

November 9, 2021

Wayne Stenehjem
North Dakota Attorney General
Office of Attorney General
ndag@nd.gov

Via email

Re: Request to Investigate Vince Covino for Apparent Violations of
North Dakota's Unlawful Sales or Advertising Practices Act

Dear Attorney General Stenehjem:


I am writing on behalf of PETA to request that the Office of Attorney General investigate Vince Covino, CEO of SeaQuest Interactive Aquariums, for making false statements to the Grand Forks City Council in order to advance his request for a \$1 million investment of taxpayer money.

In North Dakota, it is unlawful to engage in "any deceptive act or practice, fraud . . . or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise," including intangibles such as a business. N.D. Cent. Code § 51-15-02; *id.* § 51-15-01(3) (defining merchandise). This prohibition on deceptive conduct is not limited to consumer transactions and extends to encompass any attempt to induce "*any person to enter into any obligation.*" *Id.* § 51-15-01(1) (emphasis added).

Covino's testimony to the Grand Forks City Council at the July 26 and August 2 meetings was riddled with false or misleading information. Covino's misinformation painted a rosy and entirely inaccurate picture of a company that has left a trail of dead animals, injured customers, unpaid bills, lawsuits, and controversy in its wake. Covino misrepresented information in an effort to secure a financial obligation from Grand Forks, in an apparent violation of North Dakota law.

Please investigate the allegations in the attached Appendix, and hold Covino fully accountable for his deceptive conduct. Thank you for your attention to this important matter. I look forward to hearing from you.

Very truly yours,



Michelle Sinnott, Esq.
Associate Director, Captive Animal Law Enforcement

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Appendix

Under the North Dakota Unlawful Sales or Advertising Practices Act (USAPA), it is unlawful for “any person” to use “any deceptive act or practice, fraud . . . or misrepresentation, with the intent that others rely thereon in connection with the sale or advertisement of any merchandise.”¹ “Merchandise” is not limited to physical goods: it includes services and intangibles.² The definition of advertisement is equally broad, including “the attempt by publication, dissemination, solicitation, or circulation, oral or written, to induce, directly or indirectly, *any person to enter into any obligation.*”³ The North Dakota Supreme Court has held that the USAPA is not limited to just consumer transactions as evidenced by these broad definitions.⁴

Anyone who provides assistance to a person engaging in these types of deceptive acts that “knows or consciously avoids knowing that the other person” is engaging in deceptive conduct is also violating the law by facilitating and assisting the underlying conduct.⁵

The North Dakota Attorney General has the authority to investigate and remedy violations of the USAPA, including by issuing cease and desist orders, seeking injunctive relief, and ordering civil penalties.⁶

Vince Covino—CEO of SeaQuest Interactive Aquariums—is seeking a \$1 million financial obligation from the City of Grand Forks North Dakota. In an effort to obtain that financial obligation, Covino has provided false and misleading information about his company, which the City Council has seemingly relied on in advancing his funding request. This type of deceptive conduct is prohibited by the USAPA and in order to protect public funds, the Attorney General must investigate and hold Covino fully accountable for his dishonest and apparently illegal behavior.

Factual Background

On September 3, 2020, the Land of Hope, LLC sold property located at 1900 S Washington Street, Grand Forks, North Dakota 58201—commercial real estate previously [occupied by Kmart](#)—to Midtown Ventures, LLC for \$2 million.⁷ Midtown Ventures was created two months prior to this sale, in July 2020.⁸ The registered agent for this newly created company is Russel Crary.⁹ On the same day that the paperwork to create this company was filed, Mr. Crary submitted a Renaissance Zone application on behalf of Midtown Ventures seeking a five-year state income tax exemption

¹ N.D.C.C. § 51-15-02.

² *Id.* § 51-15-01(3).

³ *Id.* § 51-15-01(1) (emphasis added).

⁴ *Jorgenson v. Agway, Inc.*, 627 N.W.2d 391, 394 (N.D. 2001); *see also Staal v. Scherping Enterprises, Inc.*, 466 F. Supp. 3d 1030, 1034 (D.N.D. 2020) (“The Unlawful Sales Practices Act is not limited solely to ‘consumer’ transactions and relief may be sought by ‘any person against any person who has acquired any moneys or property by means of any practice declared to be unlawful’ by the Act.”).

⁵ N.D.C.C. § 51-15-02.3.

⁶ N.D.C.C. §§ 51-15-04 (power to investigate), 51-15-05 (subpoena powers and hearings), and 51-15-07 (remedies and injunctions).

⁷ Ex. 1, Warranty Deed, Sept. 3, 2020.

⁸ Ex. 2, Midtown Ventures Initial Filing with North Dakota Secretary of State, July 28, 2020.

