

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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

Plaintiff,

v.

HOBO K9 RESCUE, an Iowa non-profit corporation; **RESCUE PETS IOWA CORP.**, an Iowa non-profit corporation; **J.A.K.'S PUPPIES, INC.**, an Iowa for-profit corporation; **JOLYN D. NOETHE**, **KIMBERLY K. DOLPHIN**, and **RUSSELL KIRK**,

Defendants.

EQUITY NO. EQCE084294

CONSENT JUDGMENT

The Court, having been presented by Assistant Attorneys General J. Andrew Cederdahl and William R. Pearson with this Consent Judgment, finds and orders as follows:

PARTIES

1. Defendant Hobo K9 Rescue is an Iowa non-profit corporation with a home office address at 26 Main Ave. S., Britt, Iowa 50423.
2. Defendant Rescue Pets Iowa Corporation was an Iowa non-profit corporation (prior to its voluntary dissolution) with a principal office address at 1617 S. Milner, Ottumwa, Iowa 52501.
3. Defendant J.A.K.'s Puppies, Inc. is an Iowa for-profit corporation with a home office address at 2685 Grant Ave., Britt, Iowa 50423.
4. Defendant Jolyn Danielle Noethe is President of Defendant Hobo K9 Rescue, as well as Co-President, Secretary and Director of Defendant JAK's Puppies, Inc. She resides at 2366 Lake Cir., Britt, Iowa 50423.
5. Defendant Kimberly Kay Dolphin is Treasurer of Defendant Hobo K9 Rescue, as well as

Co-President, Secretary and Director of Defendant JAK's Puppies, Inc. She resides at 605 S 6th St., Forest City, Iowa 50436-2027.

6. Defendant Russell Andrew Kirk was President, Secretary, Treasurer and Director of Defendant Rescue Pets Iowa Corporation. He resides at 1617 S. Milner, Ottumwa, Iowa 52501.

7. The term "Defendants" herein means Jolyn Danielle Noethe, in her personal and corporate capacities, Kimberly Kay Dolphin, in her personal and corporate capacities, J.A.K.'s Puppies, Inc., and Russell Andrew Kirk, in his personal and corporate capacities.

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

ALLEGATIONS

9. The Attorney General alleges, as summarized within the State's March 18, 2019 Petition in Equity in greater detail, the Defendants' activities violated the Iowa Consumer Fraud Act, Iowa Code § 714.16 ("CFA") and constituted continued abuse of authority conferred upon Iowa non-profit corporations that justifies dissolution of the non-profits under the Revised Iowa Nonprofit Corporation Act, Iowa Code § 504.1431(1)(a)(1)-(2) ("RINCA").

10. The Defendants deny the Attorney General's allegations and deny they, or (as applicable) their agents, owners, officers, directors, or employees are legally responsible for any conduct in violation of the CFA and the RINCA. This Consent Judgment is not an admission of liability by the Defendants.

11. This Consent Judgment, which has been approved by all parties, is intended to resolve this litigation pursuant to the CFA and the RINCA. For purposes of entry of this Consent Judgment, the above-captioned Defendants agree that any and all service or notice requirements relating to this Consent Judgment may be fully met upon the Plaintiff's emailing of a file-stamped copy of this document to attorney Collin Davison.

12. The Court finds that this Consent Judgment should be entered.

RESOLUTION

I. PERMANENT DISSOLUTION OF THE NON-PROFIT DEFENDANTS

IT IS THEREFORE ORDERED pursuant to Iowa R. Civ. P. 1.1501 *et seq.*, the CFA and the RINCA, that the Defendant Iowa non-profit corporation Hobo K9 Rescue is hereby permanently **DISSOLVED**.

IT IS FURTHER ORDERED pursuant to Iowa R. Civ. P. 1.1501 *et seq.*, the CFA and the RINCA, that the Defendant Iowa non-profit corporation Rescue Pets Iowa Corporation shall remain permanently **DISSOLVED**.

IT IS FURTHER ORDERED pursuant to Iowa R. Civ. P. 1.1501 *et seq.*, the CFA and the RINCA, that the Defendants, as well as the Defendants' employees, successors, principals, partners, affiliates, members, agents, representatives, subsidiaries, assigns, parent or controlling entities, and all other persons, corporations, agents, trusts or other entities acting in concert or participating with the Defendants who have actual or constructive knowledge of this Consent Judgment, are permanently enjoined from re-organizing Hobo K9 Rescue and Rescue Pets Iowa Corporation. This Court's permanent injunction is entered against the Defendants pursuant to the authority of RINCA and Iowa Code § 714.16 (7), which provides that the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a permanent injunction on the motion of the Attorney General or upon the court's own motion.

