SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

JONATHAN MINTZ, Commissioner of the Department of Consumer Affairs of the City of New York, and the CITY OF NEW YORK,

Plaintiffs,

-against-

NEW YORK HEALTH CLUB, INC. d/b/a NEW YORK HEALTH & RACQUET CLUB,

Defendant.

----------X

Stipulation

Index No. 401965/12

Plaintiffs Jonathan Mintz, Commissioner of the New York City Department of Consumer Affairs ("DCA") and the City of New York (collectively "Plaintiffs") and Defendant New York Health Club, Inc. ("NYHRC" or "Defendant") executed a First Amended Consent Judgment (FACJ), which was so-ordered by Judge Tingling of the Supreme Court of the State of New York on October 16, 2012. Plaintiffs and Defendant agree and stipulate as follows:

1. Plaintiffs sent a copy of the so-ordered FACJ to Defendant, via electronic mail, on November 30, 2012.
2. The "Effective Date" of the FACJ shall mean the date the Plaintiffs sent a copy of the so-ordered FACJ to Defendant.
3. Defendant asserts that, as a result of the effects of Hurricane Sandy, the telephone number designated by Defendant in the FACJ for Affected Consumers to call to redeem the offer of three free months of membership (212-220-0654) can no longer be designated for this purpose. Accordingly, the FACJ is amended as follows:

a. Paragraph 17 shall state: Affected Consumers may redeem this offer by contacting NYHRC via electronic mail at Redeem@NYHRC.com and providing their names, addresses, and dates of birth. No further steps shall be required for Affected Consumers to take advantage of the offer.

b. The third paragraph of the letter attached to the FACJ as Exhibit C ("Membership Offer Letter") shall state: Please contact NYHRC via electronic mail at Redeem@NYHRC.com with any questions about and/or to obtain confirmation of the membership you are eligible to receive. You may take advantage of this offer at any time – there is no deadline by which you must reply. To activate this free, non-transferable three-month membership, just email NYHRC Customer Service at Redeem@NYHRC.com and provide your name, address, and date of birth as on file with NYHRC.

c. Paragraph 16 shall state: Within fifteen (15) days of the date of this Stipulation, Defendant shall send the amended letter attached as Exhibit C ("Membership Offer Letter") to Affected Consumers.

4. The following sections of the FACJ are renumbered as follows:

   a. VII. MONETARY RELIEF

   b. VIII. RELEASE

   c. IX. MISCELLANEOUS PROVISIONS

Plaintiffs and Defendant agree that this Stipulation shall be considered and treated in all respects and for all purposes as an order of the Supreme Court of the State of New York. Defendant agrees that it will not raise as a defense in any proceeding brought

by Plaintiffs alleging that Defendants have not complied with the FACJ as amended by this Stipulation that this Stipulation was not endorsed by the Court as an order.

Jonathan Mintz
Commissioner of the
New York City
Department of Consumer Affairs

By: [redacted]

Associate Commissioner
New York City Department of
Consumer Affairs
42 Broadway, 8 Floor
New York, NY 10004
(212) 487-7157

NEW YORK HEALTH CLUB, INC.

By: _____

Richard B. Newman
Hinch Newman LLP
488 Madison Ave., Ste 1100
New York, NY 10022
(212) 486-9494

RECEIVED
COUNSEL
DEPT. OF CONSUMER AFFAIRS
2019 DEC 19 PM 4:07

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: Milton A. Tingling
Justice

PART 44

Mintz
-v-
NYS Health Club

INDEX NO. 401965/12

MOTION DATE

MOTION SEQ. NO. 1

The following papers, numbered 1 to ____, were read on this motion to/for ____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits ____ | No(s). ____

Answering Affidavits — Exhibits ____ | No(s). ____

Replying Affidavits ____ | No(s). ____

Upon the foregoing papers, it is ordered that this motion is granted

Order Signed

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING REASON(S):

RECEIVED
OCT 12 2012
MOTION SUPPORT OFFICE
NYS SUPREME COURT - CIVIL

FILED
OCT 16 2012
NEW YORK
COUNTY CLERK'S OFFICE

Dated: 9/17/12

____, J.S.C.

1. CHECK ONE: ..... ☑ CASE DISPOSED ☐ NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: .....MOTION IS: ☑ GRANTED ☐ DENIED ☐ GRANTED IN PART ☐ OTHER
3. CHECK IF APPROPRIATE: ..... ☐ SETTLE ORDER ☐ SUBMIT ORDER
☐ DO NOT POST ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

JONATHAN MINTZ, Commissioner of the Department of Consumer Affairs of the City of New York, and the CITY OF NEW YORK,

Plaintiffs,

-against-

NEW YORK HEALTH CLUB, INC. d/b/a NEW YORK HEALTH & RACQUET CLUB,

Defendant.

Affirmation

Index No. 1240196S

----------X

JENNIFER HUBER, an attorney admitted to practice before the courts of the State of New York, affirms the following to be true pursuant to Rule 2106 of the Civil Practice Law and Rules ("CPLR"):

1. Plaintiff the New York City Department of Consumer Affairs (the "Department") served New York Health & Racquet Club ("Defendant") with a Notice of Violation ("NOV") on May 30, 2008. The NOV charged Defendant with violating New York City Administrative Code (the "Code") Sections 20-700 et seq. and Rules of the City of New York Section 5-06.
2. The parties reached an agreement to resolve the Plaintiffs' allegations against Defendant which was so-ordered by the Court on January 13, 2010, Index No. 403147/2009, and which is attached to the annexed First Amendment to the Consent Judgment as Exhibit A.
3. The Department thereafter notified Defendant that the Department alleged Defendant had violated the Consent Judgment. The parties reached a subsequent agreement to resolve the Plaintiffs' allegations against Defendant, set forth in the annexed First Amendment to

the Consent Judgment.

4. Section 20-704 of the Code requires that all settlement agreements be approved by the Court where such settlements include a stipulation that applies to consumers who have not yet filed complaints with the Department.

5. The annexed First Amendment to the Consent Judgment includes a stipulation for the provision of three months of free membership to affected consumers who number 87. The above-referenced consumers have not filed complaints with the Department.

6. The parties have agreed that this First Amendment to the Consent Judgment shall be submitted to the Court to be "so ordered" by a Justice of the Supreme Court of the State of New York.

7. The Department therefore submits the annexed First Amendment to the Consent Judgment to the Court.

NO PREVIOUS APPLICATION HAS BEEN MADE FOR THE RELIEF REQUESTED HEREIN.

(INITIAL)

Date: New York, New York
August 31, 2012

[redacted]

Staff Attorney
Department of Consumer Affairs

SP

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

JONATHAN MINTZ, Commissioner of the Department of Consumer Affairs of the City of New York, and the CITY OF NEW YORK,

Plaintiffs,

-against-

NEW YORK HEALTH CLUB, INC. d/b/a NEW YORK HEALTH & RACQUET CLUB,

Defendant.