⁹ *Id.*

and a five-year property tax exemption for the Washington Street property, which the Grand Forks City Council granted.¹⁰ In addition to having an interest in Midtown Ventures, Mr. Crary also happens to be a member of the Grand Forks [Growth Fund Committee](#), whose purpose “is to initially screen applicants requesting funds from the Growth Fund Jobs Development Authority.” SeaQuest—a chain of for-profit aquariums/petting zoos—is currently seeking a million dollar grant from the Jobs Development Authority to build a SeaQuest location at the Washington Street property owned by Midtown Ventures.¹¹

While the impetus for the City’s consideration of SeaQuest’s request for taxpayer funding is murky, it is clear that Mr. Crary has been heavily involved. On June 17, 2021, city officials organized a meeting between Dennis Park and Charles Yi with the [Church Finance Group](#), Grand Forks Mayor Brandon Bochenski, City Administrator Todd Feland, Mr. Crary, and SeaQuest’s CEO Vince Covino.¹² A month later, Todd Feland communicated with Mr. Crary regarding thoughts on moving SeaQuest’s “request for investment” forward.¹³ Mr. Crary explained that “the full \$1m grant is extremely important to the success of their business model” and that “getting SeaQuest in our community, and in a ren[aissance] zone nonetheless, is a major catalyst to the larger redevelopment plan for the whole ‘midtown’ area.”¹⁴

On July 26, 2021, Mr. Feland presented SeaQuest’s funding request to the Committee of the Whole.¹⁵ While the staff report to the committee fails to specifically mention the involvement of Midtown Ventures, Mr. Crary was present and available for questions related to the project during the meeting.¹⁶ The staff report presented to the Committee included a “White Paper” from SeaQuest that provided background information about the company.¹⁷ In addition, Covino testified during the July 26 meeting providing additional information regarding SeaQuest.¹⁸ Based on the information provided during this meeting, the Committee voted to advance the funding request to the entire City Council.

On August 2, 2021, the Grand Forks City Council was presented with the same staff report, “SeaQuest’s White Paper,” and additional testimony from Covino in support of SeaQuest’s funding request.¹⁹ Prior to this meeting, PETA submitted comments alerting the City Council to the false and misleading information that Covino had provided in the “SeaQuest White Paper” and in his July 26 testimony.²⁰ Despite this warning, the City Council, after hearing from Covino a second time, voted to allow city officials to advance the funding request by conducting due

¹⁰ Ex. 3, Kmart Redevelopment Grand Forks Renaissance Zone Project, Aug. 3, 2020.

¹¹ Ex. 4, SeaQuest Funding Request, Aug. 2, 2020.

¹² Ex. 5, Email chain regarding Dennis Park Grand Forks Trip Itinerary, June 2021.

¹³ Ex. 6, Email exchange between Todd Feland and Russel Crary, July 20, 2021.

¹⁴ Ex. 7, Email from Russel Crary to Todd Feland, July 20, 2021.

¹⁵ Ex. 4.

¹⁶ *Id.*; see also Video Recording of Grand Forks Committee of the Whole, July 26, 2021 (July 26 Video), available here <https://youtu.be/3lfhOQM-Klg?t=2384> (at 39:45, Mr. Feland stating that Mr. Crary is at the meeting and able to answer any questions about the Grand Cities Mall redevelopment plan).

¹⁷ Ex. 4.

¹⁸ See July 26 Video, available here <https://youtu.be/3lfhOQM-Klg?t=2584> (43:03-60:00, Covino testimony).

¹⁹ Ex. 4; see also Video Recording of City Council Meeting, Aug. 2, 2021 (Aug. 2 Video), available here <https://youtu.be/CyIdKsW8atk?t=7999> (2:13:19-3:09:00).

²⁰ Ex. 8, PETA letter to Grand Forks City Council, July 29, 2021.

diligence into the company and the proposal.²¹ After this meeting, PETA submitted a second letter to the City Council alerting them to false and misleading statements made by Covino at the August 2 meeting, statements which the Council seemingly relied on to advance his funding request.²² To date, there has been no public announcements from the City regarding the status of SeaQuest's funding request.

I. By seeking a million dollar obligation from the City, Covino is subject to the North Dakota Unlawful Sales or Advertising Practices Act.

The USAPA's prohibition on deceptive conduct is triggered whenever there is a "sale or advertisement of any merchandise."²³ Any solicitation used "to induce, directly or indirectly, any person to enter into any obligation" is considered an advertisement for purposes of the Act.²⁴ Covino is soliciting the Grand Fork's City Council in an attempt to secure a million dollar grant, which would be a financial obligation for the City. This solicitation meets the definition of an advertisement.

