

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF CLINTON



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Clinton, NY  
John H. Zurlo County Clerk

File **2012-00000969**

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

Petitioner,

-against-

CARLA BROTHERTON,  
d/b/a/ 20 Below and This and That,

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

Index No.: 12-0969  
RJI No.: 09-1-2012-0401  
Hon.: KEVIN K. RYAN

Upon reading and filing the annexed Verified Petition, verified on July 10, 2012; and the Affirmation of Hilary D. Rogers, Assistant Attorney General, affirmed to on July 10, 2012; and the Affidavits of Senior Investigator Chad Shelmidine, sworn to on June 2, 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 Clinton County Courthouse, located at 137 Margaret Street, City of Plattsburgh, 12901, on the 11 day of July, 2012, at 2:30 o'clock in the Afternoon 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. permanently enjoining Respondent, and her agents, trustees, servants, employees, successors, heirs and assigns, or any other person under her direction and control, whether acting individually or in concert with others, or through any corporate or

other entity or device through which she may now or hereafter act or conduct business ("Respondent"), from offering for sale and/or selling mislabeled drugs in violation of Ag. and Mkts. Law § 194;

- b. permanently enjoining Respondent from offering for sale and/or selling misbranded drugs in violation of Educ. Law §§ 6802 and 6815;
- c. permanently enjoining Respondent from misleadingly offering for sale and/or selling products as designer drugs or other street drug alternatives, including encouraging ingestion of products that are labeled or specifically designated "not for human consumption;"
- d. permanently enjoining Respondent from offering for sale and selling nitrous oxide to the public in violation of Public Health Law § 3380;
- e. permanently enjoining Respondent from engaging in the fraudulent, deceptive and illegal practices alleged in the petition in violation of GBL § 349;
- f. requiring that Respondent comply with any and all state, local or federal labeling requirements;
- g. requiring Respondent to prepare an accounting of all commodities she 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 (iv) the number of 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 Respondents have 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 Respondents are 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, Respondents, their 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;

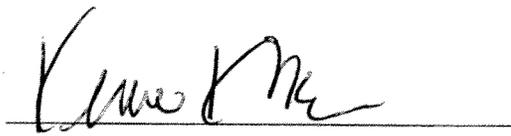
SUFFICIENT CAUSE appearing to me therefore,

LET service of one copy of this order and supporting papers on Respondents on or before the 11<sup>th</sup> day of July, 2012 be deemed due 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: Plattsburgh, New York  
July 10, 2012

ENTER



STATE OF NEW YORK S.S.  
CLINTON COUNTY CLERK'S OFFICE

I do hereby certify that I have compared the forgoing copy with the original thereof and that the same is a true copy of said original

Filed Recorded in this Office on JUL 10 2012

 Clerk

Dated JUL 10 2012