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Division of Law
124 Halsey Street - 5th Floor
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FILED

APR 25 2012

Division of Consumer Affairs

By: Nicholas Kant
Deputy Attorney General
(973) 648-2893

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

In the Matter of

JENNIFER L. VAN SCHOICK,
individually and d/b/a ARK ANGEL
LABRADORS and/or t/a NOAH'S ARK
SCHOOL FOR DOGS,

Respondent.

Administrative Action

CONSENT ORDER

WHEREAS this matter having been opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (the "Division"), as an investigation to ascertain whether violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), and the Regulations Governing the Sale of Animals, N.J.A.C. 13:45A-12.1 et seq. ("Pet Regulations"), have been or are being committed by Jennifer L. Van Schoick, individually and d/b/a Ark Angel Labradors and/or t/a Noah's Ark School for Dogs, as well as her managers, agents, representatives, employees, successors, assigns, subsidiaries and/or independent contractors (collectively, "Respondent") (hereinafter referred to as the "Investigation");

WHEREAS Respondent, with a main business address of 636 William Street, Jackson, New Jersey 08527, is engaged in the Advertisement and Sale of Animals to Consumers;

WHEREAS the Division alleges that Respondent violated the CFA and the Pet Regulations in her Advertisement, offering for Sale and/or Sale of Animals to Consumers;

WHEREAS the Division and Respondent (collectively, "Parties") have reached an amicable agreement hereby resolving the issues in controversy and concluding this Investigation without the need for further action, and Respondent having voluntarily cooperated with the Investigation and consented to the entry of the within order ("Consent Order") without having admitted any fact or violation of law, and for good cause shown:

IT IS ORDERED AND AGREED as follows:

1. EFFECTIVE DATE

1.1 This Consent Order is effective on the date that it is filed with the Division ("Effective Date").

2. DEFINITIONS

As used in this Consent Order, the following words or terms shall have the following meanings, which meanings shall apply wherever the words and terms appear in this Consent Order:

2.1 "Advertise" or "Advertisement" shall mean any written, oral or electronic statement, illustration or depiction that is designed to create interest in the purchase of, impart information about the attributes of, publicize the availability of, or effect the Sale or use of, goods or services, whether the statement appears in a brochure, newspaper, magazine, free-standing inset, bill board, circular, mailer, package insert, package label, product instructions, electronic mail, website, homepage, television, cable television, radio, commercial or any other medium.

2.2 "Animal" shall be defined in accordance with N.J.A.C. 13:45A-12.1.

2.3 "Animal History and Health Certificate" shall mean the certificate provided to the Consumer by the Pet Dealer prior to the Sale of an Animal referenced in N.J.A.C. 13:45A-12.2(a)(1)(i-ix).

2.4 "Attorney General" shall refer to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

2.5 "Consumer" shall be defined in accordance with N.J.A.C. 13:45A-12.1.

2.6 "Consumer Election of Options Form" means the form set forth in N.J.A.C. 13:45A-12.3(a)(8).

2.7 "Division" shall mean the New Jersey Division of Consumer Affairs.

2.8 "Notification of Consumer Rights Form" means the form set forth in N.J.A.C. 13:45A-12.3(a)(10).

2.9 "Person(s)" shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.10 "Pet Dealer" shall be defined in accordance with N.J.A.C. 13:45A-12.1.

2.11 "Sale" shall be defined in accordance with N.J.S.A. 56:8-1(e).

2.12 "State" shall refer to the State of New Jersey.

2.13 "Unfit for Purchase" shall be defined in accordance with N.J.A.C. 13:45A-12.1.

2.14 "Veterinarian" means a veterinarian licensed to practice in the State.

2.15 "Veterinarian Unfit for Purchase Certification" means the certification prepared by a Veterinarian pursuant to N.J.A.C. 13:45A-12.3(a)(7).

2.16 "Waiver of Reexamination Form" means the form set forth in N.J.A.C. 13:45A-12.3(a)(5).

3. REQUIRED AND PROHIBITED BUSINESS PRACTICES

3.1 Respondent shall not engage in any unfair and/or deceptive acts or practices in the conduct of her business in the State and shall comply with such State and/or Federal laws, rules and regulations as now constituted or as may hereinafter be amended, which are applicable to the conduct of her business including, but not limited to, the CFA and the Pet Regulations.

3.2 Prior to the Sale of an Animal, Respondent shall provide to the Consumer an Animal History and Health Certificate signed by the Pet Dealer that includes the information set forth in N.J.A.C. 13:45A-12.2(a)(1)(i-ix).

3.3 Within fourteen (14) days prior to the Sale of any Animal, Respondent shall have the Animal examined by a Veterinarian pursuant to N.J.A.C. 13:45A-12.3(a)(1).

