

STATE OF NEW YORK
DEPARTMENT OF STATE

In the Matter of a Proceeding Pursuant to Article 26
of the General Business Law and Regulations
promulgated thereunder,

CONSENT ORDER

- by-

File #2018-C-102401

Long Island's Own Home Food Service, Inc.

Respondent

1. The New York State Department of State (the "Department") is an executive agency of the State of New York charged with the regulation and enforcement of Article 26 of the General Business Law.
2. This enforcement action against Long Island's Own Home Food Service, Inc. ("Respondent") was initiated based upon a review of complaints received by the Department alleging violations of New York State General Business Law § 399-z and 19 New York Codes, Rules and Regulations (NYCRR), Part 221.
3. The Department alleges violations of New York General Business Law 399-z and 19 NYCRR Part 221.
4. The Department's staff conducted an investigation, which investigation resulted in the commencement of the above-captioned administrative action.
5. Respondent is aware of its right to be represented by an attorney.
6. By executing this Consent Order, Respondent affirmatively waives its right to a hearing in the manner provided by law, consents to the issuance and entry of this Order and agrees to be bound by the terms, provisions and conditions contained herein.
7. In executing this Consent Order, Respondent enters into this agreement to resolve a disputed matter. Respondent represents that all violations under investigation by the Department, regarding a pattern of business practices which allegedly violated the relevant sections of the General Business Law have been, or will be rectified, in accordance with the terms set forth herein
8. To resolve the Department's allegations presently under investigation, the Respondent admits liability for twenty-nine (29) violations of New York General Business Law section 399-z(5), to wit: being a telemarketer having made or caused to be made 29 unsolicited telemarketing sales calls to customers when said customer's telephone

numbers were on the national do-not-call registry, established by the Federal Trade Commission, for a period of thirty-one (31) days prior to the date each call was made.

9. For the 29 violations referenced in paragraph 8, the Department and Respondent agree to a civil penalty of \$500 per call, for a total amount of **\$14,500.00**.

10. The Respondent is aware that the Department is investigating an additional twenty-eight (28) violations of New York General Business Law section 399-z(5). The Department consents to close and discontinue the investigation into those 28 violations, with prejudice, and seek neither prosecution nor penalty, if Respondent (1) is not adjudicated to have violated any provision of New York General Business Law section 399-z(5) within the next six months, and (2) satisfies the civil penalty referenced in paragraph 9.

NOW, in consideration of the above premises, it is **ORDERED**:

1. That Respondent shall return the fully executed and notarized Consent Order such that same is received by the Department on or before **December 17, 2018**. The mailing address to send the Consent Order is: NYS Department of State, Division of Consumer Protection, Attn: Paula J. O'Brien, Division Director, One Commerce Plaza, 99 Washington Avenue, Suite 640, Albany, NY 12231.

2. That Respondent shall pay the fine in the amount of **Fourteen Thousand Five Hundred (\$14,500.00) dollars** in the **form of a certified check, or money order**, payable to "NYS Department of State," pursuant to the following payment schedule:
 - a) **Payment I: \$5,000** shall be delivered to the following address: **NYS Department of State, 99 Washington Avenue, Suite 640, Albany, NY 12231 ATTN: Paula J. O'Brien, Esq. and received on or before January 14, 2019;**

 - b) **Payment II: \$2,500** shall be delivered to the following address: **NYS Department of State, 99 Washington Avenue, Suite 640, Albany, NY 12231 ATTN: Paula J. O'Brien, Esq. and received on or before February 8, 2019;**

 - c) **Payment III: \$2,500** shall be delivered to the following address: **NYS Department of State, 99 Washington Avenue, Suite 640, Albany, NY 12231 ATTN: Paula J. O'Brien, Esq. and received on or before March 8, 2019;**

 - d) **Payment IV: \$2,500** shall be delivered to the following address: **NYS Department of State, 99 Washington Avenue, Suite 640, Albany, NY 12231 ATTN: Paula J. O'Brien, Esq. and received on or before April 8, 2019;**

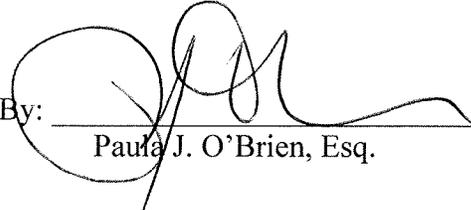
e) Payment IV: \$2,000 shall be delivered to the following address: NYS Department of State, 99 Washington Avenue, Suite 640, Albany, NY 12231 ATTN: Paula J. O'Brien, Esq. and received on or before May 8, 2019;

3. That the Consent Order herein expressly depends upon representations made by Respondent both oral or written, formal or informal which relate to the subject matter of the Consent Order and that such representations have fully, accurately and truthfully disclosed all relevant facts to the Department. If any such representation is determined to be limited, inaccurate or untruthful, the Department shall not be bound by the terms herein and shall initiate any action it deems appropriate in the administrative, civil or criminal prosecution of Respondent.
4. The effective date of this Order shall be the date on which the Secretary of State or her designee signs the same. The Department will provide Respondent with a fully executed copy of this Order as soon as practicable after the Secretary of State signs the same.
5. The failure of Respondent to comply fully and in timely fashion with any provision of this Order shall constitute a default and a failure to perform an obligation under this Order. Such default shall result in a referral to the Office of Attorney General for collection of the civil penalty, in full, pursuant to NY Executive Law § 63. Respondent hereby acknowledges the fine owed under this agreement, accepts the same as valid and waives the right to contest the same. Specifically, the civil penalty is owed by reason of Respondent's violations of, *inter alia*, Section 399-z of the GBL and/or the regulations promulgated thereunder as further indicated in para. 8 above.
6. This Order constitutes the entire agreement of the parties and no provision of the agreement shall be deemed waived or otherwise modified except as is specifically set forth in a writing executed by the Secretary of State or her designee indicating an intent to modify this Order.
7. Nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting (1) any legal, administrative or equitable rights or claims, actions, suits, causes of action or demand whatsoever that the Department may have against anyone, other than Respondent, its parents, subsidiaries or affiliates; (2) any right of the Department to enforce administratively or at law or in equity, the terms, provisions and conditions of this Order; or (3) any right of the Department to bring any future action, either administrative or judicial, for any future violations of the applicable laws, the implementing regulations or conditions contained in orders if any, issued by the Department to Respondent.
8. By entering into this Order, the Department expressly waives and releases Respondent from all claims or liability arising out of the allegations at issue in File # 2018-C-102401, and any and all complaints based on telephone calls that were made or allegedly made, or

other facts that occurred or allegedly occurred, prior to the date of this Order, subject to the provisions contained in paragraph 10 above.

Dated: 12/17/2018
Albany, New York

NEW YORK STATE
DEPARTMENT OF STATE

By: 
Paula J. O'Brien, Esq.

CONSENT OF LONG ISLAND'S OWN HOME FOOD SERVICE, INC.

Charles Weinstein, individually and on behalf of Long Island's Own Home Food Service, Inc., hereby consents to the issuing and entering of this Order, affirms that he is an officer of Long Islands Own and is authorized to enter into this consent order on its behalf, waives the right to a hearing and agrees to be bound by the terms and conditions herein.


Charles Weinstein
President

STATE OF NEW YORK)
)
COUNTY OF Suffolk) ss.:

On this 14 day of Dec in the year 2018 before me, the undersigned, personally appeared Charles Weinstein, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public



LAURAN MARGARET D'AGOSTINO
Notary Public, State of New York
No. 01DA9057853
Qualified in Suffolk County
Commission Expires April 30, 2019