----------X

Ex Parte

At ~~the Ex-Parte Motion Office~~ at the Supreme Court of the State of New York, held in and for the County of New York, at the County Court House, on the _____ day of _____, 20 12

Present:

Hon. _____
Justice

First Amendment to Consent Judgment

Index No. 401965/12

FILED
OCT 16 2012
NEW YORK
COUNTY CLERK'S OFFICE

WHEREAS, Plaintiffs Jonathan Mintz, Commissioner of the New York City Department of Consumer Affairs ("DCA") and the City of New York (collectively "Plaintiffs") have alleged that Defendant New York Health Club, Inc. ("NYHRC" or "Defendant") has violated the Consent Judgment ("Consent Judgment") so-ordered by the Court on January 13, 2010, attached hereto as Exhibit A and incorporated into and made part of this First Amendment to the Consent Judgment ("FACJ") by reference as if fully set forth herein, as well as the Consumer Protection Law of 1969 ("the Consumer Protection Law" or "CPL"), Title 20, Chapter 5, Subchapter 1 of the Administrative Code of the City of New York ("the Administrative Code") and Title 6 of the Rules of the City of New York ("the Rules"). Plaintiffs allege, *inter alia*, that NYHRC's advertisements during the period from October 1, 2010 through November 10, 2010 failed to disclose clearly and conspicuously material exclusions, reservations, limitations, modifications or conditions on the promoted free offers.

WHEREAS, Defendant expressly denies the allegations asserted by DCA and specifically disagrees, *inter alia*, that: (1) it has, in any way, violated the Consent Judgment, the

CPL, the Administrative Code, or the Rules; (2) the advertisements during the period from October 1, 2010 through November 10, 2010 failed to disclose clearly and conspicuously material exclusions, reservations, limitations, modifications or conditions on the promoted free offers; and/or (3) it has, in any way, engaged in conduct that could reasonably be construed as intentional or misleading as to any material fact regarding NYRHC membership or related privileges.

WHEREAS, Plaintiffs and Defendant have mutually agreed upon a basis for the settlement of the matters alleged by the Plaintiffs, and to the entry of this FACJ against Defendant without the need for trial or adjudication of any issue of law or fact;

WHEREAS, Plaintiffs and Defendant have mutually agreed that this FACJ does not constitute any evidence or an admission regarding the existence or non-existence of any issue, fact or violation of any Rule or Law alleged by Plaintiffs; and

WHEREAS, the Parties do hereby consent to the entry of this FACJ;

THEREFORE, it is hereby ORDERED as follows:

I. JURISDICTION

1. This Court has jurisdiction of the subject matter of this action and of each of the Parties.

II. DEFINITIONS

For purposes of this FACJ, the following terms shall have the following meanings:

2. "Affected Consumers" shall mean those 87 consumers who purchased one-year memberships with a NYHRC facility located in New York City from October 1, 2010 through November 10, 2010, but who did not take advantage of the "Buy One Year Get One Year Free"

offer available during that period. A list of these consumers and facilities at which they enrolled is attached hereto as Exhibit B.

3. "Effective Date" shall mean the date this FACJ is "So Ordered" by the Court.

4. "Condition on a free offer," for the purposes of this FACJ, shall mean any requirements that the consumer must fulfill in order to take advantage of the free offer. For the purposes of this FACJ, terms which merely explain a basis of comparison shall not be considered a "condition on a free offer."

5. "NYHRC" shall refer to NYHRC and its officers, agents, employees, representatives, successors, assigns and all other persons acting on their behalf, directly, or indirectly, or through any corporate or other entity.

6. "Parties" shall refer to DCA, the City of New York and NYHRC. Each, individually, may be referred to herein as a "Party."

7. "Relevant Membership Period" shall mean a one-year NYHRC membership, or membership renewal, that commenced between October 1, 2010 and November 10, 2010.

8. "Sales Representative" shall mean any person who, through direct employment relationship, independent contract or otherwise, has been made responsible by NYHRC for selling or disseminating information about NYHRC's services to consumers.

9. "Matters addressed in this judgment" shall mean all advertising for NYHRC services through the Effective Date.

III. INJUNCTIVE RELIEF

10. The following provisions are in addition to the injunctive relief ordered in the January 13, 2010 Consent Judgment, attached hereto as Exhibit A.

11. NYHRC shall not publish NYC advertisements that have the capacity, tendency or effect of leading consumers to believe that they can obtain an identified item or service for free unless that item or service is in fact free. An offer for a service or item is not "free" if it in fact requires the consumer to pay additional fee or fees to take advantage of the offer.

12. Placement of disclosures of conditions on free offers shall be determined by the placement of the word "free." For example:

a. Where the most prominent use of the word "free" appears at or near the top of the advertisement, disclosures on the word "free" should likewise appear at the top of the advertisement;

b. Where the most prominent use of the word "free" appears at or near the bottom of the advertisement, disclosures on the word "free" should likewise appear at the bottom of the advertisement;

c. The placement of a disclosure next to the word "free" where it is directly above or below or to the right or to the left of the word "free" shall be deemed compliant with this paragraph.

13. Disclosures of conditions on a free offer shall be clear and conspicuous. An asterisk or other symbol near the word "free," which refers the customer to a footnote containing conditions, is insufficient.

14. Where a free offer is advertised by means of postcards or other two-sided advertisements, conditions on a free offer must be disclosed on every side that includes the term "free" or similar term indicating that the item or service is offered at no fee, according to the standards articulated in paragraphs 11 through 13.

IV. CONSUMER MEMBERSHIP OFFER

15. NYHRC shall offer three (3) free months of membership to Affected Consumers. These three (3) free months of membership may be exercised by the Affected Consumers at any time. This offer shall not expire.

16. Within fifteen (15) days of the Effective Date, NYHRC shall send the letter attached as Exhibit C ("Membership Offer Letter") to Affected Consumers.

17. Affected Consumers may redeem this offer by calling NYHRC Customer Service at (212) 220-0654 and providing their names, addresses, and dates of birth. No further steps shall be required for Affected Consumers to take advantage of the offer.

18. NYHRC shall make a good-faith effort to locate Affected Consumers for whom any Membership Offer Letters are returned. If NYHRC is unable to locate such Affected Consumers, NYHRC shall advise DCA in writing as set forth in Section VI of this FACJ.

V. POLICIES, PROCEDURES AND TRAINING

19. NYHRC shall provide a copy of this FACJ to all NYHRC executives, officers, and club directors. NYHRC shall also include this FACJ in manuals and policies pertaining to NYHRC's NYC advertisements.

20. Within thirty (30) days of the Effective Date, NYHRC shall develop and implement a written policies and procedures manual consistent with the terms of this FACJ.

21. NYHRC shall train all Sales Representatives using the new written policies and procedures manual within fifteen (15) days of its development. Sales Representatives hired after the date of such training(s) shall be provided with training within fifteen (15) days of their start dates. NYHRC shall maintain attendance sheets for all Sales Representative trainings.

VI. COMPLIANCE

22. The following provisions are in addition to the Compliance provisions set forth in the January 13, 2010 Consent Judgment.

23. Within thirty (30) days of the Effective Date, NYHRC's Compliance Officer shall prepare and send to DCA an affidavit confirming that the Membership Offer Letters were sent to Affected Consumers pursuant to Section IV above.

V. MONETARY RELIEF

24. NYHRC shall pay DCA the total sum of $75,000, which shall be due and payable on or before August 30, 2012, or within fourteen (14) days of the Effective Date, whichever is later. Checks shall be made payable to "New York City Department of Consumer Affairs," c/o New York City Department of Consumer Affairs, ATTN: Jennifer Huber, Esq., 42 Broadway, 9th Floor, New York, NY 10004, and are due on the following dates and in the following amounts:

VI. RELEASE

25. In consideration of the injunctive relief, payments, undertakings and acknowledgements provided for in this Judgment, DCA finally and irrevocably agrees to release NYHRC and its subsidiaries, affiliates, successors and the officers, directors, agents, employees, insurers and assigns of each with prejudice, from any and all civil or consumer-related administrative claims that arise from any and all violations or alleged violations of the Administrative Code of the City of New York, including, but not limited to, the Consumer Protection Law, and the Rules promulgated thereunder, including, but not limited to, Rules Sections 5-06 and 5-09, with respect to any and all matters addressed in this Judgment which occurred or may have accrued up to the Effective Date.

