

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WAYNE

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NEW YORK STATE OFFICE OF
CANNABIS MANAGEMENT,

Petitioner,

Index No. 89825

STIPULATION
AND ORDER

-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 I 04, ONTARIO, NY 14519 bearing Tax Map No.
63117-10-256660; MEANS EXCAVATING, INC., as owner
of the property located at 1944 Route I 04, Ontario, NY;
the property located at 4865 JEFFERSON STREET,
PULASKI, NY 13142 bearing County Property No.
20115012; 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.

WHEREAS Petitioner, the New York State Office of Cannabis Management("OCM") represented by Letitia James, Attorney General of the State of New York, Benjamin A. Bruce, Assistant Attorney General, of counsel and

WHEREAS Respondents the property located at 1146 Route 31, Macedon, NY 14502 bearing tax account No. 62111-10-289726 ("the Property"), and NMM Properties, LLC, as owner of the property located at 1146 Route 31, Macedon, NY 14502, (hereinafter "1146 Route 31 Respondents") represented by John Wells, Esq., of Lacy Katzen, concerning this matter; and

WHEREAS Respondents David Tulley d/b/a "I'm Stuck" and "The Weed Warehouse;" I'M STUCK LLC; EMPIRE EXPRESS ENTERPRISES LLC ("Tulley Respondents") represented by Joseph A. Bondy, Esq.; and

WHEREAS no party herein being an infant, an incompetent for whom a committee has been appointed, or a conservator and there being no person not a party who has any interest in the subject matter of the proceeding.

IT IS HEREBY STIPULATED AND AGREED that 1146 Route 31 Respondents shall, within no more than five days of the date hereof, unless such application is already pending, make an application for the eviction of the Tulley Respondents as a commercial tenant from any real property owned by NMM Properties, LLC, and shall in good faith diligently prosecute such proceeding and take all steps necessary to terminate the Tulley Respondents' tenancy; and

IT IS HEREBY STIPULATED AND AGREED that Tulley Respondents will not oppose NMM Properties, LLC's eviction. The Tulley Respondents consent to the entry of an order that permits the Wayne County Sheriff or designee to remove all personal property owned by Tulley Respondents from 1146 Route 31, Macedon NY 14502, and place such personal property in storage pending the disposition of the Petition and to hold harmless 1146 Route 31 Respondents for any loss or damage to said personal property or the storage costs of said personal property.

IT IS ORDERED THAT,

1. 1146 Route 31 Respondents are hereby permanently enjoined from permitting any real property owned by them to be used in violation of Article 6 of the Cannabis Law; and

2. 1146 Route 31 Respondents shall permit the OCM to inspect the Property periodically without notice, for the purpose of ascertaining whether or not the unlicensed activity has resumed or activity in violation of Article 6 of the Cannabis Law is occurring; and

3. The Petition against the 1146 Route 31 Respondents is hereby adjourned in contemplation of dismissal in six months from the date of this order, on condition of Respondents full performance of the above covenants. In the event of a breach of any covenant herein, the Petitioner is authorized to restore 1146 Route 31 Respondents as respondents, pursue any remedy permitted by law against 1146 Route 31 Respondents and receive Petitioner's costs and disbursements arising from the continuation of the proceedings against 1146 Route 31 Respondents; and

4. The order dated July 27, 2023, granting preliminary injunction, a temporary restraining order and temporary closing order pursuant to Cannabis Law § 16-a ("Closing Order") is hereby modified, pending determination of the Petition as to the 1146 Route 31 Respondents as follows:

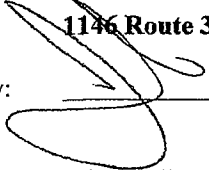
a. 1146 Route 31 Respondents may with notice to the Petitioner, and escorted by OCM staff or staff from the Office of the Attorney General ("OAG"), enter into the premises at 1146 Route 31, Macedon, NY 14502 to maintain building utilities or facilities, or for such other purpose approved by the OAG. Prior to leaving the premises, the OCM or OAG shall re-seal the premises by affixing a copy of the Closing Order across the entrances. Upon the removal of the Tulley Respondents personal property from the Property, no further notice or escort will be required.

b. The Wayne County Sheriff's Office ("Sheriff"), shall upon notice to the Tulley Respondents, remove personal property owned by the Tulley Respondents from the premises at 1146 Route 31, Macedon, NY 14502 and secure it at a facility maintained by the sheriff of the county where the store is located or such other location that is approved by the OCM or OAG;

c. all other provisions of the Closing shall remain in effect in all respects.

5. This stipulation may be executed in counterparts and when taken together shall constitute one original document, and any signatures transmitted via facsimile or other electronic means may be deemed an original.

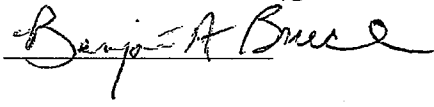
1146 Route 31 Respondents

By: 

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600 Bausch & Laumb Pl.
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jwells@lacykatzen.com

Dated: 11/15/23

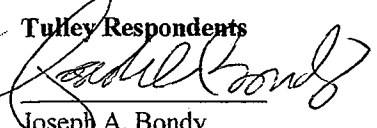
Office of Cannabis Management

By: 

Benjamin A. Bruce
Assistant Attorney General
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Rochester, N.Y. 14614-2108
(585) 546-7430
benjamin.bruce@ag.ny.gov

Dated: 11/15/23

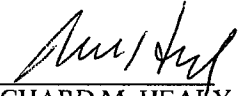
Tulley Respondents

By: 

Joseph A. Bondy
Law Offices of Joseph A. Bondy
1776 Broadway, Suite 2000
New York, N.Y. 10019
(212) 219-3572 (office)
jab@josephabondy.com

Dated: 11/15/2023

SO ORDERED:


HON. RICHARD M. HEALY
Acting Justice Supreme Court

Dated: 11/21/23