

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BROOME

PAID
7/10/12

PEOPLE OF THE STATE OF NEW YORK, by
ERIC T. SCHNEIDERMAN, Attorney General of the
State of New York,

Petitioner,

**ORDER TO SHOW CAUSE
WITH A TEMPORARY
RESTRAINING ORDER**

-against-

THOMAS J. LYNCH,
D/B/A ROLLING FIRE GLASSWORKS,

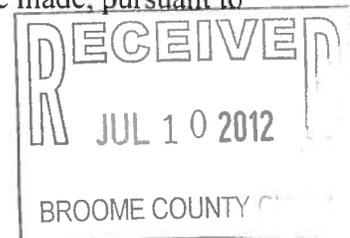
Index No. 2012-1631
RJI No. 2012-0850-M
Hon. Molly R. Fitzgerald

Respondent.

Upon reading and filing the annexed Verified Petition, verified on July 9, 2012; and the Affirmation of Michael J. Danaher, Jr., Assistant Attorney General, affirmed to on July 9, 2012; and the Affidavits of Senior Investigator Chad Shelmidine, sworn to on July 3, 2012, and Maja Lundborg-Gray, MD, FAAEM, FACEP, sworn to on July 5, 2012, and the exhibits annexed thereto, and

Upon the motion of ERIC T. SCHNEIDERMAN, Attorney General of the State of New York, attorney for the Petitioner, it is

ORDERED that the Respondents in the above-entitled action show cause at a Term of this Court, to be held at the Broome County Courthouse, located at the Court House, City of Binghamton, 13901, on the ___ day of July, 2012, at ___ o'clock in the ___ noon of that day, or as soon thereafter as counsel may be heard, why an order should not be made, pursuant to Executive Law § 63(12) and General Business Law, Article 22-A



- a. enjoining Respondent, his agents, trustees, servants, employees, successors, heirs and assigns, or any other person under his direction and control, whether acting individually or in concert with others, or through any corporate or other entity or device through which he may now or hereafter act or conduct business, from offering for sale and/or selling mislabeled drugs;
- b. enjoining Respondent from offering for sale and/or selling misbranded drugs;
- c. permanently enjoining Respondent from misleadingly offering for sale and/or selling products as designer drugs or other street drug alternatives, including but not limited to encouraging ingestion of products that are labeled or specifically designated "not for human consumption" or are labeled for a use that expressly excludes human consumption such as "for aromatherapy incense only";
- d. permanently enjoining Respondent from offering for sale and selling nitrous oxide to the public in violation of Public Health Law § 3380;
- e. enjoining Respondent from engaging in the fraudulent, deceptive and illegal practices alleged in the petition;
- f. requiring that Respondent to comply with any and all state, local and federal labeling requirements;
- g. requiring Respondent to prepare an accounting of all commodities he sold, or offered for sale, from January 1, 2012 to July 10, 2012 including the (i) name of the product, (ii) the manufacturer and/or distributor of the product, (iii) a description of the product, (iv) the retail price of the product, and (v) the number units of the product sold;
- h. pursuant to GBL § 350-d, imposing a civil penalty of \$5,000 for each deceptive act committed by Respondent;
- i. pursuant to CPLR § 8303(a)(6), granting costs to the State of New York of \$2,000; and
- j. for such other and further relief as the court deems just and proper.

IT APPEARING that a cause of action for temporary injunctive relief exists under Executive Law § 63(12), General Business Law § 349, and CPLR Sections 6301 and 6313, and that Respondent has engaged in repeated and persistent illegal, fraudulent and deceptive acts and

practices which have caused and will continue to cause immediate and irreparable injury to members of the public unless Respondent is restrained before a hearing can be held, it is

ORDERED that pending the hearing and determination of this proceeding, and to protect the public health, Respondent, his agents, employees, successors, and assigns, and any other person under their direction and control, whether acting individually or in concert with others, or through any corporate or other entity or device, are hereby temporarily restrained, pursuant to CPLR Sections 6301 and 6313 from offering for sale or selling mislabeled and/or misbranded drugs, from offering for sale and/or selling products as designer drugs or other street drug alternatives that are not approved for human consumption, and from selling nitrous oxide to the public;

SUFFICIENT CAUSE appearing to me therefore,

LET service of one copy of this order and supporting papers upon Respondent, personally or by delivering copies thereof to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of Respondent on or before the ____ day of July, 2012 be deemed good and sufficient service hereof.

Pursuant to C.P.L.R. § 403(b), answering papers, if any, are required to be served at least two days before the return date of this special proceeding. If, however, this Order to Show Cause is served at least twelve days before the return date, answering papers, if any, are required to be served at least seven days before the return date.

Dated: Binghamton, New York
July __, 2012

E N T E R