VII. MISCELLANEOUS PROVISIONS

26. The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this FACJ.

27. The Parties may execute this FACJ in counterparts, and the execution of counterparts shall have the same effect as if the Parties had signed the same instrument. Facsimile signatures shall be considered as valid signatures as of the date of the FACJ, but the original signature pages shall be subsequently appended to the FACJ and filed with the Court.

28. This FACJ contains the entire, complete and fully integrated statement of each and every term and provision agreed to by the Parties, shall supersede all other prior agreements between the Parties regarding the matters set forth herein, and is not subject to any condition not provided for in this FACJ. The FACJ shall not be modified in any material respect except in writing signed and executed by all the Parties to this FACJ and adopted by the Court. In entering this FACJ, neither of the Parties has made or relied upon any warranty or representation not specifically set forth in this document.

29. Except as provided in this FACJ, the Supreme Court of the State of New York, County of New York, shall have exclusive jurisdiction over all provisions of this FACJ and over any and all disputes of any kind relating in any way to, or arising in any way out of, this FACJ. The Court shall retain jurisdiction over this matter for the purpose of effectuating such relief as it deems necessary to carry out and effectuate the terms thereto.

30. The acceptance of the FACJ by DCA shall not be deemed approval by DCA of any of NYHRC's business practices and NYHRC shall make no representation to the contrary.

31. Counsel for the Parties have reviewed and revised the FACJ, and any rule of construction, by which any ambiguities are to be resolved against the drafting party, shall not be applied in the interpretation of the FACJ.

32. If a court of competent jurisdiction declares any provision of the FACJ invalid or determines that any of the provisions encompassed by the FACJ are unconstitutional, then any such provisions so affected will become void, but the remainder of the FACJ shall remain in place.

33. Nothing herein shall be construed to limit the authority of DCA to exercise its enforcement powers except with regard to claims arising during the period between January 13, 2010 and the Effective Date.

34. Execution of this FACJ shall not act as a bar to any private right of action against NYHRC.

35. The Parties agree that this FACJ shall be submitted to the court to be "so ordered" by a Justice of the Supreme Court of the State of New York.

Jonathan Mintz
Commissioner of the
New York City
Department of Consumer Affairs

By [redacted]

Staff Counsel
New York City Department of
Consumer Affairs
42 Broadway, 9th Floor
New York, New York 10004
(212) 487-7219
Attorney for Plaintiffs

Michael A. Cardozo, Esq.
Corporation Counsel of the
City of New York

By: Gabriel Taussig

Gabriel Taussig, Esq.
Assistant Corporation Counsel
Corporation Counsel of the
City of New York
100 Church Street
New York, New York 10007
(212) 788-0813
Attorney for Plaintiffs

NEW YORK HEALTH CLUB, INC.

By: _____

Richard Newman, Esq.
Hinch Newman LLP
448 Madison Ave., Ste. 1100
New York, New York 10022
(212) 486-9494
Attorneys for Defendant

SO ORDERED: ENTER !

_____
Hon. Judge Milton A. Tingling

Date: 9-17-12

INDEX NO. 401965/12

RECEIVED
COUNSEL
DEPT. OF CONSUMER AFFAIRS
12 AUG 28 AM 10: 35

FILED
OCT 16 2012
NEW YORK
COUNTY CLERK'S OFFICE

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY

PRESENT: TINGLING Justice

PART 47

INDEX NO. 403147/09

JONATHAN MINTZ

-v-

NY HEALTH CLUB INC

MOTION DATE

MOTION SEQ. NO. 1

MOTION CAL. NO.

The following papers, numbered 1 to _____ were read on this motion to/for _____

	PAPERS NUMBERED
Notice of Motion/ Order to Show Cause – Affidavits – Exhibits ...	
Answering Affidavits – Exhibits	
Replying Affidavits	

Cross-Motion: ☐ Yes ☐ No

Upon the foregoing papers, it is ordered that this motion

Judgment Signed

FILED

JAN 20 2010

COUNTY CLERK'S OFFICE
NEW YORK

RECEIVED

JAN 15 2010

MOTION ... CASE
NYS SUPREME COURT - CIVIL

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: 1/13/10

MGP

J.S.C.

Check one: ☑ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION

Check if appropriate: ☐ DO NOT POST ☐ REFERENCE

UCS-840(REV 1/2000)

...ON

NYS Supreme COURT | New York COUNTY | 403147/09 INDEX NO. | 12/11/09 DATE PURCHASED

For Clerk Only

IAS entry date 12-22-09

Judge Assigned Tingling

RJI Date

PLAINTIFF(S): JONATHAN MINTZ, Commissioner of the Department of Consumer Affairs of the City of New York, and the CITY OF NEW YORK,

DEFENDANT(S): NEW YORK HEALTH CLUB, INC. d/b/a NEW YORK HEALTH & RACQUET CLUB

NOTE

Date issue joined: _____ Bill of particulars served (Y/N): [ ]No

OTH

NATURE OF JUDICIAL INTERVENTION (check ONE box only AND enter information)

[ ] Request for preliminary conference

[ ] Note of issue and/or certificate of readiness

[ ] Notice of motion (return date: _____) Relief sought _____

[ ] Order to show cause (clerk enter return date: _____) Relief sought _____

[X] Other ex parte application (specify: to have Consent Judgment "So ordered" by Court.

[ ] Notice of petition (return date: _____) Relief sought _____

[ ] Notice of medical or dental malpractice action (specify: _____)

[ ] Statement of net worth

[ ] Writ of habeas corpus

[ ] Other (specify: _____)

FILED

JAN 20 2010

COUNTY CLERK'S OFFICE NEW YORK

NATURE OF ACTION OR PROCEEDING (Check ONE box only)

MATRIMONIAL
[ ] Contested -CM
[ ] Uncontested -UM

COMMERCIAL
[ ] Contract -CONT
[ ] Corporate -CORP
[ ] Insurance (where insurer is a party, except arbitration) -INS
[ ] UCC (including sales, negotiable instruments) -UCC
[ ] *Other Commercial -OC

REAL PROPERTY
[ ] Tax Certiorari -TAX
[ ] Foreclosure -FOR
[ ] Condemnation -COND
[ ] Landlord/Tenant -LT
[ ] *Other Real Property -ORP

OTHER MATTERS
[X] Action brought under Consumer Protection Law, Title 20, Chapter 5, Subchapter 1 of the Admin. Code of the City of New York. -OTH

TORTS

Malpractice
[ ] Medical/Podiatric -MM
[ ] Dental -DM
[ ] *Other Professional -OPM

[ ] Motor Vehicle -MV
[ ] *Products Liability -PL

[ ] Environmental -EN
[ ] Asbestos -ASB
[ ] Breast Implant -BI
[ ] *Other Negligence -OTN

[ ] *Other Tort (including intentional) -OT

SPECIAL PROCEEDINGS
[ ] Art. 75 (Arbitration) -ART75
[ ] Art. 77 (Trusts) -ART77
[ ] Art. 78 -ART78
[ ] Election Law -ELEC
[ ] Guardianship (MHL Art. 81) -GUARD81
[ ] *Other Mental Hygiene -MHYG
[ ] *Other Special Proceeding -OSP

[ ] [✓] Municipality: (Specify_____)

YES NO
[ ] [✓] Public Authority: (Specify_____)

YES NO
[✓] [ ] Does this action/proceeding seek equitable relief?
[ ] [✓] Does this action/proceeding seek recovery for personal injury?
[ ] [✓] Does this action/proceeding seek recovery for property damage?

