a defect in service is so substantial as to

divest the tribunal of jurisdiction (see *Conrey v. Tellone*, 151 A.D.3d 655, 656 [2017]). "In deciding whether a defect in service is merely technical, courts must be guided by the principle of notice to the defendant—notice that must be 'reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections'" (*Ruffin v. Lion Corp.*, 15 N.Y.3d 578, 582–83 [2010], quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 [1950]).

While Petitioner failed to mail the NOV, Cease Order, and OTS to Respondent's home address and/or the landlord within five days of service, these defects are technical. They did not prejudice Respondent's ability to request a hearing in a timely manner, retain counsel, and be heard on the merits. Personal service in this matter not only made Respondent aware of their rights and the allegations against their business, but it also afforded them sufficient time to request an emergency hearing and retain an attorney. As such, I am denying Respondent's application to dismiss the OTS for lack of jurisdiction.

Unlicensed Cannabis Activity

Petitioner has the burden to prove unlicensed activity by a preponderance of the evidence. In this case, a single investigator appeared during the hearing on behalf of the Petitioner. The evidence reflects, that at the time of the July 29, 2026 inspection, the Respondent did not possess an adult-use cannabis license, permit, or registration authorizing respondent to engage in the sale or offers to sell of cannabis, cannabis products, medical cannabis, or cannabinoid hemp.

During the hearing, the investigator appeared as the sole witness for OCM. They testified that OCM's inspection began when OCM received multiple community complaints in June and July [2026] about the Respondent's business selling cannabis [without a license]. The investigator also testified that the Petitioner had originally conducted an undercover purchase on June 20, 2026, at the Respondent's business, which he believed reflected a "positive hit" meaning that the undercover employee was offered cannabis for sale. The Petitioner returned on July 29, 2026 to reinspect the premises.

In the minutes before the July 29, 2026 inspection, an undercover employee entered 194 Quick Stop and attempted to purchase cannabis in an undercover controlled buy. The investigator confirmed not only that the business was open to the public, but also that the cashier did offer to sell cannabis to the employee. After the attempted sale, the employee prompted the investigator to enter the store and conduct their inspection.

Upon entering the store, the investigator noted, and the exhibits reflect, that the cannabis flower that was offered for sale to the undercover employee was in plain view on the counter at the store. In addition to cannabis concentrate and pre-rolls on a shelf with a price tag of $30.00, other cannabis products were found in behind the sales counter in open boxes, various open plastic bags, in a book bag and in an open cabinet, all indicating that these products were distributed, sold or offered for sale by the Respondent.

The Petitioner offered into evidence a slew of pictures of the seized cannabis products that were taken from the store. A review of the exhibits indicates that the products recovered in Pet. Ex. B11-B18, *C and E4* from 194 Quick Stop likely contained THC and were marketed as cannabis and cannabis products. Of the cannabis products seized, there are multiple packages of cannabis flower, pre-rolls, vapes, edibles and concentrates with non-compliant packaging depicted in Pet. Ex. B11-B18, *C and E4* which includes a symbol containing the letters "CA" below a triangle which contains within it an exclamation point next to a cannabis leaf, which indicates that the product is cannabis from California. Other products depicted show that the labels state that they are "cannabis", further shows that the products are indeed cannabis products, or at the very least, marketed and labeled as such.

Additionally, a scale with what appears to be cannabis residue on it was found on-site, and other photographs depict a scale next to what appears to be empty packaging with a similar appearance to other products containing cannabis flower provide sufficient evidence to determine that is more likely than not that unlicensed processing occurred the business premises.

Therefore, based on the totality of the evidence which included an amount and variety of cannabis, offered for sale as evidenced by the attempted sale of cannabis, or cannabis products labeled and marketed as such, the shelf containing cannabis products that indicated an offering sales price of $30.00, the evidence of cannabis processing, and the fact that the Respondent had no cannabis license, making any offers to sell the same unlawful, I find that unlicensed cannabis activity occurred at the Respondent's business, including unlicensed sales and offers to sell cannabis and cannabis products in violation of Cannabis Law §§ 125 and 132.

