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ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th Floor
124 Halsey Street
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FILED

MAR 28 2016

Division of Consumer Affairs

By: David M. Reap
Deputy Attorney General
Consumer Fraud Prosecution Section
[REDACTED]

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

In the Matter of :
: Administrative Action
NJ EXOTIC PETS LIMITED LIABILITY :
COMPANY, : CONSENT ORDER
Respondent. :
:

WHEREAS, this matter was opened by the New Jersey Division of Consumer Affairs, Office of Consumer Protection (“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”), including the Refund Policy Disclosure Act, N.J.S.A. 8-2.14 et seq. (“Refund Act”), and the Pet Purchase Protection Act, N.J.S.A. 56:8-92 et seq. (“Pet Protection Act”), and the Regulations governing the Sale of Animals, N.J.A.C. 13:45A-12.1 et seq. (“Pet Dealer Regulations”), have been or are being committed by NJ Exotic Pets Limited Liability Company, as well as by its owners, officers directors, employees, representatives, agents, successors, assigns and/or independent contractors (collectively, “Respondent”) in connection with the offering for Sale and/or Sale of Animals (hereinafter referred to as the “Investigation”);

WHEREAS, Respondent operates a Pet Shop located at 25 Union Street, Lodi, New Jersey 07644 (“Respondent’s Lodi, New Jersey Pet Shop”);

WHEREAS, the Investigation concerned the Division’s inspection of Respondent’s Lodi, New Jersey Pet Shop on October 14, 2015;

WHEREAS, based on the information gathered during the inspection, the Division has alleged that Respondent: violated the Pet Protection Act by failing to post, in a conspicuous location on the cage or enclosure for each Animal in the cage or enclosure, all of the required Animal history, Breeder and Broker information, in violation of N.J.S.A. 56:8-95c (1), (2), (3), (4) and (5); failing to post the required “Know Your Rights” statement in a conspicuous location on each cage or enclosure, in violation of N.J.S.A. 56:8-95c(6); failing to post in a conspicuous location on or near the cage or enclosure for each Animal in the cage or enclosure the USDA inspection reports for the Breeder and Broker of the Animal, in violation of N.J.S.A. 56:8-95c(6); and failing to post the recourse notice in the event of sickness or death of an Animal in a conspicuous location with all mandatory information, in violation of N.J.S.A. 56:8-96h; and violated the Pet Dealer Regulations by failing to conspicuously display on the business premises the mandatory “KNOW YOUR RIGHTS” on a sign, in violation of N.J.A.C. 13:45A-12.2(a)9;

WHEREAS, on January 28, 2016, Respondent attended an Executive Conference with the Division;

WHEREAS, the Division and Respondent (collectively, “Parties”) have reached an amicable agreement resolving the issues in controversy and concluding this Investigation without the need for further action, and the Respondent has voluntarily cooperated with the Investigation and consented to the entry of the within order (“Consent Order”), 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 meaning, which meanings shall apply wherever the words appear in this Consent Order:

2.1 “Animal” shall be defined: (1) for purposes of the PPPA, in accordance with N.J.S.A. 56:8-93; and (2) for purposes of the Pet Regulations, in accordance with N.J.A.C. 13:45A-12.1.

2.2 “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.

2.3 “Breeder” shall be defined in accordance with N.J.S.A. 56:8-93.

2.4 “Broker” shall be defined in accordance with N.J.S.A. 56:8-93.

2.5 “Consumer” shall be defined: (1) for purposes of the Pet Protection Act, in accordance with N.J.S.A. 56:8-93; and (2) for purposes of the Pet Dealer Regulations, in accordance with N.J.A.C. 13:45A-12.1.

2.6 “Division” shall mean the New Jersey Division of Consumer Affairs.

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

2.8 “Pet Shop” shall be defined: (1) for purposes of the Pet Protection Act, in accordance with N.J.S.A. 56:8-93; and (2) for purposes of the Pet Dealer Regulations, in accordance with N.J.A.C. 13:45A-12.1.

2.9 “Represent” means to state or imply through claims, statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages, or any other manner or means by which meaning might be conveyed.

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

2.11 “State” shall refer to the State of New Jersey.

2.12 “USDA” means the United States Department of Agriculture.

2.13 “Veterinarian” means a veterinarian licensed to practice in the State.