The merchandise that Covino is advertising for is his business, SeaQuest. The term merchandise is defined broadly and includes intangibles and services.²⁵ It is well recognized that the intangible assets of a company include its reputation and brand, which is exactly what Covino is selling to the Grand Fork's City Council.²⁶ Aside from the SeaQuest brand, Covino is also offering a service in exchange for a million dollars of taxpayer money. Covino is promising to bring the service of an aquarium/petting zoo to Grand Forks if he is provided with financial support from the City.

The fact that this is not a traditional consumer transaction is irrelevant because the USAPA is not limited to just consumer transactions.²⁷ Nor is there is anything in the Act that exempts Covino from its provisions simply because he is soliciting a financial obligation from the City. The USAPA is sufficiently broad to encompass the solicitation of a million dollar investment of taxpayer money in exchange for establishing a certain brand of petting zoo in Grand Forks. It is "in the public interest" for the Attorney General's office to investigate when a company is apparently engaging in deceptive practices in an effort to obtain taxpayer money, especially when the taxpayers themselves have expressed their [overwhelming opposition](#).²⁸

²¹ Ex. 9, Proceeding of the Grand Forks City Council, Aug. 2, 2021.

²² Ex. 10, PETA 2nd Letter to Grand Forks City Council, Aug. 12, 2021.

²³ N.D.C.C. § 51-15-02.

²⁴ *Id.* § 51-15-01(1).

²⁵ *Id.* § 51-15-01(3).

²⁶ *See e.g.*, Black's Law Dictionary (11th ed. 2019) (defining intangible assets as "[a]ny nonphysical asset or resource that can be amortized or converted to cash, such as patents, goodwill, and computer programs, or a right to something, such as services paid for in advance.")

²⁷ *Jorgenson v. Agway, Inc.*, 627 N.W.2d 391, 394 (N.D. 2001) (holding that the Unlawful Sales or Advertising Practices Act is not limited to consumer transactions); *see also Staal v. Scherping Enterprises, Inc.*, 466 F. Supp. 3d 1030, 1034 (D.N.D. 2020) ("The Unlawful Sales Practices Act is not limited solely to 'consumer' transactions and relief may be sought by 'any person against any person who has acquired any moneys or property by means of any practice declared to be unlawful' by the Act.").

²⁸ *See* N.D. C. C. § 51-15-04 (authorizing the attorney general to investigate "when the attorney general believes it to be in the public interest" to do so).

II. Covino misrepresented information regarding SeaQuest in an effort to obtain a financial obligation from the City in apparent violation of the law.

Covino has made several demonstrably false statements to the Grand Forks City Council in seeking to convince them to invest a million dollars of taxpayer money in his privately held, for-profit company. The Attorney General's Office should investigate the following misrepresentations because they appear to violate the USAPA.

A. SeaQuest has been cited, fined, and even lost a state wildlife permit because of its lack of compliance with relevant laws.

Covino told the Grand Forks City Council that SeaQuest is the fastest growing aquarium/petting zoo company "in the history of the world" in part because it has "been successful with compliance with regulators."²⁹ Covino's testimony portrayed a successful, family friendly company with nothing but glowing reviews from visitors and the community at large.³⁰ Nothing could be further from the truth, as SeaQuest has been a chronic violator of state, local, and federal laws. Among other incidents:

- In June 2021, the City of Trumbull, Connecticut, sued SeaQuest for failing to pay its taxes. Specifically, Trumbull alleges that SeaQuest owes it \$167,158.33.³¹
- In March 2021, the United States Department of Agriculture (USDA) cited SeaQuest Connecticut for violations of the Animal Welfare Act (AWA) after an employee hit otters with a metal food bowl.³² Months later, the USDA cited SeaQuest Colorado for violations of the AWA after a wallaby named Ben drowned in an aquarium tank in his enclosure because there was no way for him to climb out of the water.³³
- Between June 2018 and June 2019, more than 40 people were injured by animals at SeaQuest's Colorado location.³⁴ In addition, the USDA has cited SeaQuest's Utah, Texas, and Connecticut locations for violations of the AWA associated with animals injuring members of the public or employees.³⁵
- In April 2019, the Colorado Department of Parks and Wildlife suspended SeaQuest Littleton's state zoological parks license for two years due to the company's numerous violations of state law and licensure requirements.³⁶
- In March 2019, Clark County Animal Control cited and fined SeaQuest Las Vegas \$2,000 for possessing unpermitted animals after the company illegally bred two Asian small-clawed otters in violation of its captive wildlife permit.³⁷

²⁹ Aug. 2 Video, available at <https://youtu.be/CyldKsW8atk?t=11259> (3:07:39-3:08:00).