Imminent threat to public health, safety, and welfare

For purposes of an order to seal, Petitioner bears the burden of establishing by a preponderance of the evidence that the Respondent was not only engaging in unlicensed activity in violation of the cannabis law, but that such activity was an imminent threat to public health, safety, and welfare. In accordance with *Cannabis Law § 125 1-b,* any distribution for sale …at…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 by this chapter unless otherwise authorized by law…presents a danger to public health, safety, and welfare." Additionally, under Cannabis Law *§* 138-b (4), along with Section 9 NYCRR 133.25(f)(1) certain violations of the cannabis law are deemed prima facie evidence that an "imminent threat to the public health, safety and welfare" exists for the purpose of an order to seal. The evidence here included testimony regarding, and documentation obtained, via the investigation which was prompted by community complaints unlicensed activity occurring at the Respondent's business; and a subsequent controlled purchase of cannabis by an undercover employee showing an attempt to sell cannabis products by the store cashier.

The cannabis products seized were documented across 36 photographs and nine vouchers. The photos reflect that a seizure of a volume and variety of cannabis products including cannabis flower, cannabis concentrates, cannabis pre-rolls, cannabis edibles, cannabis vapes, and products marketed and labeled as such were found. Specifically, Petitioner seized four vapes of various sizes, 21 concentrates of various sizes, 52 pre-rolls of various sizes, 127 3.5 g. packaged flower, 64 packages of edibles of various size, and unweighted loose cannabis flower.

The investigator testified and the photographic evidence in Pet. Ex. B1-B2 and B6-B10 depicts cannabis flower in packaging that is attractive to children and that appears to be a fake versions of popular candies and cereal marketed to children. These products include names such as "Skittles," "Cinnamon Toast Crunch," Wendy's "Frosty," and "Icee". *Id. Additionally,* there are multiple packages of flower and pre-rolls with non-compliant packaging depicted in Pet Ex. A16, A23, and Ex. B, some of which are also indicative of cannabis coming into the state from California, such as in Pet. Ex. B11-B18, which includes a symbol containing the letters "CA" below a triangle which contains within it an exclamation point next to a cannabis leaf. The cannabis flower and packages seen in these exhibits are labeled and marketed with a variety of flavors and strains, such as the candy and cereal flavors mentioned above and Tyuana Twist, Strawberry Cheesecake, Miami Vice, Lemon Cherry Cheesecake, Spicy Chili mango, and SFV OG. *Pet. Ex. B.* The edibles as seen in Pet. Ex. D1-D6, came in multiple flavors and strain combinations, and contain 1000 -2000 mg of THC. Multiple flavors and strains of concentrates were on offer in different flavors, as well as different brands in the form of vapes.

Moreover, none of the cannabis products seized possessed the necessary NYS state stamp that proves that the product is a licensed NYS product which underwent the necessary NYS testing. Nor do the cannabis products depicted contain the proper New York State ingredient and/or warning labels. *Pet. Ex. C1, C3-C4, and E2-E4. Pet. Ex. C and E4* further indicates cannabis coming into the state from California as the products also includes a symbol containing the letters "CA" below a triangle which contains within it an exclamation point next to a cannabis leaf. Pet. Ex. C2 and E1 shows a picture of tincture with a brand name of "Tommy Chongs" which is indicative of cannabis, based on the California cannabis symbol and the word "cannabis" on the package.

Based on the aforementioned evidence and testimony, I find that the cannabis products that Respondent distributed were not tested or labeled lawfully in accordance with the Cannabis Law and included unlicensed out-of-state products cannabis products offered for sale and not tested or labeled lawfully.

Additionally, a scale with what appears to be cannabis residue on it was found on-site, and other photographs depict empty cannabis product packaging with a similar appearance to other products containing cannabis flower, including one photograph that depicts said packaging next to a scale, provide sufficient evidence

to determine that is more likely than not that unlicensed processing of cannabis, in the form of packaging cannabis for sale, occurred at the business premises.

As indicated above, cannabis products that a have not undergone lawful testing or proper labeling in accordance with regulatory requirements—including unlicensed out-of-state products offered for sale without lawful testing or labeling— and unlicensed processing at the business premises, both constitute prima facie evidence of an imminent threat to public health, safety, and welfare for purposes of issuing an order to seal.

Notwithstanding that the exhibits show that the Respondent was distributing orally ingestible products that are labeled with potency beyond the state's 100 mg limit per package, because the products seized from 194 Quick Stop did not meet the necessary testing and labeling requirements of NYS, and unlicensed processing occurred at the business premises, Respondent's actions are a danger to the public health, safety, and welfare pursuant to Cannabis Law Article 6 §138-b(4)(g) and 9 NYCRR 133.25(f)(1)(g). Therefore, I find that the unlicensed activity being conducted at 194 Quick Stop constituted an imminent threat to public health, safety, and welfare in that in addition to unlicensed processing occurring at 194 Quick Stop, there were also sales of, or offers to sell, cannabis products that were not tested or labeled lawfully in accordance with Cannabis Law Article 6.

