

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

CONFIRMATION BY EMAIL ORDER RECEIVED

August 22, 2016

Carrie Terraferma
Corporate Counsel
The Golub Corporation
461 Nott Street
Schenectady, NY 12308
carrieterraferma@pricechopper.com

Re: Order of Consent
R4-2016-0728-135

Dear Ms. Terraferma:

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

This will also acknowledge receipt of \$74,000 the civil penalty pursuant to Paragraph I.

Sincerely,



Richard Ostrov
Regional Attorney
Region 4

ec: T. Caifa, Capt.
K. Beiter, Lt.



Department of
Environmental
Conservation

STATE OF NEW YORK:
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of
Article 13 of New York State Environmental
Conservation Law

ORDER ON
CONSENT

R4-2016-0728-135

By

The Golub Corporation
461 Nott Street
Schenectady, NY 12308

Respondent

WHEREAS:

JURISDICTION

1. The Department of Environmental Conservation ("Department") is an agency of the State charged with jurisdiction over setting restrictions on the sale of lobsters pursuant ECL Article 11 and the rules and regulations promulgated thereto.
2. Respondent, The Golub Corporation, is the privately held parent company of Price Chopper Operating Co., Inc. that owns and operates supermarkets throughout New York doing business as Price Chopper, Market 32, and Market Bistro. Respondent also operates a warehouse and distribution center at 501 Duanesburg Road, Schenectady, New York 12306 (distribution center).

FACTS

3. On July 26, 2016, Department law enforcement officers inspected the distribution center and found 820 lobsters that were smaller than three and three-eighths inches in length. Department law enforcement officers also inspected 14 Price Chopper stores in various locations around New York State and found 105 lobsters that were smaller than three and three-eighths inches in length. The lobsters were seized by the Department.

LAW

4. ECL Section 13-0329(5)(a) provides that "only lobsters measuring three and three-eighths inches or more and five and one-quarter inches or less may be taken, possessed, bought, sold, imported and exported. All measurements are from the rear end of the eye socket along a line parallel to the center line of the body shell (carapace) to the rear end of the body shell (carapace). "

VIOLATIONS

5. Respondent's possession of 925 lobsters measuring less than three and three-eighths inches are 925 violations of ECL Section 13-0329(5)(a).

CIVIL PENALTY

6. ECL Section 71-0925(7)(c) provides for a penalty of \$100 per crustacean for violations of ECL Section 13-0329 involving 25 or more crustaceans.

WAIVER OF HEARING

7. Respondent has affirmatively waived its right to notice and hearing in the manner provided by law, and has consented to the issuing and entering of this Order and it agrees to be bound by the terms, provisions and conditions contained herein.

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

I. Penalty

Respondent is hereby assessed a civil penalty for SEVENTY FOUR THOUSAND DOLLARS (\$74,000) for the violations stated herein. Payment of the civil penalty shall be made by bank check made payable to the Department of Environmental Conservation. This Order resolves all civil, administrative and criminal liability for the violations cited herein.

II. Communications

All communications required herein shall be made to: DEC, Region 4, 1130 North Westcott Road, Schenectady, NY 12306, Attn: Regional Attorney.

III. Access

Respondent shall allow duly authorized representatives of DEC access to the facility referred to in this Order without prior notice, at such times as may be desirable or necessary in order for DEC to inspect and determine the status of Respondent's compliance with this Order or the ECL.

IV. Indemnification

Respondent shall indemnify and hold DEC, New York State, and their representatives and employees harmless for all claims, suits, 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, its directors, officers, employees, servants, agents, successors or assigns.

V. Binding Effect

The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent and its successors (including successors in title) and assigns.

VI. Entire Order

The provisions of this Order constitute the complete and entire Order issued to the Respondent concerning the violations identified herein.

VII. Effective Date

The effective date of this Order shall be the date it is signed by the Regional Director.

VIII. Termination of Order

The Order shall terminate one calendar year from the effective date of this Order.

DATED: Rotterdam, New York
August 18 2016

Basil Seggos
Commissioner
New York State Department of
Environmental Conservation

BY:



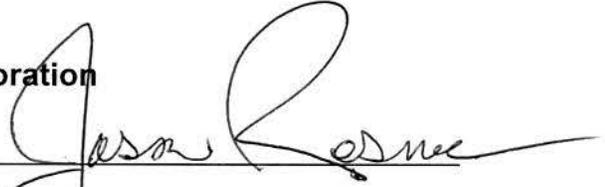
Keith Goertz
Regional Director
Region 4

CONSENT BY RESPONDENT

Respondent hereby consents to the issuing and entering of this Order, waives its rights to notice and hearing herein and agrees to be bound by the provisions, terms and conditions contained herein.

Golub Corporation

SIGNED:



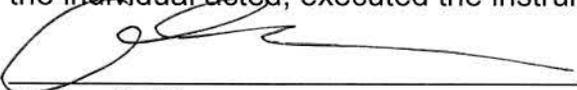
TITLE: VP Meat & Seafood Merchandising

DATE: August 17, 2016

STATE OF NEW YORK)
)
)
)
COUNTY OF SCHENECTADY)

ss.:

On the 17th day of August in the year 2016 before me, the undersigned, a Notary Public in and for the State, personally appeared Jason Resner personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the corporation upon behalf of which the individual acted, executed the instrument.



Notary Public
Qualified in the County of: Albany
My Commission Expires: 9/2/2016

CARRIE TERRAFERMA
Notary Public, State of New York
No. 01TE6192413
Qualified in Albany County
Commission Expires September 2, 2016