3.4 If fourteen (14) days have passed since the last Veterinarian examination of the Animal, Respondent shall have the Animal reexamined by a Veterinarian, unless the Consumer executes a valid Waiver of Reexamination Form, pursuant to N.J.A.C. 13:45A-12.3(a)(5).

3.5 Respondent shall not prescribe and/or dispense medication to any Animal in the State as treatment for any disease, pain, deformity, defect, injury, wound or physical condition, in accordance with N.J.A.C. 13:45A-12.3(a)(4).

3.6 When a Consumer presents to Respondent a Veterinarian Unfit for Purchase Certification, Respondent shall confirm the Consumer's election of an option in writing in a Consumer Election of Options Form, in accordance with N.J.A.C. 13:45A-12.3(a)(8).

3.7 Respondent shall comply with the Consumer's selection of recourse no later than ten (10) days after receipt of the Veterinarian Unfit for Purchase Certification and executed Consumer Election of Options Form or contest in writing the selection of recourse within five (5) days after

receipt of the Veterinarian Unfit for Purchase Certification in accordance with N.J.A.C. 13:45A-12.3(a)(9).

3.8 Prior to the delivery of an Animal, Respondent shall provide the Consumer with a Notification of Consumer Rights Form which shall include the language required by N.J.A.C. 13:45A-12.3(a)(10).

3.9 Respondent shall not conduct or transact business under any assumed name unless Respondent has filed a certificate in the office of the clerk of the county or counties in which Respondent conducts or transacts, or intends to transact, such business, together with a duplicate thereof for filing in the office of the New Jersey Secretary of State, pursuant to N.J.S.A. 56:1-2 and -3.

4. SETTLEMENT AMOUNT

> 4.1 The Parties have agreed to a settlement of the Investigation in the amount of Three
> Thousand Four Hundred and 00/100 Dollars (\$3,400.00) ("Settlement Amount").

4.2 The Settlement Amount consists of consumer restitution of One Thousand Two Hundred Eighty-Four and 00/100 Dollars (\$1,284.00), pursuant to N.J.A.C. 13:45A-12.3(a)(6); a civil penalty of Two Thousand and 00/100 Dollars (\$2,000.00), pursuant to N.J.S.A. 56:8-13; and reimbursement of investigative costs of One Hundred Sixteen and 00/100 Dollars (\$116.00), pursuant to N.J.S.A. 56:8-11.

4.3 The Division agrees to suspend the civil penalty portion of the Settlement Amount subject to the conditions set forth in Sections 4.4 through 4.8.

4.4 Respondent shall pay One Thousand Four Hundred and 00/100 Dollars (\$1,400.00) on or before the Effective Date ("Settlement Payment"). The Settlement Payment consists of

consumer restitution of One Thousand Two Hundred Eighty-Four and 00/100 Dollars (\$1,284.00) and investigative costs of One Hundred Sixteen and 00/100 Dollars (\$116.00)

4.5 The Settlement Payment referenced in Section 4.4 shall be made by bank check, attorney trust account check, or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs" and forwarded to:

Nicholas Kant
Deputy Attorney General
Consumer Fraud Prosecution Section
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

4.6 Upon making the payment referenced in Section 4.4, Respondent shall immediately be fully divested of any interest in, or ownership of, the moneys paid. All interest in the moneys, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

4.7 The Two Thousand and 00/100 Dollars (\$2,000.00) balance of the Settlement Amount ("Suspended Penalty") shall be automatically vacated after three (3) years, provided:

- a. Respondent complies with the restraints and conditions set forth in this Consent Order;
- b. Respondent does not engage in any acts or practices in violation of the CFA and/or the Pet Regulations.

4.8 In the event Respondent fails to comply with Section 4.7, the entire Suspended Penalty shall be immediately due and payable upon written notice by the Division. In any such notice, however, the Division shall provide Respondent with the specific details of Respondent's alleged noncompliance and Respondent shall be afforded a fifteen (15) day period within which to

cure any such noncompliance. In the event of Respondent's failure to cure any such noncompliance, the Division will file a Certificate of Debt for the Suspended Penalty.

5. GENERAL PROVISIONS

5.1 This Consent Order is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Order.

5.2 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the State.

5.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Order.

5.4 This Consent Order contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

5.5 Except as otherwise explicitly provided in this Consent Order, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

5.6 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

5.7 This Consent Order shall be binding upon Respondent as well as her owners, principals, officers, directors, managers, agents, employees, successors and assigns, and any Person

through which she may now or hereafter act, as well as any Person who has authority to control or who, in fact, controls and directs her business.

