

At an IAS Part 59
of 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 01 day of
September, 2020 **OCT 01 2020**

Present: Hon. DEBRA A. JAMES

Justice of the Supreme Court

DEBRA A. JAMES

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

PEOPLE OF THE STATE OF NEW YORK, by LETITIA
JAMES, Attorney General of the State of New York,

Petitioner,

- against -

TOWN SPORTS INTERNATIONAL HOLDINGS, INC.
and TOWN SPORTS INTERNATIONAL, LLC, d/b/a
NEW YORK SPORTS CLUB AND LUCILLE ROBERTS,

Respondents.

) Index No. 451969/2020

) **ORDER TO SHOW**
) **CAUSE WITH**
) **TEMPORARY**
) **RESTRAINING ORDER**

) MS # 001: PI

✓ Sworn to on September 30, 2020 ✓
Upon reading and filing the annexed Verified Petition, the Affirmation of Christopher L.

✓ McCall dated September 30, 2020, and the exhibits attached thereto, the Affirmation of Andre D.

✓ Lugo dated September 30, 2020, the Affirmation of Emergency dated September 30, 2020, and

✓ upon the motion of Letitia James, Attorney General of the State of New York, for Petitioner the

✓ People of the State of New York ("Petitioner" or "NYAG"), it is hereby ordered that LET

✓ Respondents Town Sports International Holdings, Inc. and Town Sports International, LLC
d/b/a/ New York Sports Club and Lucille Roberts ("TSP") show cause at an IAS Assignment Part
* via Microsoft Teams *

59
of the Supreme Court, New York County, 60 Centre Street, New York, New York

on the 29th day of October, 2020, at 11:30 a.m. on that day, or as soon thereafter as

counsel may be heard, why an order and judgment should not be made in favor of Petitioner

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pursuant to New York Executive Law § 63(12), New York General Business Law § 349, and the New York Health Club Services Law (GBL Article 30) (“Health Club Law”), providing the following relief:

- a) enjoining TSI from violating New York law, including, but not limited to, charging consumers dues for clubs that have not reopened, failing to provide credits for the period from March 16 through April 8, 2020, and failing to honor consumers’ statutory rights to cancel their contracts;
- b) granting restitution for New York consumers and disgorgement of all ill-gotten gains;
- c) imposing civil money penalties on TSI of \$5,000 for each violation of GBL § 349, as authorized by GBL § 350-d;
- d) imposing civil money penalties on TSI of \$2,500 for each violation of the Health Club Law, as authorized by GBL § 629(1).
- e) awarding monetary damages or other monetary relief;
- f) ordering TSI to pay costs pursuant to CPLR § 8303(a)(6);
- g) transferring the \$250,000 bond TSI posted pursuant to GBL 622-a to the NYAG; and
- h) awarding such other relief as the Court deems just and proper.

AND IT BEING FURTHER SHOWN by the Verified Petition, the Affirmation of Christopher L. McCall dated September 30, 2020, and the exhibits attached thereto, the Affirmation of Andre D. Lugo dated September 30, 2020, and the Affirmation of Emergency dated September 30, 2020, that TSI has engaged in repeated and persistent illegal and fraudulent acts and practices which have caused and threaten continued, immediate, and irreparable injury to members of the public,

AND IT APPEARING therefrom that immediate and irreparable injury, loss and damages will result, unless the Court grants a temporary restraining order pending the determination of this proceeding (i) temporarily restraining TSI from charging, or attempting to

charge, any dues, fines, or penalties to members in New York who have submitted cancellation requests since March 16, 2020 and (ii) temporarily restraining TSI from charging, or attempting to charge, any dues, fines, or penalties to members in New York whose primary (or "home") gym remains closed.

AND IT FURTHER APPEARING that a cause of action for temporary relief exists under CPLR §§ 6301 and 6313 and Executive Law § 63(12), it is

^{ON CONSENT} ORDERED that pending the hearing ^{and resolution} of this ^{motion} special proceeding TSI is hereby temporarily restrained from (i) charging, or attempting to charge, any dues, fines, or penalties to members in New York who have submitted cancellation requests since March 16, 2020; and (ii) charging, or attempting to charge, any dues, fines, or penalties to members in New York whose primary (or "home") gym remains closed.

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SUFFICIENT CAUSE to me ^{being alleged} appearing therefore, it is ORDERED that LET ¹ delivery of this Order and supporting papers as follows be deemed good and sufficient service hereof: (i) one copy of this Order and supporting papers delivered by hand on Respondents' registered agent, CT Corporation System, at its address of 28 Liberty Street, New York, New York, 10005; and (ii) one copy of this Order and supporting papers delivered by overnight delivery to Respondents at their current business address of 399 Executive Boulevard,

Elmsford, New York, 10523;

~~Dated: September 2020~~
~~New York, New York~~

* Via Microsoft Teams upon filing by any counsel of the standard request for conference form (sfc-conferencerequest@nycourts.gov) not more than five days and not less than two days in advance of the hearing date

Oral Argument Directed *

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~~Korshak~~
Justice of the Supreme Court
DEBRA A. JAMES

OCT 01 2020

and it is further

ORDERED, let service of a copy of the responsive papers by ECF on the attorneys for petitioner on or before the 26 day of October, 2020 be deemed good and sufficient service.

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