No part of the premises is used as a residence, and the unlicensed activity is more than a de minimis part of the business activity on the premises

The investigator credibly testified that no part of the business premises was used as a residence. The photographs also depicted a small commercial space with none of the accoutrements of a typical residence, such as a kitchen, shower, or dresser with clothes. Further, the Respondent did not dispute that the premises was commercial and not used as a residence; and further testified to the location a being a corner grocery store. Therefore, I find that no part of the premises is used as a residence.

The unlicensed activity which warranted an order to seal constituted more than a "de minimis" part the business activity. The Cannabis Law Article 6 §138-b (7) and OCM 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. Four factors are delineated, and any one can be controlling.

The Respondent indicated that the cannabis products sold did not amount to more than a de minimis number of sales in the store because 194 Quick Stop was a corner grocery store that sells various items including beverages, eggs, milk, juice, paper good, ramen, chips, candy and roach spray. In this case, Respondent's claim that the amount recovered fails to rise beyond the de minimis threshold is incorrect. Although Mr. Saleh testified, and the evidence reflects, that the location does operate as a grocery store, de minimis does not mean "minor."

The cannabis products seized were documented across 36 photographs and nine vouchers. The photos reflect a seizure of a volume and variety of cannabis products including cannabis flower, cannabis concentrates, cannabis pre-rolls, cannabis edibles, cannabis vapes, and products marketed and labeled as such. Specifically, the photographic exhibits reflect cannabis flower labeled and marketed with names that indicate a variety of flavors and strains, including "Skittles," "Cinnamon Toast Crunch," Wendy's "Frosty," and "Icee", Tyuana Twist, Strawberry Cheesecake, Miami Vice, Lemon Cherry Cheesecake, Spicy Chili mango, and SFV OG. There are multiple packages of flower and pre-rolls, as well as edibles and vapes in various brands, flavors, and strains. The vouchers further reflect that the Petitioner seized four vapes of various sizes, 21 concentrates of various sizes, 52 pre-rolls of various sizes, 127 3.5 g. packaged flower, 64 packages of edibles of various size, and unweighted loose cannabis flower. This amount indicated here is significant and certainly exceeds something that is "trifling" or "trivial."

The testimony on the record demonstrates that while the cannabis products comprised a small portion of the overall inventory, the physical quantity far exceeded New York's statutory thresholds for personal possession. Moreover, the presence of multiple distinct commercial brands indicates a more than a "trifling" or "trivial" amount of cannabis, such that it indicates retail sales aimed at public distribution rather than a personal stash. In this case, the volume and variety also demonstrate an attempt to cater to customer's individual tastes and thus reflecting a steady stream of cannabis sales by the Respondent.

Even though the amount of cannabis products found would be a sufficient basis to find that this business' cannabis sales constituted more than a de minimis part of the business activity under the law, I find that because the evidence demonstrates a wholesale variety and an amount that exceeds personal use limits, that

Respondent's cannabis activities constitute more than a de minimis part of the business activity under the law.

DETERMINATION

WHEREFORE, IT IS HEREBY DETERMINED that petitioner established by a preponderance of the evidence that the respondent was engaging in unlicensed activity in violation of the cannabis law and that such conduct was an imminent threat to public health, safety, and welfare, no part of respondent's business premises was used in part as a residence and the unlicensed activity was more than a de minimis part of respondent's business activity, and thereby satisfying all elements of the law related to an order to seal;

WHEREFORE, IT IS HEREBY ORDERED that the order to seal, issued to respondent 194 Quick Stop Corp. dba 194 Quick Stop, is hereby extended one-year from the date of this decision, pursuant to Cannabis Law Article 6 § 138-b (9).

DATED: October 22, 2026

Laura Krzeminski

Laura Krzeminski
Administrative Law Judge

This constitutes the final decision of the Office of Administrative Hearings. Either party may appeal this decision within 30 calendar days of receipt, according to the specific manner described in Title 9 NYCRR § 133.25 (k).

Submitted to:
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Respondent 194 Quick Stop Corp.
Sheila Wagner, Cannabis Control Board Executive Assistant
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