

**ERIE COUNTY DEPARTMENT OF HEALTH**

**Division of Environmental Health Services**

**503 Kensington Ave**

**Buffalo, New York 14214**

**phone: (716) 961-6800; fax: (716) 961-6880**

**Mark C. Poloncarz- Erie County Executive**

**Gale R. Burstein, MD, MPH - Commissioner of Health**

November 24, 2020

RJOV Properties, LLC  
Robert F. Dinero, CEM  
3646 California Road  
Orchard Park, NY 14127

Re: Permit # JKOI-BPQKNM  
Athletes Unleashed  
3646 California Road  
Orchard Park, NY 14127

Dear Owner/Operator:

Charges are being placed against the Respondent for a violation(s) of the New York State Public Health Law, New York State Rules and Regulations, Executive Orders And New York State Sanitary Code. Enclosed is a stipulation that you may use if you wish to waive your right to a hearing and plead liable to the charges.

Please read the attached stipulation carefully. If you agree to the stipulation, you must sign the documents before a Notary Public, and send one (1) copy of the stipulation and the penalty to:

Erie County Department of Health  
503 Kensington Avenue  
Buffalo, NY 14214

Do not send cash through the mail. Checks or money orders should be made payable to the "Commissioner of Finance". The completed stipulation and fine must be received by this office by December 19, 2020. The Commissioner of Health is imposing this penalty with the understanding that it is approved for the stipulation only and the stipulation will be withdrawn if it is not received by this Department by the above specified date.

If you do not agree to the stipulation, you must appear at a hearing which will be scheduled in the near future. Please be advised that if found liable, fines could be as much as \$15,000.00 for every day the violations existed.

If you need further information, call 961-6800.

Yours truly,



Gale R. Burstein, MD, MPH  
Commissioner of Health

ERIE COUNTY DEPARTMENT OF HEALTH  
Petitioner,

vs

STIPULATION

RJOV Properties, LLC  
Robert F. Dinero, Chief Executive Manager  
Respondent,

WHEREAS, the Respondent is charged with violating various sections of New York State 10 NYCRR Subpart 66.3, New York State Public Health Law 201 & 206, Executive Order 202.68 at the facility known as Athletes Unleashed, located at 3646 California Road, Orchard Park, New York specifically:

- 1) 10 NYCRR Subpart 66-3.3(a) in that on November 20, 2020 a non-essential gathering of approximately 40 persons was verified by inspection at the facility known as Athletes Unleashed, located at 3646 California Road, Orchard Park, New York. At the time of the inspection on November 20, 2020, the facility address was located within a NYS Cluster Action Initiative Orange Zone, as defined by NYS Executive Order 202.68, with a non-essential gathering limit of 10 persons.
- 2) 10 NYCRR Subpart 66-3.2(d) in that on November 20, 2020 during a non-essential gathering, the business owner, building owner and those otherwise authorized on their behalf, or otherwise authorized to use the building did not deny entry to attendees who were not wearing a face covering, as verified by inspection at the facility known as Athletes Unleashed, located at 3646 California Road, Orchard Park, New York.
- 3) Sections 12 and 206 of the New York State Public Health Law as modified by New York State Governor Order 202.68 to provide that any individual who encourages, promotes or organizes a non-essential gathering as set forth in Department of Health regulation, shall be liable for a civil penalty not to exceed \$15,000 per day.

WHEREAS, the Respondent understands that he/she has a right to a hearing before an impartial hearing officer on these charges.

NOW, therefore, the Respondent hereby stipulates and agrees to the following:

1. That the Respondent waives his/her right to a hearing.
2. That the Respondent pleads liable to the charges as stated in the stipulation.
3. That the respondent will maintain compliance with all applicable NYS Executive Orders and associated NYSDOH Guidance on the premises.
4. That the Respondent pays a penalty of \$15,000 by December 19, 2020.

STATE OF NEW YORK:

SS

RESPONDENT

COUNTY OF ERIE:

On this                      day of                      before me subscriber, personally appeared  
to me and known to me to be the same person describe in and who executed the foregoing  
instrument, and duly acknowledged to me that he/she executed the same.

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NOTARY PUBLIC