Pre-Note Time Frames:
(This applies to all cases except contested matrimonials and tax certiorari cases)

Estimated time period for case to be ready for trial (from filing of RJI to filing of Note of Issue):

☐ Expedited: 0-8 months ☐ Standard: 9-12 months ☐ Complex: 13-15 months

Contested Matrimonial Cases Only: (Check and give date)

Has summons been served? ☐ No ☐ Yes, Date_____

Was a Notice of No Necessity filed? ☐ No ☐ Yes, Date_____

ATTORNEY(S) FOR PLAINTIFF(S):

Self Rep.*	Name	Address	Phone #
☐	Jacqueline Cheney, Esq.	NYC Department of Consumer Affairs 42 Broadway, 8th Fl. New York, NY 10004	(212) 487-2107
☐			

ATTORNEY(S) FOR DEFENDANT(S):

Self Rep.*	Name	Address	Phone #
☐	Richard Newman, Esq.	Klein Zelman Rothermel LLP 485 Madison Avenue New York, NY 10022	(212) 935-6020
☐			

*Self Represented: parties representing themselves, without an attorney, should check the "Self Rep." box and enter their name, address, and phone # in the space provided above for attorneys.

INSURANCE CARRIERS:

RELATED CASES: (IF NONE, write "NONE" below)

Title	Index #	Court	Nature of Relationship
NONE			

I AFFIRM UNDER PENALTY OF PERJURY THAT, TO MY KNOWLEDGE, OTHER THAN AS NOTED ABOVE, THERE ARE AND HAVE BEEN NO RELATED ACTIONS OR PROCEEDINGS, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION PREVIOUSLY BEEN FILED IN THIS ACTION OR PROCEEDING.

Dated: 12/11/09

(SIGNATURE)

Jacqueline Cheney
(PRINT OR TYPE NAME)

Plaintiffs
ATTORNEY FOR

ATTACH RIDER SHEET IF NECESSARY TO PROVIDE REQUIRED INFORMATION

\forms\rjj2000.wpd

FILED
JAN 20 2010
COUNTY CLERK'S OFFICE
NEW YORK

Exhibit F Exhibit B Exhibit C

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

JONATHAN MINTZ, Commissioner of the Department of Consumer Affairs of the City of New York, and the CITY OF NEW YORK,

Plaintiffs,

-against-

NEW YORK HEALTH CLUB, INC. d/b/a NEW YORK HEALTH & RACQUET CLUB,

Defendant.

----------X

FILED
JAN 20 2010
COUNTY CLERK'S OFFICE
NEW YORK

Consent Judgment

Index No. 09403147

Whereas, Plaintiffs Jonathan Mintz, Commissioner of the New York City Department of Consumer Affairs ("DCA") and the City of New York (collectively "Plaintiffs") have alleged that Defendant New York Health Club, Inc. ("NYHRC" or "Defendant") has violated the Consumer Protection Law of 1969 ("the Consumer Protection Law" or "CPL"), Title 20, Chapter 5, Subchapter 1 of the Administrative Code of the City of New York ("the Administrative Code") and Title 6 of the Rules of the City of New York ("the Rules"). Plaintiffs allege, *inter alia*, that NYHRC's advertisements during the period from March 1, 2008, through May 31, 2008: a) had the capacity, tendency or effect of deceiving or misleading consumers into believing that they could join NYHRC and receive the promoted yacht and golf resort excursions for free; and b) failed to disclose clearly and conspicuously material exclusions, reservations, limitations, modifications or conditions on the promoted offers. Defendant expressly denies all of Plaintiffs' allegations.

WHEREAS, Plaintiffs and Defendant have mutually agreed upon a basis for the settlement of the matters alleged in a Notice of Violation served on the Defendant by DCA on

May 30, 2008., and to the entry of this Consent Judgment ("Judgment") against Defendant without the need for trial or adjudication of any issue of law or fact;

WHEREAS, Plaintiffs and Defendant have mutually agreed that this Judgment does not constitute any evidence or an admission regarding the existence or non-existence of any issue, fact or violation of any Rule or Law alleged by Plaintiffs; and

WHEREAS, the Parties do hereby consent to the entry of this Judgment;

THEREFORE, it is hereby ORDERED as follows:

I. JURISDICTION

1. This Court has jurisdiction of the subject matter of this action and of each of the parties.

II. DEFINITIONS

For purposes of this Judgment, the following terms shall have the following meanings:

2. "Advertisement" shall mean all labels, packaging, promotional materials, statements, visual descriptions or other representations of any kind disseminated in print, orally or electronically by or on behalf of NYHRC to New York City ("NYC") consumers including, but not limited to, mailings, postcards, signs, banners, billboards, newspaper print advertisements, television advertisements, radio advertisements and internet advertisements.

3. "Affected Consumers" shall mean all consumers who joined or renewed memberships with a NYHRC facility located in New York City from March 1, 2008 through May 31, 2008.

4. "Clear and conspicuous" and "clearly and conspicuously" shall mean disclosure of material exclusions, reservations, limitations, modifications or conditions on an advertising statement, made in a manner that is readily apparent and understandable by an ordinary person

and which complies with Sections 5-06 and 5-09 of the Rules. Factors to be considered for this purpose include, but are not limited to, use of plain language, relative type size, font, color contrast, location within an advertisement, and proximity to the statement or representation to which it applies. Moreover,

a. in print advertisements the statement, representation or term shall be presented in a manner that is easy to read and placed reasonably near the statement that it modifies;

b. in website advertisements, the statement, representation or term shall be placed reasonably near the statement that it modifies, or made available through a hyperlink which is reasonably close to the statement, and which is labeled to make clear to consumers that the hyperlink leads to a page containing exclusions, reservations, limitations, modifications or conditions;

c. in radio advertisements, the statement, representation or term shall be made reasonably soon after the statement that it modifies, and at a volume and speed likely to be understood by an ordinary listener;

d. in television advertisements,

(1) an audio disclosure shall be made reasonably soon after the audio statement that it modifies, and at a volume and speed likely to be understood by an ordinary listener; or

(2) a video disclosure shall be made at the same time as or reasonably soon after the video statement that it modifies, in a size, quality and duration which makes it easily understood by an ordinary viewer.

5. "Effective Date" shall mean the date this Judgment is "So Ordered" by the Court.

6. "Free" shall mean no fee required for NYHRC members for the service or item advertised as free.

7. "Golf resort" shall mean Doral Arrowwood Resort in Rye Brook, New York.

8. "NYHRC" shall refer to NYHRC and its officers, agents, employees, representatives, successors, assigns and all other persons acting on their behalf, directly, or indirectly, or through any corporate or other entity.

9. "Parties" shall refer to DCA, the City of New York and NYHRC.

10. "Relevant Membership Period" shall mean a one- or two-year NYHRC membership, or membership renewal, that commenced between March 1, 2008 and May 31, 2008.

11. "Sales Representative" shall mean any person who, through direct employment relationship, independent contract or otherwise, has been made responsible by NYHRC for selling or disseminating information about NYHRC's services to consumers.

III. INJUNCTIVE RELIEF

12. NYHRC shall comply fully with the Consumer Protection Law and its implementing Rules, including Sections 5-06 and 5-09. Specifically, NYHRC shall not publish NYC advertisements which contain oral, written or electronic statements that have the capacity, tendency or effect of deceiving or misleading consumers by:

a. failing to make clear and conspicuous disclosures of conditions on an offer of free products or services;

b. failing to make clear and conspicuous disclosures of material exclusions, reservations, limitations, modifications or conditions on any offer of products or services; or

c. using exaggeration, innuendo, ambiguity or contradiction as to a material fact.

