

At a Term of the Supreme Court held in and for the County of Wayne, at the Wayne County Courthouse, Lyons, New York, on the 7th day of May 2024

PRESENT: HON. RICHARD M. HEALY  
Acting Supreme Court Justice

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WAYNE

NEW YORK STATE OFFICE OF  
CANNABIS MANAGEMENT,

Petitioner,

-against-

DAVID TULLEY, individually and d/b/a "I'm Stuck" and "The Weed Warehouse;" I'M STUCK LLC; EMPIRE EXPRESS ENTERPRISES LLC; the property located at 18-20 CANAL ST, LYONS, NY 14489 bearing tax account No. 7111-09-118665; EMPIRE EXPRESS ENTERPRISES LLC, as owner of the property located at 18-20 Canal Street, Lyons, NY 14489; the property located at 1146 ROUTE 31, MACEDON, NY 14502 bearing tax block account No. 62111-10-289726; NMM Properties, LLC, as owner of the property located at 1146 Route 31, Macedon, NY 14502; the property located at 4081 RIDGE ROAD, WILLIAMSON, NY 14589 bearing tax account 65117-12-930541; MICHAEL AND JUSTINE GREGORY, as owner of the property located at 4081 Ridge Road, Williamson, NY; the property located at 2020 CRANE BROOK DRIVE, AURELIUS, NY 13021 bearing tax ID No. 115.13-1-15; DONALD R. DI SANTO, as owner of the property located at 2020 Crane Brook Drive, Aurelius, NY; the property located at 9 EAST GENESEE STREET, AUBURN, NY bearing tax map No. 116.45-1-61; CAPFLOW CAPITAL LLC, as owner of the property located at 9 East Genesee Street, Auburn, NY 13021; the property located at 1944 ROUTE 104, ONTARIO, NY 14519 bearing Tax Map No. 63117-10-256660; MEANS EXCAVATING, INC., as owner of the property located at 1944 Route 104, Ontario, NY; the property located at 4865 JEFFERSON STREET, PULASKI, NY 13142 bearing County Property No. 2011 50 12; LAURI A. RUMBLE LAMICA, as owner of the property located at 4865 Jefferson Street, Pulaski, NY; JOHN DOES 1 – 10; and ABC CORPS. 1 – 10,

Respondents.

**Index No. CV089825**

**ORDER AND JUDGMENT  
FOR EQUITABLE RELIEF  
PENALTIES AND COSTS**

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The Court having issued a Judgment and Order dated December 29, 2023 (Docket No. 72) granting a Permanent Injunction against Respondents David Tulley, I'm Stuck LLC and Empire Express Enterprises LLC (the "Tulley Respondents") from distributing, delivering and dispensing cannabis, cannabis product, cannabinoid hemp or cannabinoid hemp extract or any product marketed or labelled as such within New York State without a license; ordering pursuant to Cannabis Law § 16(4) the disgorgement of the proceeds for sales of cannabis occurring before May 3, 2023; and directing a hearing to determine the dollar amount of monetary relief in the form of Cannabis Law statutory penalties and costs to impose after an accounting of the Tulley Respondents' financial records;

And the Court having issued an Order for an Accounting dated January 31, 2024 (Docket No. 82) directing the Tulley Respondents make a full financial disclosure to the New York State Office of Cannabis Management ("OCM") of all their financial records made between February 1, 2022 and August 1, 2023;

And the matter having come before the Court to be heard on May 1, 2024 and May 7, 2024, it is now:

1. ORDERED AND ADJUDGED THAT pursuant to Cannabis Law § 16(4), as to the Tulley Respondents, the disgorgement for sales of cannabis prior to May 3, 2023, is hereby determined to be 90 percent of gross revenue obtained between February 11, 2022 and May 2, 2023 at each of the Tulley Respondents' locations at 18-20 Canal St., Lyons, NY, 2020 Crane Brook Drive, Aurelius, NY, 1944 Rt. 104, Ontario, NY, 4085 Ridge Road, Williamson, NY, 9 East Genesee St., Auburn, NY, 1146 Route 31, Macedon, NY, and 4861 Jefferson St., Pulaski, NY, these funds are hereby disgorged and payable to the State of New York in the aggregate amount of \$7,017,629.12; as follows:

