

**CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS**

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

CIRCUS FRUITS, INC.

Respondents.

**CONSENT ORDER**

**LL 5303889**

**WH 5303888**

Circus Fruits, Inc. ("Respondent") hereby consents to entry of this Consent Order to settle the above-captioned violations with the NYC Department of Consumer Affairs ("DCA" or "the Department") and agrees as follows:

**Acknowledgment of Service**

1. Respondent acknowledges receiving notice of the above-captioned violation charging the Respondent with violating New York City Administrative Code ("the Code") §§ 20-237(a), 20-101 and Title 6 of the Rules of the City of New York §§ 2-70.2(a), 1-03, and 6-42(c).

**Injunctive Relief**

2. Respondent shall not violate any provision of the laws, regulations, and rules applicable to the operation of stoopline stands in the City of New York.
3. Respondent represents and warrants that its stoopline stands currently conform to the size requirements under §20-237 of the Code and agrees that its stands shall not exceed the maximum dimensions allowed by law.
4. Prior to execution of this agreement, Respondent shall provide the Department with photographs demonstrating Respondent's compliance with Code §20-237 and an affidavit from one of Respondent's officers or owners affirming that the dimensions of the stoopline stands comply with the requirements of Code §20-237.

### **Fines**

5. Respondent shall pay a fine of \$80,000.00 according to the attached payment schedule.

### **Future Compliance**

6. Every 3 months, for a period of 24 months, Respondent shall submit photographs and an affidavit, as described in paragraph 4, to the Department, demonstrating Respondent's compliance with Code §20-237.

### **Suspension and Consequences of Breach**

7. Since 2006, the Respondent has entered into 3 separate settlement agreements that each imposed a suspension of the Respondent's stoopline stand license. The agreements imposed a combined 75 day suspension (LL005113257- 30, LL005154794- 30, and LL005186058- 15) of the Respondent's license. The Respondent never surrendered its license to begin any of the 3 suspensions and never ceased operating its stoopline stands.
8. On October 4, 2011, Respondent entered into a settlement agreement for violation PL 1067801. As part of that agreement, the Department agreed to hold the 75 day suspension, cited in paragraph 7, in abeyance so long as the Respondent was not found guilty at hearing, nor pleaded guilty to a violation of §20-233 or §20-237 within 2 years from the execution of the agreement. The agreement also called for an additional 45 day suspension of the license if the Respondent was found guilty at hearing or pleaded guilty to a violation of §20-233 or §20-237 within 5 years from the execution of the agreement.
9. The Respondent now agrees that if it is found guilty, or pleads guilty to a violation of Code §20-237 within 3 years from the date of the execution of this agreement, the Respondent agrees that the 75 day suspension currently held in abeyance shall be reinstated, and there shall be an additional suspension of a minimum of 105 days.
10. Any of the following shall be a basis for automatic revocation if found guilty, after notice and hearing, of license(s) issued to Respondent by the Department:
  - a. Respondent fails to pay any restitution or fine ordered by the Department's administrative tribunal; or
  - b. Respondent fails to pay any consumer restitution awarded by any other court of competent jurisdiction within thirty days of Respondent's receipt of the decision of such court.

**Waiver of Appeals**

11. Respondent waive Respondent's right to a hearing on, appeal of and/or any challenge of, in any forum, the facts alleged by the above-referenced violations under Sections 20-104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806.

**Miscellaneous**

12. Nothing in this agreement shall be construed to limit in any way the authority of the Department to exercise its enforcement powers under Chapter 1, Title 20 or under Chapter 2, Title 20 of the Code.

Agreed to by:

Accepted for Jonathan Mintz,  
Commissioner of Consumer Affairs for  
the City of New York: [REDACTED]

*Kathleen E.N. Stathopoulos, Esq.*  
Signature

*2/26/13*  
Date

[REDACTED]  
Signature  
*2/26/2013*  
Date