13. NYHRC shall not publish NYC advertisements that have the capacity, tendency or effect of deceiving or misleading consumers into believing that they can join NYHRC and receive yacht and/or golf resort excursions or receive identified services for free unless those excursions or identified services are, in fact, free.

14. NYHRC shall not publish NYC advertisements that contain one or more footnotes or statements, which alone or in combination, contradict or confuse a principal message or that contain contradictory or ambiguous statements which undercut the effectiveness of the principal message. All footnotes or statements shall be disclosed clearly and conspicuously.

15. Whenever publishing NYC advertisements offering a free service, NYHRC shall disclose clearly and conspicuously all conditions on the free service in accordance with the Consumer Protection Law and Section 5-06 of the Rules. The description of every condition on a free offer must be placed near the word "free." The condition must be in print at least half as large as the print used for the word "free."

16. Whenever publishing NYC advertisements, NYHRC shall disclose clearly and conspicuously all material exclusions, reservations, limitations, modifications or conditions on an offer of products or services in a type size at least one-third as high and one-third as broad as the largest print used in the advertisements.

17. NYHRC Sales Representatives shall not make any statements to NYC consumers that are inconsistent with the restrictions on advertisements in this Judgment.

18. NYHRC shall not charge Affected Consumers who choose to remain NYHRC members any buffet or other mandatory fees for the yacht excursions for the duration of the Affected Consumers' Relevant Membership Periods. NYHRC has no obligation to provide

Affected Consumers any incidental items or services, including food, for free on the yacht excursions.

19. NYHRC shall ensure that Affected Consumers who choose to remain NYHRC members and who have golfed at the golf resort from March 1, 2008 through the Effective Date are not required to pay any green fees at the golf resort for the duration of the Affected Consumers' Relevant Membership Periods.

20. NYHRC shall not reduce the availability of yacht and golf services to Affected Consumers following the Effective Date. For the duration of the Affected Consumers' Relevant Membership Periods, NYHRC will make available yacht and golf services to Affected Consumers with the same frequency as in 2008.

IV. CONSUMER RESTITUTION

21. NYHRC shall reimburse in full all buffet fees Affected Consumers paid for yacht excursions from March 1, 2008 to the Effective Date in the manner set forth in Paragraphs 23 through 32.

22. NYHRC shall reimburse in full all green fees Affected Consumers paid to Doral Arrowwood Resort from March 1, 2008 to the Effective Date in the manner set forth in Paragraphs 23 through 32.

23. Within fifteen (15) days of the Effective Date, NYHRC shall send the letter attached as Exhibit A ("Restitution Letter") to Affected Consumers, along with the form attached as Exhibit B ("Golf Reimbursement form") and the Release attached as Exhibit E ("Yacht Release").

24. NYHRC shall reimburse yacht buffet fees if the Affected Consumer signs and returns the Yacht Release to NYHRC within fifty (50) days of the Effective Date.

25. Within sixty (60) days of receipt of signed Yacht Releases from Affected Consumers, NYHRC will send reimbursement for yacht buffet fees to all such Affected Consumers who actually paid such fees, along with the letter attached as Exhibit C ("Yacht Restitution Letter").

26. NYHRC must pay restitution only to those Affected Consumers who golfed at the golf resort before the Effective Date and who return Golf Reimbursement forms to NYHRC within fifty (50) days of the Effective Date with estimated dates on which they golfed. NYHRC must submit to DCA any proposed reimbursement that does not fully reimburse an Affected Consumer for all dates listed by the Affected Consumer on a Golf Reimbursement form. DCA shall be the sole and final arbiter of the validity of Affected Consumers' claims for restitution and the amount of any restitution to be paid to Affected Consumers under this Judgment.

27. Within sixty (60) days of receipt of completed Golf Reimbursement forms from Affected Consumers, NYHRC will send the letter attached as Exhibit D ("Golf Restitution Letter"), along with the Release form attached as Exhibit F ("Golf Release") and the form attached as Exhibit G ("Rescission Form"), to those Affected Consumers.

28. NYHRC must pay restitution only to those Affected Consumers who

a. complete and return the Golf Reimbursement forms to NYHRC within fifty (50) days of the Effective Date; and

b. complete and return completed Golf Release forms and Rescission Forms to NYHRC within forty-five (45) days of the date of the Golf Restitution Letter.

29. A post-mark shall be considered the date of return for the purposes of Section IV of the Judgment.

30. Within thirty (30) days of receipt of signed Golf Release forms from Affected Consumers, NYHRC shall send those Affected Consumers reimbursement due for green fees.

31. Within forty-five (45) days of receipt of signed Rescission Forms from Affected Consumers, NHYRC shall inform consumers in writing that their contract has been cancelled without penalty and shall provide reimbursement of NYHRC membership fees to those Affected Consumers on a pro rata basis.

32. NYHRC shall make a good-faith effort to locate Affected Consumers for whom any Restitution Letters or restitution amounts are returned. If NYHRC is unable to locate such Affected Consumers, NYHRC shall advise DCA in writing as set forth in Section VI of this Judgment.

V. POLICIES, PROCEDURES AND TRAINING

33. NYHRC shall provide a copy of this Judgment to all employees, independent contractors and other individuals and entities responsible for developing NYHRC's NYC advertisements.

34. Within thirty (30) days of the Effective Date, NYHRC shall develop and implement a written policies and procedures manual consistent with the terms of this Judgment.

35. NYHRC shall train all Sales Representatives using the new written policies and procedures manual within fifteen (15) days of its development. Sales Representatives hired after the date of such training(s) shall be provided with training within fifteen (15) days of their start dates. NYHRC shall maintain attendance sheets for all Sales Representative trainings.

VI. COMPLIANCE

36. For a period of three (3) years from the Effective Date, DCA shall monitor compliance with the terms of the Judgment as set forth below.

37. Upon execution of this Judgment, NYHRC shall appoint a compliance officer who shall be responsible for preparing and sending to DCA an affidavit ("Compliance Affidavit") that:

a. Affirms that NYHRC has complied with Section IV of this Judgment; and

b. Lists the dates, times and locations of all advertising in any media expected to be directed toward NYC consumers during the following three (3)-month period ("Estimated Advertising Calendar"), including (a) the names, dates and page numbers for all newspaper advertisements; (b) the names, dates and quantity, for all postcards, flyers and mailings; (c) the names, dates and locations, for all banners, signs, billboards and kiosks; (d) the air time and station name for advertisements broadcast over television and radio; and (e) the web addresses and dates, for all web advertisements, including where any banner or "pop-up" ads appear. The compliance officer shall append copies of all printed advertisements and print-outs of web advertisements that appear on NYHRC's website or that appear on websites other than NYHRC's website.

38. The first Compliance Affidavit shall be due to DCA within thirty (30) days of the Effective Date.

39. The second Compliance Affidavit shall be due to DCA within one hundred twenty (120) days of the Effective Date and shall include the names and last known addresses of any Affected Consumers NYHRC was unable to locate in complying with Section IV of this Judgment as well as a description of NYHRC's efforts to locate those Affected Consumers. The second Compliance Affidavit and all remaining Compliance Affidavits shall also include any changes, including print-outs of relevant advertisements, that were made within the previous

three months to the Estimated Advertising Calendar provided in the previous Compliance Affidavit.