IT IS FURTHER ORDERED that the clerk of court shall provide notices of the court-ordered dissolution of the Defendant non-profit corporations Hobo K9 Rescue and Rescue Pets Iowa Corporation to the Iowa Secretary of State.

II. INJUNCTIVE RELIEF – PERMANENT CESSATION OF PROHIBITED ACTIVITIES

IT IS FURTHER ORDERED that, pursuant to Iowa R. Civ. P. 1.1501 *et seq.*, the CFA and RINCA, that the Defendants, as well as the Defendants’ employees, successors, principals, partners, affiliates, members, agents, representatives, subsidiaries, assigns, parent or controlling entities, and all other persons, corporations, agents, trusts or other entities acting in concert or participating with the Defendants who have actual or constructive knowledge of this Consent Judgment, shall refrain now and at all times in the future from the following “prohibited activity”: The transfer of dogs to another entity while having knowledge that the purpose of the transfer is to evade local or state restrictions on the sale of commercially bred dogs.

The Defendants are permitted to engage in non-prohibited activity, including transferring dogs to bona fide “rescue” non-profits for purposes of non-profit adoption and the avoidance of euthanasia.

This Court’s permanent injunction is entered against the Defendants pursuant to the authority of RINCA and Iowa Code § 714.16 (7), which provides that the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a permanent injunction on the motion of the Attorney General or its own motion.

IT IS FURTHER ORDERED that the Defendants shall not participate, directly or indirectly, in any activity to form or proceed as a separate entity, trust or corporation for the purpose of engaging in, or benefitting from, acts from within any Iowa location or directed at Iowa consumers that are prohibited by this Order, or for any other purpose which circumvents any part of this Order. This permanent injunction is entered against the Defendants pursuant to the authority of Iowa Code § 714.16 (7).

III. INJUNCTIVE RELIEF – REPORTING REQUIREMENTS

IT IS FURTHER ORDERED that the Defendants shall, for a period of three years beginning in the month in which this Order is entered, provide a quarterly reporting to the State of all animals the Defendants transfer, sell or donate from any animal-based entity owned or operated by any Defendant. The quarterly report shall provide, at minimum, the number of animals transferred from the entity, the destination of the animals (including the ultimate destination if the Defendants use intermediaries), and all specific reasons for transfers of animals to any non-profit organization. The State may request, and the Defendants shall provide, additional information reasonably ascertainable by the Defendants the State requires to ensure their complete compliance with this Order.

The State, as custodian of records receiving said reports, agrees to abide by the provisions of Iowa Code § 22 and the Iowa Administrative Code, chapter 2 of section 61. In the event the State receives a third-party request for public disclosure of said reports, and the State as custodian of records determines they are not confidential records, the State agrees to provide the Defendants notice of no less than 10 business days to seek a protective order against disclosure of information the Defendants may nonetheless deem confidential under Iowa law.

IV. INJUNCTIVE RELIEF – RESTRICTIONS UPON FUTURE NON-PROFIT ACTIVITIES

IT IS FURTHER ORDERED that the following injunctions shall apply:

- a. Defendants Jolyn D. Noethe, Kimberly K. Dolphin and Russell A. Kirk are enjoined from organizing any new non-profit corporations operating within or with Iowa residents for a period of three years.
- b. Defendants Jolyn D. Noethe, Kimberly K. Dolphin and Russell A. Kirk are enjoined from serving as an officer or director (President, Vice President, Secretary or Treasurer) of any animal non-profit corporation operating within Iowa or with Iowa residents for a period of three years.

- c. Defendants Jolyn D. Noethe, Kimberly K. Dolphin and Russell A. Kirk are enjoined from serving as board members of the same animal non-profit corporations, which operate within Iowa or with Iowa residents, for a period of three years.
- d. Defendants Jolyn D. Noethe, Kimberly K. Dolphin and Russell A. Kirk are enjoined from serving as board members of any animal non-profit operating within Iowa or with Iowa residents, for a period of one year.