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 its 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 its business including, but not limited to, the CFA, Pet Protection Act and the Pet Dealer Regulations.

Future Offering For Sale and/or Sale of Animals

3.2 Respondent shall post, in a conspicuous location on the cage or enclosure for each Animal in the cage or enclosure, all of the required Animal history information including: (i) the date and place of birth of each Animal, and the actual age, or approximate age as established by a veterinarian; (ii) the sex, color markings, and other identifying information of the animal, including any tag, tattoo, collar number, or microchip information; (iii) the name and address of the Veterinarian attending to the Animal while the Animal is in the custody of the Pet Shop, and the date of the initial examination of the Animal; (iv) all of the required Breeder information; and (v) all of the required Broker information, as required by the Pet Protection Act, specifically, N.J.S.A. 56:8-95c (1), (2), (3), (4) and (5).

3.3 Respondent shall post the required “Know Your Rights” statement in a conspicuous location on each cage or enclosure, in bolded font of no less than 12 point type followed in at least 10 point type by the statement, “State law requires that every pet shop offering cats or dogs for sale post in a conspicuous location on or near each cat or dog’s cage or enclosure the USDA inspection reports for the breeder and broker of each cat or dog for the two years prior to the first day that the cat or dog is offered for sale. If you do not see a required inspection report, please request the report from the pet shop. If you have any concerns, please contact the New Jersey Division of Consumer Affairs, 124 Halsey St., Newark, NJ 07102, (973) 504-6200. You may also view these and other USDA inspection reports for the breeder and broker of each cat or dog on the USDA Animal and Plant Health Inspection Service (APHIS) website. You are entitled to receive additional information from APHIS about the breeder’s or broker’s history through the federal Freedom of Information Act”, as required by the Pet Protection Act, specifically, N.J.S.A. 56:8-95c(6).

3.4 Respondent shall post in a conspicuous location on or near the cage or enclosure for each Animal in the cage or enclosure the USDA inspection reports for the Breeder and Broker of the Animal for the two (2) years prior to the first day that the Animal is offered for Sale by the Pet Shop, as required by the Pet Protection Act, specifically, N.J.S.A. 56:8-95c(6).

3.5 Respondent shall conspicuously display on the business premises the mandatory “KNOW YOUR RIGHTS” on a sign not smaller than 22” x 18” in letters no less than 1” high, as required by the Pet Dealer Regulations, specifically, N.J.A.C. 13:45A-12.2(a)9.

3.6 Respondent shall post the recourse notice in the event of sickness or death of an Animal in a conspicuous location with all mandatory information including the name, address

and telephone number of the local health authority, as required by the Pet Protection Act, specifically, N.J.S.A. 56:8-96h.

4. MONITORING FOR COMPLIANCE

4.1 Respondent shall provide written notice to the Division of plans to: (a) engage in the offering for Sale and/or Sale of Animals through Respondent's Lodi, New Jersey Pet Shop; and/or (b) engage in the offering for Sale and/or Sale of Animals through any Pet Shop to be owned and/or operated by it in New Jersey. Respondent shall provide such written notification to the Division at least thirty (30) days prior to the date of any such offering for Sale of Animals.

5. SETTLEMENT PAYMENT

5.1 On or before the Effective Date, Respondent shall pay to the Division Eight Hundred Seventy Five and 00/100 dollars (\$875.00) ("Settlement Payment").

5.2 The Settlement Payment consists of Eight Hundred Seventy Five and 00/100 dollars (\$875.00) in civil penalties pursuant to N.J.S.A. 56:8-95.3 and N.J.S.A 56:8-13.

5.3 The Settlement Payment shall be made by certified check, cashier's check, money order, credit card or wire transfer made payable to the "New Jersey Division of Consumer Affairs" and shall be delivered to the following address:

David M. Reap, Deputy Attorney General
State of New Jersey
Office of the Attorney General
Department of Law & Public Safety, Division of Law
Consumer Fraud Prosecution Section
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

5.4 Upon payment of the Settlement Payment, Respondent shall be fully divested of any interest in, or ownership of, the monies paid, and all interest in the monies, and any

subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Division pursuant to the terms herein.

6. GENERAL PROVISIONS

6.1 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.

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

6.3 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.

