

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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**STATE OF IOWA** *ex rel.*  
THOMAS J. MILLER,  
ATTORNEY GENERAL OF IOWA,

Plaintiff,

v.

**OSMOSIS, LLC;**  
**HARMONIZED WATER, LLC.; and**  
**BENJAMIN TAYLOR JOHNSON,**

Defendants.

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**EQUITY No. EQCE081282**

**CONSENT ORDER**

The Court, having been presented by Assistant Attorney General Steve St. Clair with this Consent Order, finds and orders as follows:

1. This Consent Order, which has been approved by all Defendants and their attorneys, is intended to resolve this litigation pursuant to Iowa Code § 714.16, the Iowa Consumer Fraud Act (CFA), and Iowa Code § 714.16A, the Older Iowans Act (OIA). For purposes of entry of this Consent Order, all of the above-captioned Defendants agree that any and all service or notice requirements relating to this Consent Order may be fully met through such electronic distribution as currently occurs through operation of the EDMS system.

2. The Court has jurisdiction of the parties and subject matter.

3. Defendants deny that they, or (as applicable) their or its agents, owners, officers, directors, or employees are legally responsible for any conduct in violation of the CFA or OIA, and this Consent Order is not an admission of liability by those individuals or entities.

4. Plaintiff acknowledges that, although Defendant Johnson is no longer licensed to practice medicine in Colorado, the site of his home and his businesses, Defendant Johnson is licensed to practice medicine in California.

5. Plaintiff acknowledges that Defendants, without admitting that previous marketing involved any lack of compliance, have made, or are in the process of making, marketing changes in response to this lawsuit intended to effect or ensure compliance with paragraphs (A) and (B) below. The Attorney General is aware of at least some changes Defendants intend to make, including those described generally in subparagraphs a through c immediately below, but does not take any position currently as to whether any such changes effect adequate compliance:

- a) Descriptions of the benefits provided by various harmonized water products will be modified on the Osmosis website, on bottles, and in other marketing.
- b) The names of various harmonized water products will be changed.
- c) Webpage, bottles, and advertisements for Harmonized Water (“HW”) products will include appropriate disclaimers to ensure consumers are adequately informed that such products do not replace treatment for medical conditions, and that a consumer with such a condition should consult his or her physician.

6. The Court finds that this Consent Order should be entered.

**IT IS THEREFORE ORDERED**, pursuant to Iowa R. Civ. P. 1.1501 *et seq.*, the CFA and the OIA, that Defendants, and (as applicable) their directors, officers, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, parent or controlling entities (hereinafter “Defendants *et al.*”), and all other persons, corporations and other entities acting in concert or participating with one or more Defendants who have actual or constructive notice of the Court’s injunction, are permanently restrained and enjoined from violating the CFA, and, without limiting the foregoing: (A) Defendants shall not directly or indirectly in connection with the advertising or sale of any HW product make any representation, expressly or by implication, about the medical efficacy or health-related benefits of the product unless competent and reliable scientific evidence substantiates the representation at the time it is made. “Competent and reliable scientific evidence” shall mean tests, analyses,

research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results; and (B) Defendants shall ensure that its use of testimonials or endorsements, including social media, complies with the Federal Trade Commission's Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR Part 255.

**IT IS FURTHER ORDERED** that, unless proper concern for public health or safety requires otherwise, if the Attorney General believes a violation of this Consent Order has occurred and wishes to bring an enforcement action based on the violation, the Attorney General shall first notify Defendants and provide Defendants sixty (60) days within which to address the Attorney General's concerns and obviate the enforcement action.

**IT IS FURTHER ORDERED** that, in any successful action by the Attorney General to enforce this Consent Order, in addition to any other available remedies the Attorney General may recover any and all investigative and other costs, including attorney fees, that were incurred in connection with the above-captioned matter, to the extent (and in the amount) that such costs and fees exceed the payment by Defendants required by the terms of this Consent Order.

**IT IS FURTHER ORDERED** that, in recognition of the fact that a preliminary injunction currently prohibits Defendants from marketing harmonized water products in Iowa during the pendency of the litigation, and the fact that, but for this Consent Order, litigation was expected to continue to and through the five-day trial scheduled for March 19, 2018, Defendants have agreed to refrain from marketing, selling, and/or otherwise distributing harmonized water products to Iowans as enjoined by this Court's Order On Plaintiff's Motion For Preliminary Injunction, through March 24, 2018, and are hereby ordered to do so.

**IT IS FURTHER ORDERED** that Defendants pay within ten (10) days of entry of this Consent Order, the aggregate total of \$70,000.00 to the Attorney General. Of that total payment, \$20,000.00 is to be applied by the Attorney General's office in its discretion to making full or partial payments to Iowa consumers of amounts spent for HW products, with the proviso that, to the extent any of this sum remains after reasonable efforts to effect refunds, the money that is not paid to consumers shall be deposited into the consumer education and litigation fund created by Iowa Code § 714.16C; and the remaining \$50,000.00 of which is to be deposited in the above-referenced fund. No part of the total payment shall be deemed a penalty of any kind.

**IT IS FURTHER ORDERED** that nothing herein diminishes the requirements, duties, obligations, or powers set forth in the Consumer Fraud Act.

**IT IS FURTHER ORDERED** that Defendants cooperate with reasonable requests from the Office of the Iowa Attorney General for information relating to the conduct that gave rise to this Consent Order, and/or relating to Defendants' compliance with this Consent Order, and that the Attorney General cooperate with reasonable requests from Defendants for information regarding refunds made by the Attorney General to consumers, in order to avoid duplication.

**IT IS FURTHER ORDERED** that the Attorney General's execution of this Consent Order and its subsequent entry by the Court constitutes a release of Defendants *et al.* from any and all liability for conduct that (i) occurred prior to entry of this Consent Order; and (ii) would violate injunctive provisions (A) and/or (B) above if such conduct had occurred after entry of the Consent Order.

**IT IS FURTHER ORDERED** that the Court retain jurisdiction to enforce this Consent Order.

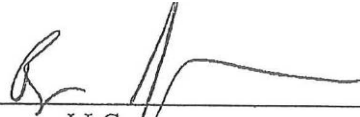
**IT IS FURTHER ORDERED** that the Defendants pay court costs, if any.

**SO ORDERED.**

Approved:

DEFENDANTS:

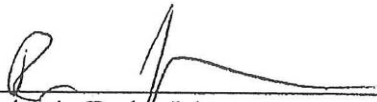
Date: 10/16/17

  
Osmosis, LLC *manager*

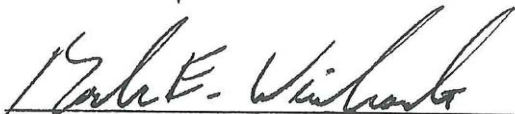
Date: 10/16/17

  
Harmonized Water, LLC *president*


Date: 10/16/17

  
Benjamin Taylor Johnson

Date: 10/16/17


  
Mark E. Weinhardt  
Attorney for Defendants

Date: 10/16/2017

  
Todd M. Lantz  
Attorney for Defendants

PLAINTIFF:

Date: 10/23/17

  
Steve St. Clair  
Assistant Attorney General



State of Iowa Courts

**Type:** ORDER FOR CONSENT DECREE

**Case Number**      **Case Title**  
EQCE081282      STATE OF IOWA EX REL MILLER VS OSMOSIS LLC ET AL

So Ordered

A handwritten signature in cursive script that reads "Scott D. Rosenberg". The signature is written in black ink and is positioned above a horizontal line.

**Scott D. Rosenberg, District Court Judge,  
Fifth Judicial District of Iowa**