



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 0208164560 et al. (1 Summons) DEPT OF FINANCE, -against- TO THE BUSINESS OPERATING AT 5 Hearing Date: 04/03/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$10,000.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0208164560	Sustained	03/27/2025	545 NOSTRAND AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	ABE1	AC 7-551(A)	Sustained	\$10,000.00

Findings of Fact & Conclusions of Law

Respondent's attorney's email is michael@nacmiaslaw.com

The sworn-to-summons alleges a violation of Administrative Code (Code) § 7-551(A) for cannabis and cannabis marketed products were observed for sale without a valid retail license.

Attorney, Michael Nacmias, for Respondent, To the business operating at 545 Nostrand Avenue Brooklyn NY 11216, was present. Nuatasin Nagi was present as Respondent's witness. Michael Ricottone appeared on behalf of the petitioner, NYC Sheriff.

Petitioner's representative relied on the sworn-to-summons and provided an evidence packet with the following documents: Summons (Front and Back); Order of Closure; Order of Seizure and to Cease; NYPD Property Clerk's Invoices; Seizure Receipts; photographs taken during inspection; NYS Office of Cannabis Management Directory of Licensed Adult-Use Cannabis; table of authorities; Certificates of service; screen shot from NYCITYMAP showing proximity to schools; and Memorandum of Law (Pet Ex 1-13).

Petitioner's representative argued Respondent was selling cannabis without a Cannabis Adult-use Retail Dispensary (Card) license as required under Cannabis Law § 72. Respondent's sale of cannabis or cannabis marketed products without a Card license is a violation of the Cannabis Law § 7-551(A). Respondent's continued operation is an imminent threat for three reasons: within proximity to schools, selling products that were not tested or lawfully labeled, and unlicensed processing of cannabis. Consolidated Laws of New York Chapter 7-A, Article 6 § 138-b(4) of the Cannabis Law outlines the factors that serve as the basis for the determination of imminent threats to the "public health, safety and welfare,;" § 138-b(4)(e) lists proximity of the building or premises to schools, houses of worship, or public youth facilities as a factor providing the basis for an imminent threat to the public health, safety and welfare. Respondent's place of business is located within 1000 feet of a daycare. Photographs submitted depict multiple types of cannabis products found at Respondent's business; loose flower with no markings to indicated it was tested, or marked "CA," indicating the product was from California, and not New York, and therefore the products were not lawfully labeled under the definition § 138-b(4)(g). The unlabeled cannabis flower, Petitioner argues, along with scale and empty bags qualify as unlicensed processing of cannabis under the definition § 138-b(4)(b).

Respondent's representative did not deny the allegations and stated the business has closed down and have surrendered the location and lease.

I credit the sworn-to-summons. I find that the summons as alleged is legally sufficient to establish the violation charged. I find the Respondent has violated the cannabis law. Respondent failed to provide credible evidence to rebut the allegations. Accordingly, the summons is sustained, and a \$10,000.00 violation penalty is imposed.

Sealing Order

Petitioner's credible evidence supports three factors set forth under § 138-b of the Cannabis Law to support the imminent threat standard for a sealing order. It must be noted that Petitioner needs to establish only one such factor to support a sealing order. Based on the foregoing, I find that Petitioner established its case for the sealing order, and I recommend that said sealing order stays in effect.

OATH's decision regarding the summons is a final administrative determination and cannot be appealed at OATH or to the NYC Sheriff (See Administrative Code § 7-552(b)(2)). OATH's recommendation regarding the sealing order is subject to a final determination by the NYC Sheriff within four business days after the conclusion of the hearing in this case. Respondent may contact the NYC Sheriff to make any submission with respect to the sealing order.



04/03/2025

04/03/2025

Paul Mendez, Hearing Officer

Date