6.4 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 Division and Respondent.

6.5 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 interest of the State or the people in the State.

6.6 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

6.7 This Consent Order shall be binding upon Respondent as well as its owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, successors, assigns and any Persons through which it may now or hereafter act,

as well as any Persons who have authority to control or who, in fact, control and direct its business.

6.8 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.

6.9 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 the acts or practices described in or prohibited by this Consent Order are unfair, or deceptive or violate the CFA, Pet Protection Act and/or Pet Dealer Regulations.

6.10 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 8) to support a defense of res judicata, collateral estopped, release or other theory of claim preclusion, issue preclusion or similar defense.

6.11 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.

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

7. REPRESENTATIONS AND WARRANTIES

7.1 The Parties Represent and warrant that their signatories to this Consent Order have authority to act for and bind the respective Parties.

7.2 Respondent Represents and warrants that it has fully read and understands this Consent order, that it understands the legal consequences involved in signing the Consent Order and that there are no other Representations or agreements not stated in writing herein.

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

7.4 Respondent Represents and warrants that it has ceased engaging in the offering for Sale and/or Sale of Animals.

8. RELEASE

8.1 In consideration of the payments, undertakings, mutual promises and obligations provided for in this Consent Order and conditioned on Respondent paying the Settlement Payment in the manner specified in Section 5, 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 prior to the Effective Date for violations of the CFA, the Pet Protection Act and the Pet Dealer Regulations arising out of the Investigation as well as the matters addressed in this Consent Order (the “Released Claims”).

8.2 Notwithstanding any terms 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.

9. PENALTIES FOR FAILURE TO COMPLY

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

9.2 The Parties agree that any future violations by Respondent of the provisions of this Consent Order as well as the CFA, Pet Protection Act and/or Pet Dealer Regulations shall constitute a second or succeeding violation under N.J.S.A. 56:8-13 and that the Respondent may be subject to enhanced civil penalties.

10. COMPLIANCE WITH ALL LAWS

10.1 Except as provided in this consent Order, no provision herein shall be construed as:

- (a) Relieving Respondent(s) of its obligations 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, regulations or rule to oppose any process employed by the Division to obtain such information, documents or testimony.

11. NOTICES UNDER THIS CONSENT ORDER

11.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Parties 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. Such notices and/or documents shall be sent to the following address:

For the Division:

David M. Reap, Deputy Attorney General
State of New Jersey
Office of the Attorney General
Department of Law & Public Safety
Division of Law
Consumer Fraud Prosecution Section
124 Halsey Street – 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

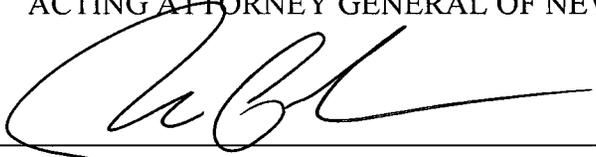
For the Respondent:

James R. Moore, Registered Agent
NJ Exotic Pets Limited Liability Company
17 Byram Bay Road
Hopatcong, New Jersey 07843

IT IS ON THE 28th DAY OF March, 2016 SO ORDERED,

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: _____


STEVE C. LEE, ACTING DIRECTOR
DIVISION OF CONSUMER AFFAIRS

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

FOR THE DIVISION:

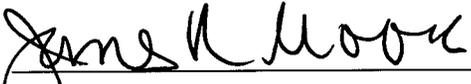
JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By:  _____ Dated: 3/24, 2016
David M. Reap
Deputy Attorney General
Consumer Fraud Prosecution Section

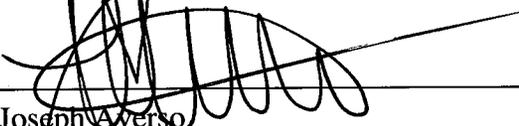
124 Halsey Street – 5th Floor
Newark, New Jersey 07101

FOR THE RESPONDENT:

NJ EXOTIC PETS LIMITED LIABILITY COMPANY

By:  _____ Dated: 3/18/16, 2016
James R. Moore
Registered Agent

17 Byram Bay Road
Hopatcong, New Jersey 07843

By:  _____ Dated: 3-18, 2016
Joseph Aversio
Manager

25 Union Street
Lodi, New Jersey 07644