<b>LOCATION</b>	<b>Pursuant to New York Cannabis Law 16(4), Equitable Relief of Disgorgement applied to 90% of Tulley Respondents' Gross Sales Revenue 2/1/22 - 5/2/23</b>
<b>18-20 CANAL STREET LYONS, NY 14489</b>	\$ 1,740,309.16
<b>2020 CRANE BROOK AUBURN, NY</b>	\$ 982,175.20
<b>1944 STATE ROUTE 104 ONTARIO, NY</b>	\$ 440,143.95
<b>4081 RIDGE ROAD WILLIAMSON, NY</b>	\$ 932,241.19
<b>9 EAST GENESEE ST AUBURN, NY</b>	\$ 1,067,746.75
<b>1146 ROUTE 31 MACEDON, NY</b>	\$ 1,841,185.93
<b>4865 JEFFERSON ST PULASKI, NY</b>	\$ 13,826.93
<b>TOTAL</b>	<b>\$ 7,017,629.12</b>

2. ORDERED AND ADJUDGED THAT pursuant to Cannabis Law § 132(1), the Tulley Respondents shall pay a penalty to the State of New York of \$10,000 for each day during which they operated a retail business for the sale of cannabis, cannabis products, medical

cannabis, or any product marketed or labeled as such without a license at each of their locations at 18-20 Canal St., Lyons, NY, 2020 Crane Brook Drive, Aurelius, NY, 1944 Rt. 104, Ontario, NY, 4085 Ridge Road, Williamson, NY, 9 East Genesee St., Auburn, NY, 1146 Route 31, Macedon, NY, and 4861 Jefferson St., Pulaski, NY, between May 3, 2023 and until receipt of a Notice of Violation and Order to Cease from OCM at each location in the total aggregate amount of \$3,890,000.00 as follows:

<b>Pursuant to New York Cannabis Law 132(1)(a) Civil Penalty \$10,000 per day from 5/3/23 until the Date of the Notice of Violation and Order to Cease Unlicensed Activity (NOV)</b>			
<b>LOCATION</b>	<b>Date of Notice of Violation and Order to Cease Unlicensed Activity (NOV)</b>	<b>Number of Days Operated in Violation of Law 5/3/23 to NOV</b>	<b>Daily Penalty 5/3/23 - NOV \$10,000 per day</b>
<b>18-20 CANAL STREET LYONS, NY 14489</b>	6/27/2023	56	\$ 560,000.00
<b>2020 CRANE BROOK AUBURN, NY</b>	6/27/2023	56	\$ 560,000.00
<b>1944 STATE ROUTE 104 ONTARIO, NY</b>	6/27/2023	56	\$ 560,000.00
<b>4081 RIDGE ROAD WILLIAMSON, NY</b>	6/27/2023	56	\$ 560,000.00
<b>9 EAST GENESEE ST AUBURN, NY</b>	6/26/2023	55	\$ 550,000.00
<b>1146 ROUTE 31 MACEDON, NY</b>	6/29/2023	58	\$ 580,000.00

4865 JEFFERSON ST PULASKI, NY	7/11/2023	52	\$ 520,000.00
<b>TOTAL</b>			<b>\$ 3,890,000.00</b>

3. ORDERED AND ADJUDGED THAT pursuant to Cannabis Law § 132(1), the Tulley Respondents pay a penalty to the State of New York of \$20,000 per day for each day the Tulley Respondents continued to operate a retail business to sell cannabis products, medical cannabis, or any product marketed or labeled as such without a license after receiving a Notice of Violation and Order to cease from OCM at each location of 18-20 Canal St., Lyons, NY, 2020 Crane Brook Drive, Aurelius, NY, 1944 Rt. 104, Ontario, NY, 4081 Ridge Road, Williamson, NY, 9 East Genesee St., Auburn, NY, 1146 Route 31, Macedon, NY and 4861 Jefferson St., Pulaski, NY, in the aggregate amount of \$4,340,000.00 as follows:

<b>Pursuant to New York Cannabis Law 132(1)(a) Civil Penalty \$20,000 per day from the Date of the Notice of Violation and Order to Cease Unlicensed Activity (NOV) Until the end of Operations</b>				
<b>LOCATION</b>	<b>Date of Notice of Violation and Order to Cease Unlicensed Activity (NOV)</b>	<b>Last Date Operated in Violation After NOV</b>	<b>Number of Days continuing to Operate in Violation After NOV</b>	<b>Daily Penalty NOV - 7/31/23 \$20,000 per day</b>
<b>18-20 CANAL STREET LYONS, NY 14489</b>	6/27/2023	7/31/2023	34	\$ 680,000.00
<b>2020 CRANE BROOK AUBURN, NY</b>	6/27/2023	7/31/2023	34	\$ 680,000.00

