

FILED

(MAR 31 2009)

Division of Consumer Affairs

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

**IN THE MATTER OF AN INVESTIGATION
BY THE NEW JERSEY DIVISION OF
CONSUMER AFFAIRS**

of

Baroo, LLC d/b/a Baroo Surf,

Respondent(s)

Administrative Action
No. Z0800268 rtf

**FINAL ORDER
AFTER REVIEW
OF SUBMISSION**

THIS MATTER was opened to the New Jersey Division of Consumer Affairs, Office of Consumer Protection ("Consumer Affairs" or "Division") as an investigation whether the sales practices of Baroo, LLC dba Baroo Surf (the "Respondent") violated the New Jersey Consumer Fraud Act ("CFA"), N.J.S.A. 56:8-1 et. seq., and the Regulations promulgated pursuant thereto, N.J.A.C. 13:45A-1 et seq. ("CFA Regulations"), specifically N.J.A.C. 13:45A-15.1 et seq. That investigation disclosed that:

The Respondent was a Retail Establishment and failed to post its refund policy as required by N.J.A.C. 13:45A-15.2(a)1.

Pursuant to N.J.A.C. 13:45A-15.2(a) this conduct constitutes a violation of the CFA. As such, pursuant to N.J.S.A. 56:8-3.1, the Director may: 1) assess penalties against the Respondent pursuant to N.J.S.A. 56:8-13; 2) direct Respondent to pay costs to the State pursuant to N.J.S.A. 56:8-11; and 3) order the Respondent to cease and desist from engaging in unlawful activity

pursuant to N.J.S.A 56:8-18.

A Notice of Violation was served upon Respondent on December 23, 2008, setting forth the findings of fact and conclusions of law above. Respondent was offered the opportunity to be heard on these charges. Respondent expressly declined to contest the charges and waived any right to a hearing in this matter. Respondent, however, did request that the Division consider mitigating circumstances before rendering its final decision. On January 2, 2009, by way of a letter, Respondent asked the Division to consider certain mitigation circumstances before rendering a final decision. Specifically, the Division has reviewed the letter and is not persuaded that any reduction in the amounts set forth above in the Notice is warranted or that any of the terms or conditions should be modified.

Accordingly, IT IS on this 31st day of MARCH, 2009 ORDERED:

1. Respondent shall conspicuously post its refund policy as to all merchandise exposed or offered for sale at retail to members of the consuming public in the following manner:

- i. On a sign attached to the merchandise itself; or
 - ii. On a sign affixed to each cash register or point of sale; or
 - iii. On a sign situated as to be clearly visible to the buyer from the cash register;
- or
- iv. On a sign posted at each store entrance used by members of the consuming public.

2. Respondent shall pay the Division of Consumer Affairs the sum of \$250 as a civil penalty pursuant to N.J.S.A 56:8-13. Payments for penalties shall be made certified check, attorney trust account check or other guaranteed funds made payable to the "New Jersey Division of Consumer Affairs: and shall be delivered to the following address:

New Jersey Department of Law and Public Safety
Division of Consumer Affairs
124 Halsey Street
P.O. Box 45025
Newark, NJ 07101
Case Management Tracking
Attention: Van Mallett

3. Payment shall be made within fifteen (15) days of issuance of this Final Order.

Service of this Final Order will be deemed effective if sent by mailed to the last known mailing address of Respondent's business.

4. Failure to pay any penalties within the time allowed will result in the filing of a certificate of debt. Any subsequent violation of this Order may subject Respondent to additional penalties of up to \$25,000 penalty pursuant to N.J.S.A. 56:8-18.

5. This Order constitutes a final agency action and shall be effective upon filing and is a public document subject to the New Jersey Open Records Act.

DIVISION OF CONSUMER AFFAIRS

BY: 

David Szuchman, Director
New Jersey Division of Consumer Affairs