40. The remaining Compliance Affidavits shall be due to DCA every three (3) months, beginning three (3) months after the date on which the second Compliance Affidavit is due.

41. The Compliance Officer shall produce copies of attendance sheets for Sales Representative trainings upon DCA's request.

42. Upon execution of this Judgment, NYHRC shall provide to DCA the name, address, phone number, email address and title of the individual responsible for administering consumer restitution and addressing any consumer complaints forwarded to NYHRC by DCA for resolution. If this individual changes at any time, NYHRC shall provide DCA with the name, address, phone number, and email address of the new individual within fourteen (14) days of the change.

43. NYHRC shall maintain records of all consumer complaints it receives from any New York City residents, directly or via the Better Business Bureau and/or any governmental agency, including DCA, in a manner that is organized and readily accessible, and shall produce copies of such records upon DCA's request.

44. Upon ten (10) days' notice, NYHRC shall grant DCA access to and/or provide any books, reports, records or other documents, or any of NYHRC's employees, that DCA deems necessary to ascertain compliance with this Judgment.

V. MONETARY RELIEF

45. NYHRC shall pay DCA the total sum of $20,000 to be paid over the course of five (5) months from the Effective Date. In addition to the $20,000, NYHRC shall pay DCA

interest at the rate of 1.5 percent per month on the unpaid balance. Checks shall be made payable to "New York City Department of Consumer Affairs," c/o New York City Department of Consumer Affairs, ATTN: Collections Division, 42 Broadway, 9th Floor, New York, NY 10004, and are due on the following dates and in the following amounts:

a. $4,181.79 one (1) month after the Effective Date;

b. $4,181.79 two (2) months after the Effective Date;

c. $4,181.79 three (3) months after the Effective Date;

d. $4,181.79 four (4) months after the Effective Date;

e. $4,181.79 five (5) months after the Effective Date.

46. NYHRC shall pay consumer restitution directly to Affected Consumers in accordance with the consumer restitution procedure set forth in this Judgment below.

VI. RELEASE

47. In consideration of the injunctive relief, payments, undertakings and acknowledgements provided for in this Judgment, DCA agrees to release NYHRC and its subsidiaries, affiliates, successors and the officers, directors, agents, employees, insurers and assigns of each with prejudice, from any and all civil or consumer-related administrative claims that arise directly from violations or alleged violations of the Consumer Protection Law with respect to any and all matters addressed in this Consent Judgment which occurred or may have accrued up to the Effective Date.

VII. MISCELLANEOUS PROVISIONS

48. The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be necessary or appropriate to give full force and effect to the terms and intent of this Judgment.

49. The Parties may execute this Judgment in counterparts, and the execution of counterparts shall have the same effect as if the parties had signed the same instrument. Facsimile signatures shall be considered as valid signatures as of the date of the Judgment, but the original signature pages shall be subsequently appended to the Judgment and filed with the Court.

50. This Judgment contains the entire, complete and fully integrated statement of each and every term and provision agreed to by the Parties, shall supersede all other prior agreements between the Parties regarding the matters set forth herein, and is not subject to any condition not provided for in this Judgment. The Judgment shall not be modified in any material respect except in writing signed and executed by all the Parties to this Judgment and adopted by the Court. In entering this Judgment, neither of the Parties has made or relied upon any warranty or representation not specifically set forth in this document.

51. Except as provided in this Judgment, the Supreme Court of the State of New York, County of New York, shall have exclusive jurisdiction over all provisions of this Judgment and over any and all disputes of any kind relating in any way to, or arising in any way out of, this Judgment. The Court shall retain jurisdiction over this matter for the purpose of effectuating such relief as it deems necessary to carry out and effectuate the terms thereto.

52. The acceptance of the Judgment by DCA shall not be deemed approval by DCA of any of NYIIRC's business practices and NYIIRC shall make no representation to the contrary.

53. Counsel for the Parties have reviewed and revised the Judgment, and any rule of construction, by which any ambiguities are to be resolved against the drafting party, shall not be applied in the interpretation of the Judgment.

54. If a court of competent jurisdiction declares any provision of the Judgment invalid or determines that any of the provisions encompassed by the Judgment are unconstitutional, then any such provisions so affected will become void, but the remainder of the Judgment shall remain in place.

55. Nothing herein shall be construed to limit the authority of DCA to exercise its enforcement powers except with regard to claims raised in the Notice of Violation or arising during the period between March 1, 2008, and the Effective Date.

56. Execution of this Judgment shall not act as a bar to any private right of action against NYHRC.

57. The Parties agree that this Judgment shall be submitted to the court to be "so ordered" by a Justice of the Supreme Court of the State of New York.

Jonathan Mintz
Commissioner of the
New York City
Department of Consumer Affairs

By: [redacted]

Staff Counsel
New York City Department of
Consumer Affairs
42 Broadway, 8th Floor
New York, New York 10004
(212) 487-4316
Attorney for Plaintiffs

Michael A. Cardozo, Esq.
Corporation Counsel of the
City of New York

By: [redacted]

Assistant Corporation Counsel
Corporation Counsel of the
City of New York
100 Church Street
New York, New York 10007
(212) 788-0813
Attorney for Plaintiffs

FILED
JAN 20 2010
COUNTY CLERK'S OFFICE
NEW YORK

54. If a court of competent jurisdiction declares any provision of the Judgment invalid or determines that any of the provisions encompassed by the Judgment are unconstitutional, then any such provisions so affected will become void, but the remainder of the Judgment shall remain in place.

55. Nothing herein shall be construed to limit the authority of DCA to exercise its enforcement powers except with regard to claims raised in the Notice of Violation or arising during the period between March 1, 2008, and the Effective Date.

56. Execution of this Judgment shall not act as a bar to any private right of action against NYHRC.

57. The Parties agree that this Judgment shall be submitted to the court to be "so ordered" by a Justice of the Supreme Court of the State of New York.

Jonathan Mintz
Commissioner of the
New York City
Department of Consumer Affairs

By: [redacted]
Staff Counsel
New York City Department of
Consumer Affairs
42 Broadway, 8th Floor
New York, New York 10004
(212) 487-4316
Attorney for Plaintiffs

Michael A. Cardozo, Esq.
Corporation Counsel of the
City of New York

By: [redacted]
Corporation Counsel of the
City of New York
100 Church Street
New York, New York 10007
(212) 788-0813
Attorney for Plaintiffs

NEW YORK HEALTH CLUB, INC.

By: _____

Richard Newman, Esq.
Klein Zelman Rothermel LLP
485 Madison Avenue
New York, New York 10022
(212) 935-6020
Attorney for Defendant

SO ORDERED:

Entered

Hon. Matt

Date: 1/13/21

Norman Goodman
Clerk of the Court

FILED

JAN 20 2021

COUNTY CLERK'S OFFICE
NEW YORK

Exhibit B Exhibit C Exhibit D Exhibit A

Exhibit A

Department of
Consumer Affairs

Jonathan Mintz
Commissioner

42 Broadway
8th Floor
New York, NY 10004

+1 212 248 1090 tel
+1 212 487 3184 fax

nyc.gov/consumers

_____

Re: *NYC Department of Consumer Affairs v. New York Health Club, Inc.*, _____

Dear NYHRC member:

New York Health & Racquet Club ("NYHRC") has voluntarily entered into a court-ordered agreement with the New York City Department of Consumer Affairs ("DCA"). This agreement settles DCA's allegations regarding advertisements NYHRC ran between March 1, 2008, and May 31, 2008, promising consumers joining or renewing memberships a "yacht, beach club, and golf resort free!" As a result of the court ordered agreement, you may be entitled to compensation from NYHRC because you enrolled or renewed your membership with a NYHRC facility located in New York City during that time period.