The time periods for the temporary injunctions shall begin to run upon the date this Order is entered.

IT IS FURTHER ORDERED that, if any one or a combination of the individual Defendants violate the Court's temporary injunctions during the time periods in which they apply and the State upon motion to the court proves said violation(s) by a preponderance of the evidence, each applicable Defendant's temporary injunction shall convert into a permanent injunction banning his or her ability to organize any animal non-profit corporation that operates within Iowa or with Iowa residents, serve as officer of any animal non-profit corporation that operates within Iowa or with Iowa residents, and serve as board member of any animal non-profit corporation that operates within Iowa or with Iowa residents.

V. MONETARY RELIEF TO THE STATE OF IOWA

IT IS FURTHER ORDERED that, pursuant to the CFA, that the Defendants shall immediately pay \$60,000.00 to the Consumer Education and Litigation Fund referred to in Iowa Code § 714.16C as instructed by the Attorney General.

VI. OTHER PROVISIONS

IT IS FURTHER ORDERED that nothing contained in this Consent Judgment shall be construed to waive any individual right of action by a consumer or a local, state, federal or other governmental entity.

IT IS FURTHER ORDERED that nothing herein diminishes the requirements, duties,

obligations, or powers set forth in the CFA.

IT IS FURTHER ORDERED that Defendants shall notify all employees and independent contractors of J.A.K's Puppies, Inc. of the injunctive relief granted within this Order within a week of its entry.

IT IS FURTHER ORDERED that the Attorney General's execution of this Consent Judgment and its subsequent entry by the Court constitutes a settlement, and a release of the Defendants from any and all liability for conduct outlined in Allegation Paragraph 9 occurred prior to entry of this Consent Judgment; and (ii) would violate the CFA and/or RINCA; provided, the Attorney General may seek to enforce violations of this Consent Judgment.

IT IS FURTHER ORDERED that, in addition to whatever other legal remedies may be available, a violation of this Consent Judgment constitutes a violation of the Consumer Fraud Act, Iowa Code § 714.16 (CFA), and each such violation by any of the Defendants of this Consent Judgment, if established by a preponderance of the evidence in an enforcement action by the Attorney General, gives rise to all of the remedies provided in the CFA.

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

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

SO ORDERED

Approved:

Date: 3-11-20

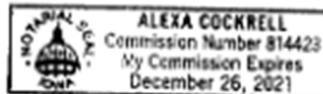
[Signature]
J.A.K.'s Puppies, Inc., Defendant

By: JOLYN NOETHE, on behalf of
J.A.K.'s Puppies, Inc.

STATE OF Iowa)
) ss:
COUNTY OF HARVECK)

Subscribed and sworn to by JOLYN NOETHE before the undersigned notary
public in and for the state of Iowa on this 11th day of March, 2020.

Alexa Cockrell
Notary Public in and for the State of Iowa



Approved:

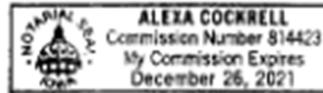
Date: 3-11-20

Jolyn Danielle Noethe, Defendant in her personal capacity

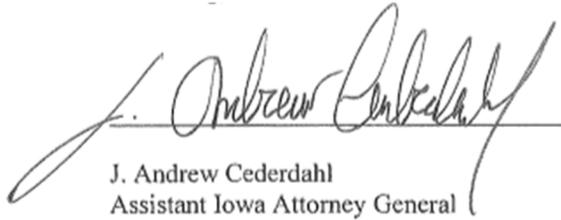
STATE OF Iowa)
) ss:
COUNTY OF Harrison)

Subscribed and sworn to by Jolyn Noethe before the undersigned notary public in and for the state of Iowa on this 11th day of March, 2020.

Notary Public in and for the State of Iowa



Approved:



J. Andrew Cederdahl
Assistant Iowa Attorney General

Date: 3/23/2020

Date: 3/23/2020

/s/ _____

William R. Pearson
Assistant Iowa Attorney General



State of Iowa Courts

Type: OTHER ORDER

Case Number **Case Title**
EQCE084294 STATE OF IOWA EX REL THOMAS J MILLER VS HOBO K9
RESCUE ET AL

So Ordered

A handwritten signature in black ink, appearing to read 'Heather Lauber'.

Heather Lauber, District Judge,
Fifth Judicial District of Iowa