5.8 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order avoid compliance with this Consent Order.

5.9 This Consent Order is agreed to by the Parties and entered into for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall constitute or be construed as: (a) an approval, sanction or authorization by the Division or any other governmental unit of the State of any act or practice of Respondent; or (b) an admission by Respondent that any of her acts or practices described in or prohibited by this Consent Order are unfair or deceptive or violate the CFA and/or Pet Regulations. This Consent Order is not intended, and shall not be deemed, to constitute evidence or precedent of any kind except in: (a) an action or proceeding by one of the Parties to enforce, rescind or otherwise implement any or all of the terms herein; or (b) an action or proceeding involving a Released Claim (as defined in Section 7) to support a defense of res judicata, collateral estoppel, release or other theory of claim preclusion, issue preclusion or similar defense.

5.10 This Consent Order is a public document subject to the New Jersey Open Public Records Act, N.J.A.C. 47:1A-1 et seq.

5.12 Unless otherwise prohibited by law, any signatures by the Parties required for filing of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Consent Order.

6. REPRESENTATIONS AND WARRANTIES

6.1 The Parties represent and warrant an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that the representative has done so with authority to legally bind the respective Party.

6.2 Respondent represents and warrants that she has fully read and understands this Consent Order, that she understands the legal consequences involved in signing the Consent Order and that there are no other representations or agreements not stated in writing herein.

6.3 Respondent represents and warrants that she has been advised by the Division to seek legal counsel to review this Consent Order and that she has voluntarily chosen not to do so.

7. RELEASE

7.1 In consideration of the injunctive relief, payments, undertakings, mutual promises and obligations provided for in this Consent Order and conditioned on Respondent making the Settlement Payment in the manner specified in Section 4, the Division hereby agrees to release Respondent from any and all civil claims or Consumer related administrative claims, to the extent permitted by State law, which the Division could have brought against Respondent for violations of the CFA and the Pet Regulations prior to the Effective Date for matters arising out of the Investigation as well as the matters addressed in this Consent Order (the "Released Claims").

7.2 Notwithstanding any term of this Consent Order, the following do not comprise Released claims: (a) private rights of action; (b) actions to enforce this Consent Order; and (c) any claims against Respondent by any other agency or subdivision of the State.

8. PENALTIES FOR FAILURE TO COMPLY

8.1 The Attorney General (or designated representative) shall have the authority to enforce the injunctive provisions of this Consent Order or to seek sanctions for violations hereof or both.

8.2 The Parties agree that any future violations of the injunctive provisions of this Consent Order as well as the CFA and/or Pet Regulations shall constitute a second or succeeding violation under N.J.S.A. 56:8-13 and that Respondent may be liable for enhanced civil penalties.

9. COMPLIANCE WITH ALL LAWS

9.1 Except as provided in this Consent Order, no provision herein shall be construed as:

- (a) Relieving Respondent of her obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- (b) Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Respondent pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Respondent may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

NOTICES UNDER THIS CONSENT ORDER

9.2 Except as otherwise provided herein, any notices or other documents required to be sent to the Division or Respondent pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For the Division:

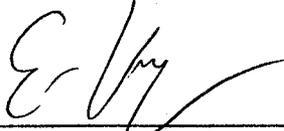
Bureau Chief, Office of Consumer Protection
Division of Consumer Affairs, State of New Jersey
Office of the Attorney General, Department of Law and Public Safety
124 Halsey Street - 7th Floor
P.O. Box 45028
Newark, New Jersey 07101

For the Respondent:

Jennifer L. Van Schoick
636 Williams Street
Jackson, New Jersey 08527

IT IS ON THE ²⁵~~15~~th DAY OF April, 2012 SO ORDERED.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: 
SHARON M. JOYCE, ACTING DIRECTOR
DIVISION OF CONSUMER AFFAIRS
Eric T. Wambtsky

THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS CONSENT ORDER ON THE DATES ADJACENT TO THEIR RESPECTIVE SIGNATURES.

FOR THE DIVISION:

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: Nicholas Kant Dated: April 23, 2012
Nicholas Kant
Deputy Attorney General
Consumer Fraud Prosecution Section
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Telephone: (973) 648-3441

FOR THE RESPONDENT:

JENNIFER L. VAN SCHOICK, individually and d/b/a ARK ANGEL LABRADORS
and/or t/a NOAH'S ARK SCHOOL FOR DOGS

By: Jennifer L. Van Schoick Dated: 4/7/2012, 2012
Jennifer L. Van Schoick
Jennifer L. Van Schoick, individually and d/b/a Ark Angel Labradors
and/or t/a Noah's Ark School for Dogs
636 Williams Street
Jackson, New Jersey 08527