Yacht
If you were charged a $28 buffet fee in order to ride the NYHRC yacht at any time after joining NYHRC or renewing your NYHRC membership, fill out the attached "Release – Reimbursement for Yacht" form and return it to NYHRC postmarked by _____. Within 60 days of receiving your signed Release form, NYHRC will send you a refund for any $28 fees you paid to ride the yacht. Regardless of whether you rode the yacht in the past, going forward, you will not be charged any fee to ride the NYHRC yacht for the length of the membership period or renewal you entered into between March 1, 2008, and May 31, 2008.

Golf Resort
If you have played golf at the Doral Arrowwood Resort in Rye Brook, New York, since joining or renewing your NYHRC membership between March 1, 2008, and May 31, 2008, you are entitled to full compensation for any green fees you paid. In order for NYHRC to determine the amount of your compensation, fill out the attached "Doral Arrowwood Resort – Claim for Reimbursement" form and return it to NYHRC postmarked by _____. In addition, if you have already golfed at Doral during a NYHRC membership or renewal that commenced between March 1, 2008, and May 31, 2008, you are entitled to play golf at Doral without paying any green fees for the remainder of this membership or renewal period. Please note that this does not apply to Centennial Golf Club.

Finally, you should be aware of the yacht, beach club, and golf resort benefits of your NYHRC membership. In addition to free access to the NYHRC yacht, you also have free access to the private beach and tennis courts at the VIP Country Club in New Rochelle, New York; there are, however, fees for parking and locker rental.

Again, if you have already played golf at Doral, fill out the attached "Golf Resort – Claim for Reimbursement" form and return it to NYHRC by _____. You will then receive any compensation to which you are entitled and information on your eligibility for any additional reimbursement for golf resort fees from NYHRC.

Call NYHRC at (212) 220-0758 with any questions about the compensation you are eligible to receive. If NYHRC does not resolve your questions to your satisfaction, you can get more information at DCA's web site, www.nyc.gov/consumers, or call (212) 248-1090.

Sincerely,

Research & Investigations Division

Exhibit B

Department of
Consumer Affairs

Doral Arrowwood Resort – Claim for Reimbursement

Pursuant to the Consent Judgment between New York Health & Racquet Club and the New York City Department of Consumer Affairs in *NYC Department of Consumer Affairs v. New York Health Club, Inc.*, _____, you may be entitled to reimbursement for green fees you paid. Complete this form if you played golf at the Doral Arrowwood Resort between the dates of March 1, 2008, and _____. If necessary, attach another sheet with any other dates on which you played golf at Doral during this period. Return the form to: NYHRC, 18 East 50th Street, 4th Floor, New York, NY 10022, Attn: Doral Golf Program.

From March 1, 2008, through _____, I played golf at Doral Arrowwood Resort on the following dates:

Date	9 or 18 holes?	Date	9 or 18 holes?
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I certify that the above information is truthful and correct.

_____
(Member name)

_____ _____
(Member signature) (Date)

_____
(Member address)

_____
(Member telephone number)

Exhibit C

Department of
Consumer Affairs

Jonathan Mintz
Commissioner

42 Broadway
8th Floor
New York, NY 10004

+1 212 248 1090 tel
+1 212 487 3184 fax

nyc.gov/consumers

_____

Re: *NYC Department of Consumer Affairs v. New York Health Club, Inc.*, _____

Dear NYHRC member:

Enclosed is a check for $_____, which New York Health & Racquet Club ("NYHRC") agreed to compensate you in a voluntary court-ordered agreement it entered into with the NYC Department of Consumer Affairs ("DCA").

The court-ordered agreement concerns advertisements NYHRC ran between March 1, 2008, and May 31, 2008, promising joining or renewing members a "yacht, beach club, and golf resort free!" As a result of this court-ordered agreement, you are now entitled to compensation from NYHRC for one or more $28 buffet fees you have paid to ride the NYHRC yacht. That compensation is enclosed.

Please note that you will not be charged any future fee in order to ride the NYHRC yacht for the length of your membership. Guests, however, may be charged a fee.

Call NYHRC at (212) 220-0758 with any questions about the compensation you are eligible to receive. If NYHRC does not resolve your questions to your satisfaction, you can get more information at DCA's web site, www.nyc.gov/consumers, or call (212) 248-1090.

Sincerely,

Research & Investigations Division

Exhibit D

Department of
Consumer Affairs

Jonathan Mintz
Commissioner

42 Broadway
8th Floor
New York, NY 10004

+1 212 248 1090 tel
+1 212 487 3184 fax

nyc.gov/consumers

_____

Re: *NYC Department of Consumer Affairs v. New York Health Club, Inc.*, #

Dear NYHRC member:

You are receiving this letter because you are a member of New York Health & Racquet Club ("NYHRC"), who enrolled or renewed your membership with a NYHRC facility located in New York City between March 1, 2008, and May 31, 2008. In your response to our letter of date, you stated that you played golf at Doral Arrowwood Resort ("Doral") between March 1, 2008, and _____.

NYHRC has entered into a voluntary court-ordered agreement with the NYC Department of Consumer Affairs ("DCA") regarding advertisements NYHRC ran during this time period promising joining or renewing members a "yacht, beach club, and golf resort free!" As a result of this court-ordered agreement, you are entitled to compensation.

Past Green Fees
You are entitled to full reimbursement of any green fees you paid to play golf at Doral at any time since March 1, 2008, as a NYHRC member. Based on the information you provided, NYHRC has calculated the amount of compensation you are due. This amount is $_____.

NYHRC calculated the above amount using the following rates:

- 18 holes, Monday through Thursday: $60 per NYHRC member
- 18 holes, Friday through Sunday: $85 per NYHRC member
- 9 holes, Monday through Thursday: $30 per NYHRC member
- 9 holes, Friday through Sunday: $50 per NYHRC member

In order to receive reimbursement, complete the attached Release form and return it to NYHRC. The Release form must be postmarked within 45 days of the date of this letter. Within 30 days of receiving your form, NYHRC will send you the above amount.

Future Green Fees
You are entitled to play golf at Doral at any future time during the term of your current membership beginning between March 1, 2008, through May 31, 2008, for free. You will pay green fees at Doral, but may obtain reimbursement from NYHRC. Please note that this does not apply to Centennial Golf Club, where you will not be reimbursed for green fees.

To obtain reimbursement for future green fees, mail proof of purchase (receipts) to:

18 East 50th Street, 4th Floor
New York, NY 10022
Attn: NYHRC - Doral Golf Program

NYHRC will review your claim and process your reimbursement within 30 days.

Termination of Membership Contract
You are also entitled to cancel your membership contract with NYHRC without penalty. If you cancel your membership contract, you will receive prorated reimbursement of any membership fees you have already paid for time you will not use.

If you wish to cancel your membership contract, fill out, sign, and return the attached Request to Terminate NYHRC Membership Contract form to NYHRC. The form must be postmarked within 45 days of the date of this letter.

Department of
Consumer Affairs

Note that if you cancel your membership contract, you will not be entitled to play free golf at Doral in the future.

Call NYHRC at (212) 220-0758 with any questions about the compensation you are eligible to receive. If NYHRC does not resolve your questions to your satisfaction, you can get more information at DCA's web site, www.nyc.gov/consumers, or call (212) 248-1090.