<b>1944 STATE ROUTE 104</b> ONTARIO, NY	6/27/2023	7/31/2023	34	\$ 680,000.00
<b>4081 RIDGE ROAD</b> WILLIAMSON, NY	6/27/2023	7/29/2023	31	\$ 620,000.00
<b>9 EAST GENESEE ST</b> AUBURN, NY	6/26/2023	7/31/2023	35	\$ 700,000.00
<b>1146 ROUTE 31</b> MACEDON, NY	6/29/2023	7/31/2023	32	\$ 640,000.00
<b>4865 JEFFERSON ST</b> PULASKI, NY	7/11/2023	7/30/2023	17	\$ 340,000.00
<b>TOTAL</b>				<b>\$ 4,340,000.00</b>

4. ORDERED AND ADJUDGED THAT pursuant to 9 NYCRR § 133(b)(4) and (6), and Cannabis Law § 16(1), the Tulley Respondents pay a penalty to the State of New York of \$5,000 for their removal of the notice of violation, cease order or warning notice from their location at 18-20 Canal St., Lyons, NY on June 27, 2023.

5. ORDERED AND ADJUDGED THAT the Tulley Respondents pay the actual costs, expenses and disbursements of the Office of the Attorney General in bringing and maintaining this proceeding, pursuant to Cannabis Law § 16-a(7)(e) as set forth in the Affirmation of Benjamin Bruce, Assistant Attorney General, dated April 30, 2024, in the amount of \$ 1,324.98.

6. ORDERED AND ADJUDGED THAT the total amount of disgorgement and penalties in the amount of \$15,252,629.12 and the costs \$1,324.98 for the total amount of

\$15,253,954.10 is hereby entered as a judgment against the Tulley Respondents jointly and severally plus interest.

7. ORDERED AND ADJUDGED that this Order and Judgment may be docketed by Petitioner as a money judgment in the sum of \$15,253,954.10, plus interest, jointly and severally against Respondents David Tulley, 8 Joy Street, Lyons, NY 14489; I'm Stuck, LLC, 8 Joy Street, Lyons, NY 14489; Empire Exchange Enterprises LLC, 18-20 Canal St., Lyons, NY 14489 pursuant to New York Civil Practice Law and Rules § 2222 and, upon docketing this money judgment, Petitioner shall have execution thereon.

8. ORDERED AND ADJUDGED THAT the accounts in the name of David Tulley, I'm Stuck LLC and Empire Express Enterprises LLC, subject to the Court's Temporary Restraining Order dated July 27, 2023, shall be released solely such that all funds on deposit with JP Morgan Chase Bank shall be paid to the State of New York so as to be applied to this judgment.

9. ORDERED AND ADJUDGED THAT the Wayne County Sheriff is hereby directed to pay to the State of New York the proceeds, after deducting expenses, of any sale conducted under his direction of the Tulley Respondents' personal property seized pursuant to the Order and Judgment Granting Permanent Injunction, dated December 29, 2023, from 18-20 Canal Street, Lyons, NY 14489, 1944 State Route 104, Ontario, NY, 4081 Ridge Road, Williamson, NY and 1146 Route 31, Macedon, NY. If the sale of any personal property would be futile, Sheriff may return such property to the Tulley Respondents or otherwise dispose of it after providing the Tulley Respondents with 5 days written notice and with the consent of OCM.

10. ORDERED AND ADJUDGED THAT the Cayuga County Sheriff is hereby directed to pay to the State of New York the proceeds, after deducting his costs and

disbursements, of any sale conducted under his direction of the Tulley Respondents' personal property seized pursuant to the Order and Judgment Granting Permanent Injunction, dated December 29, 2023, from 2020 Crane Brook, Aurelius, NY and 9 East Genesee St., Auburn, NY. If the sale of any personal property would be futile, Sheriff may return such property to the Tulley Respondents or otherwise dispose of it after providing the Tulley Respondents with 5 days written notice and with the consent of OCM.

11. ORDERED AND ADJUDGED THAT the Oswego County Sheriff is hereby directed to pay to the State of New York the proceeds, after deducting his costs and disbursements, of any sale conducted under his direction of the Tulley Respondents' personal property seized pursuant to the Order and Judgment Granting Permanent Injunction, dated December 29, 2023, from 4865 Jefferson St., Pulaski, NY. If the sale of any personal property would be futile, Sheriff may return such property to the Tulley Respondents or otherwise dispose of it after providing the Tulley Respondents with 5 days written notice and with the consent of OCM.

12. ORDERED AND ADJUDGED THAT this judgment shall become a priority lien on 18-20 Canal St., Lyons, NY pursuant to Cannabis Law § 16-a(7)(d) and the County Clerk shall docket the same.

13. ORDERED AND ADJUDGED that the Court hereby retains jurisdiction to enforce this Order and Judgment and all disputes arising under this Order and Judgment shall be submitted to the Court, and the Court retains authority to decide all such disputes.



Dated: May 22, 2024

ENTERED,



HON. RICHARD M. HEALY  
Acting Supreme Court Justice