

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of General Counsel, Region 4  
1130 North Westcott Road, Schenectady, NY 12306-2014  
P: (518) 357-2048 | F: (518) 357-2087  
www.dec.ny.gov

CERTIFIED - RETURN RECEIPT REQUESTED  
7011 1570 0003 0363 3918

January 26, 2016

Benjamin Stoltzfus  
d/b/a JR's Auction  
176 Dygert Road  
Canajoharie, NY 13317

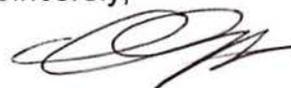
Re: Order of Consent  
R4-2015-0929-15

Dear Mr. Stoltzfus:

Enclosed please find a copy of the fully executed Order on Consent referenced above.

This will also acknowledge receipt of \$500 the civil penalty pursuant to Paragraph I.

Sincerely,



Karen Lavery  
Assistant Regional Attorney  
Region 4

Enclosure

ec: J. DeAngelis, ECO

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

---

In the Matter of Violations of Article 11 of the Environmental Conservation Law ("ECL") of the State of New York and Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR")

ORDER ON CONSENT  
R4-2015-0929-115

-by-

Benjamin Stoltzfus  
d/b/a JR's Auction  
176 Dygert Road  
Canojoharie, NY 13317

Respondent

---

**WHEREAS:**

1. The New York State Department of Environmental Conservation (the "Department") is authorized pursuant to Article 11, Title 5, of the Environmental Conservation Law ("ECL") to regulate the sale of certain wild animal products in New York State. This Order is issued pursuant to the Department's enforcement authority under Article 71 of the ECL.
2. Respondent Benjamin Stoltzfus, d/b/a JR's Auctions, owns/operates an Auction business located at 56 Willett Street, Fort Plain, New York ("site").
3. On April 6, 2015, Respondent posted an advertisement online, for the sale of full taxidermy wolf and mountain lion mounts.
4. On April 7, 2015, Respondent conducted an auction during which the mountain lion mount sold for \$1,100 and the wolf mount sold for \$175.
5. ECL §11-0536(1) provides that *"Except as provided in subdivision three hereof, no part of the skin or body, whether raw or manufactured, of the following species of wild animals or the animal itself may be sold or offered for sale by any individual, firm, corporation, association or partnership within the State of New York:--Leopard (Panthera pardus), Snow Leopard (Uncia), Clouded Leopard (Neofelis nebulosa), Tiger (Panthera tigris), Asiatic Lion (Panthera leo persica), Cheetah (Acinoyx jubatus), Alligators, Caiman or Crocodile of the Order Crocodylia (except as provided in*

*subdivision two of this section), tortoises of the genus Gopherus, marine turtles of the family Cheloniidae and the family Dermochelidae, Vicuna (Vicugna vicugna), Wolf (Canis lupus), Red Wolf (Canis niger), or Tasmanian Forester Kangaroo (Macropus giganteus tasmaniensis) or Polar Bear (Thalarctos maritimus), Mountain Lion, sometimes called Cougar (Felis Concolor), Jaguar (Panthera onca), Ocelot (Felis pardalis), or Margay (Felis wiedii), Sumatran Rhinoceros (Dicerorhinus sumatrensis), or Black Rhinoceros (Dicero bicornis)."*

6. Respondent violated ECL §11-0536(1) by selling the full taxidermy mountain lion and wolf mounts.

#### Civil Penalty

7. ECL §71-0925 (13) provides that *"If the violation was an act prohibited by subdivision two of section 11-0535 or by section 11-0536 of this chapter, or by any lawful rule or regulation of the department promulgated pursuant thereto, not more than two thousand dollars, and an additional penalty of not more than three hundred fifty dollars for each fish, shellfish, crustacea, wildlife or part thereof involved in the violation. If the violation was an act prohibited by any regulation of the department promulgated pursuant to subdivision three of section 11-0535 of this chapter, then such penalty shall be not more than one thousand dollars, and an additional penalty of not more than two hundred dollars for each fish, shellfish, crustacea, wildlife or part thereof involved in the violation."*

8. Respondent affirmatively waives his right to notice and hearing in the manner provided by law, consents to the issuance of this Order, agrees to be bound by the terms, provisions and conditions contained in this Order, and agrees not to appeal this Order.

**NOW**, having considered this matter and being duly advised, it is **ORDERED** that:

I. With respect to the aforesaid alleged violation, a civil penalty in the amount of FIVE HUNDRED DOLLARS (\$500.00) is hereby assessed against the Respondent which shall be payable to the New York State Department of Environmental Conservation by money order, or certified check at the time this Order is signed, notarized and returned to the Department.

II. The provisions of this Order shall be deemed to bind Respondent, his agents, employees, and all persons, firms, corporations acting under or for him.

III. The terms of this Order shall not be construed to prohibit the Commissioner or his duly authorized representative from exercising any summary abatement powers, either at common law or as granted pursuant to statute or regulation.

IV. Respondent shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions hereof by Respondent, his directors, officers, employees, servants, agents, successors or assigns.

V. No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

VI. The Schedule of Compliance is incorporated into the Order and is enforceable thereunder.

VII. All communications except where otherwise specifically directed should be sent to:

For Department:  
Karen Lavery, Esq.  
1130 N. Westcott Road  
Schenectady, NY 12306

VIII. This Order is deemed effective on the date signed by the Department.

IX. Except as specifically provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting:

A. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against Respondent for any other violations of the ECL, rules or regulations promulgated thereunder or permits issued thereunder;

B. Any legal or equitable rights or claims, actions, proceedings, suits, causes of action or demands whatsoever that the State may have against anyone other than Respondent, his agents, his servants, his employees, his successors and his assigns; and;

C. Respondent's right to assert all available defenses to any claims, actions, proceedings, suits, causes of actions or demands made or commenced by the State, the Department, or any third party, provided, however, that Respondent waives all legal or equitable rights claims, actions, proceedings, appeals, suits, causes of action, defenses or demands whatsoever that he may have to a judicial review of the validity and binding effect of this Order and whether or not this Order has been entered into voluntarily by Respondent.

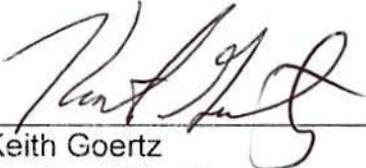
X. Compliance with the terms and conditions of this Order, including the Schedule of Compliance, shall be in full civil settlement of the violations cited in this Order.

XI. This Order is made strictly for the purposes of the Department and the State and is not intended for use by any third party.

DATED: *January 26,* 2016  
Rotterdam, New York

Basil Seggos  
Acting Commissioner  
New York State Department of  
Environmental Conservation

BY:

  
\_\_\_\_\_  
Keith Goertz  
Regional Director  
Region 4



## SCHEDULE OF COMPLIANCE

1. As of the effective date of this Order, Respondent shall not possess or accept for auction, any further animals or animal parts provided in ECL §11-0536(1) as set forth in paragraph number 5 above.