Sincerely,

Research & Investigations Division

Exhibit E

Department of
Consumer Affairs

Release – Reimbursement for Yacht

Sign and return to: NYHRC
18 East 50th Street, 4th Floor
New York, NY 10022

By signing this Release, in consideration of the injunctive relief and payments provided for in the court-ordered agreement ("Consent Judgment") between New York Health Club, Inc., and the New York City Department of Consumer Affairs in *NYC Department of Consumer Affairs v. New York Health Club, Inc.*, _____, I hereby agree to release New York Health Club, Inc., and its subsidiaries, affiliates, and successors and the officers, directors, agents, employees, insurers and assigns of each, from any and all civil claims which arise from violations or alleged violations with respect to any and all matters addressed in the Consent Judgment which may have occurred or accrued up to the Effective Date of the Consent Judgment.

_____
(Member name)

_____
(Member address)

_____
(Member telephone number)

_____ _____
(Member signature) (Date)

Exhibit F

Department of
Consumer Affairs

Release – Reimbursement for Golf

Sign and return to: NYHRC
18 East 50th Street, 4th Floor
New York, NY 10022
Attn: Doral Golf Program

By signing this Release, in consideration of the injunctive relief and payments provided for in the court-ordered agreement ("Consent Judgment") between New York Health Club, Inc., and the New York City Department of Consumer Affairs in *NYC Department of Consumer Affairs v. New York Health Club, Inc.*, _____, I hereby agree to release New York Health Club, Inc., and its subsidiaries, affiliates, and successors and the officers, directors, agents, employees, insurers and assigns of each, from any and all civil claims which arise from violations or alleged violations with respect to any and all matters addressed in the Consent Judgment which may have occurred or accrued up to the Effective Date of the Consent Judgment.

_____
(Member name)

_____
(Member address)

_____
(Member telephone number)

_____ _____
(Member signature) (Date)

Exhibit G

Department of
Consumer Affairs

Request to Terminate NYHRC Membership Contract

Sign and return to: NYHRC
18 East 50th Street, 4th Floor
New York, NY 10022

Pursuant to the voluntary court-ordered agreement between NYHRC and the New York City Department of Consumer Affairs in *NYC Department of Consumer Affairs v. New York Health Club., Inc.*, _____, I request termination of my membership contract with New York Health & Racquet Club. Please cancel my contract without penalty, effective on the last day of this month, and return to me any membership fees I have already paid for the months remaining on my membership.

_____
(Member name)

_____ _____
(Member signature) (Date)

_____
(Member address)

_____
(Member telephone number)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

JONATHAN MINTZ, Commissioner of the Department of Consumer Affairs of the City of New York, and the CITY OF NEW YORK,

Plaintiffs,

-against-

NEW YORK HEALTH CLUB, INC. d/b/a NEW YORK HEALTH & RACQUET CLUB,

Defendant.

Affirmation

Index No.

STATE OF NEW YORK }ss:
COUNTY OF NEW YORK }

Jacqueline Cheney, Esq., being duly sworn, deposes and says:

1. Plaintiff the New York City Department of Consumer Affairs (the "Department") served New York Health & Racquet Club ("Defendant") with a Notice of Violation ("NOV") on May 30, 2008. The NOV charged Defendant with violating New York City Administrative Code (the "Code") Sections 20-700 et seq. and Rules of the City of New York Section 5-06.
2. The parties have reached an agreement to resolve the Plaintiffs' allegations against Defendant, set forth in the annexed Consent Judgment.
3. Section 20-704 of the Code requires that all settlement agreements be approved by the Court where such settlements include a stipulation for the restitution by the Defendant to consumers who have not yet filed complaints with the Department.
4. The annexed Consent Judgment includes a stipulation for the restitution by Defendant to consumers whose number, upon information and belief, may total over 3,000. Not all of the above-referenced consumers have filed complaints with the Department.
5. The parties have agreed that this Consent Judgment shall be submitted to the Court to be "so ordered" by a Justice of the Supreme Court of the State of New York.
6. The Department therefore submits the annexed Consent Judgment to the Court.

Jacqueline Cheney, Esq.

STATE OF NEW YORK } ss:
COUNTY OF NEW YORK }

On the 11th day of December in the year 2009, before me, the undersigned, personally appeared Jacqueline Cheney, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Penney Vachiraprapun, Esq.

PENNEY VACHIRAPRAPUN
Notary Public, State of New York
No. 02VA6165192
Qualified in New York County
Commission Expires May 7, 2011

STATE OF NEW YORK, COUNTY OF NEW YORK Index No. Year 200

JONATHAN MINTZ, Commissioner of the Department of Consumer Affairs of the City of New York and the CITY OF NEW YORK

Plaintiffs,

-against-

NEW YORK HEALTH CLUB, INC.
d/b/a NEW YORK HEALTH & RACQUET CLUB,

Defendant,

FINAL CONSENT JUDGEMENT

DEPARTMENT OF CONSUMER AFFAIRS

Jacqueline Cheney, Esq. *Attorney(s) for* Plaintiffs

Office and Post Office Address, Telephone

42 Broadway, 9th Floor
NEW YORK, NEW YORK 10004
(212) 487-

FILED
JAN 20 2010
AT 11:55A
N.Y., CO. CLKS OFFICE

To

Signature (Rule 130-1.1-a)

Print name beneath

Attorney(s) for

Service of a copy of the within is hereby admitted.

Dated:

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a *(certified) true copy of a*
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order
will be presented for settlement to the HON.
within named Court, at
on
at M.
Dated,

of which the within is a true copy
one of the judges of the

Yours, etc.

DEPARTMENT OF CONSUMER AFFAIRS

Exhibit B

	LOCATION	CONSUMER NAME
1	76TH STREET	[redacted]
2		
3		
4		
5		
6		
7		
8		
9	13TH STREET	
10		
11		
12		
13		
14		
15		
16	50TH STREET	
17		
18	45TH STREET	
19		
20		
21		
22		
23		
24		
25		
26	WHITEHALL	
27		
28		
29		
30		
31		
32	57TH STREET	
33		
34	23RD STREET	
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Exhibit C

Department of Consumer Affairs

Jonathan Mintz
Commissioner

42 Broadway
8th Floor
New York, NY 10004

+1 212 487 7219 tel
+1 212 487 4390 fax

nyc.gov/consumers

[DATE]

Re: *Jonathan Mintz, Commissioner of the Department of Consumer Affairs of the City of New York, and the City of New York v. New York Health Club, Inc. d/b/a New York Health & Racquet Club,* 403147/09

Dear [NYHRC member name]:

As a result of an agreement between the New York City Department of Consumer Affairs (DCA) and New York Health & Racquet Club ("NYHRC"), you are entitled to a **free three-month membership** with NYHRC at any New York City NYHRC club location. This agreement settles DCA's allegations regarding advertisements NYHRC ran between October 1, 2010 through November 10, 2010, for a "Buy One Year Get One Year Free" offer.

You are entitled to the free three-month membership because you purchased a one-year membership with a NYHRC facility located in New York City during the period between October 1, 2010 through November 10, 2010, but did not take advantage of the "Buy One Year Get One Year Free" offer available at that time.

Please call NYHRC Customer Service at (212) 220-0654 with any questions about the membership you are eligible to receive. You may take advantage of this offer at any time – there is no deadline by which you must reply. To activate this free, non-transferable three-month membership, just call NYHRC Customer Service at (212) 220-0654 and provide your name, address, and date of birth as on file with NYHRC.

You may visit DCA's web site, www.nyc.gov/consumers, to view the court-ordered agreement.

Sincerely,

New York City Department of Consumer Affairs
Legal Division