³⁰ July 26 Video, available at <https://youtu.be/3lfhOQM-KIg?t=2584> (43:00-55:00).

³¹ Ex. 11, *Town of Trumbull v. SeaQuest Trumbull LLC*, Complaint.

³² Ex. 12, USDA Inspection Report, March 25, 2021.

³³ Ex. 13, USDA Inspection Report, June 3, 2021.

³⁴ Ex. 14, Injury Reports.

³⁵ Ex. 15, USDA Inspection Reports for Utah, Texas, and Connecticut locations.

³⁶ Ex. 16, License Suspension Decision, April 1, 2019.

³⁷ Ex. 17, Administrative Citation Appeal, Case No. A19-009250-1, March 28, 2019.

- In July 2018, the Colorado Department of Agriculture denied SeaQuest’s application for a pet animal care facility license after the company failed three inspections.³⁸ The department also ordered SeaQuest to cease and desist operations after finding that the company had been operating without a license.³⁹

SeaQuest has not been successful with compliance with regulators and in fact, its constant noncompliance has been the main source of negative press that has plagued the company for years.⁴⁰ In the “White Paper” provided to the City Council, Covino further paints this misleading narrative about SeaQuest by only touting select positive press coverage as evidence of SeaQuest’s success and popularity, while failing to disclose that the company is constantly the subject of criticism and controversy. When forced to confront this negative press coverage, Covino simply cried fake news stating, “we have yet to find an honest article on the criticisms.”⁴¹

This is not the first time Covino has attempted to mislead city officials by withholding negative information about SeaQuest. In 2018, Covino failed to submit a required affidavit disclosing prior enforcement actions and legal violations when he sought authorization to build a SeaQuest location in Oyster Bay, New York.⁴² Instead of submitting the required disclosure when city officials requested it,⁴³ Covino decided to withdraw his application to proceed with the project.⁴⁴

Covino’s failure to divulge accurate and complete information about SeaQuest while at the same time touting his history of compliance with regulators is misleading.

B. Ammon Covino was involved in SeaQuest while he was on parole for a wildlife trafficking conviction.

During the August 2 City Council meeting, Covino accused a member of the public commenting in opposition to SeaQuest’s funding request of slander and defamation for discussing his brother,

³⁸ Ex. 18, License Denial, July 23, 2018.

³⁹ Ex. 19, Cease and Desist Order, July 23, 2018.

⁴⁰ See e.g., [Former Las Vegas SeaQuest employees allege animal neglect](#) (April 23, 2017); [SeaQuest pays fines after keeping sloth, capybara in a home basement](#) (July 26, 2018); [SeaQuest denies refunds, angry customers say](#) (Aug. 3, 2018); [SeaQuest stores 80 parakeets in teenager’s garage; state investigating](#) (Aug. 7, 2018); [Less Than Month After Opening, Stingray Dies at SeaQuest Folsom](#) (Dec. 11, 2018); [Inside the murky world of the aquarium trade](#) (Dec. 17, 2018); [Citation issued as SeaQuest remains under investigation](#) (Feb. 24, 2019); [Reports of injuries pile up at SeaQuest Interactive Aquarium, State confirms ongoing investigation](#) (Feb. 27, 2019); [Another animal death uncovered at SeaQuest](#) (June 27, 2019); [Animal cruelty trial begins for manager after sloth burned at SeaQuest](#) (Sept. 30, 2019); [It Opened with a Splash, but SeaQuest Has Been Swamped by Controversy](#) (Oct. 15, 2019); [Criticism Mounts At SeaQuest Aquarium At Woodbridge Center Mall](#) (Jan 6, 2020); [NJ petting zoo accused of replacing sloth ‘Flash’ with doppelganger](#) (March 7, 2020); [SeaQuest Las Vegas responds after activist outcry following sloth death](#) (Nov. 13, 2020); [Child Bitten, Other Violations Found At SeaQuest Trumbull](#) (May 10, 2021); [Wallaby drowned at SeaQuest Littleton: USDA](#) (July 16, 2021).

⁴¹ Aug. 2 Video, available at <https://youtu.be/CyIdKsW8atk?t=9418> (2:37:00-2:37:16).

⁴² Ex. 20, PETA Request to Deny SeaQuest Special Use Permit Application (explaining that the Oyster Bay Town Code § 246-14.9.6 requires an affidavit from SeaQuest disclosing “all prior enforcement actions against any party who has an interest in the application or the property, arising from any violation of any law, statute or civil action”).

⁴³ Ex. 21, Letter from Oyster Bay Town Attorney, Dec. 19, 2018 (requesting the disclosure affidavit required by Oyster Bay Town Code § 146-14.9.6 from SeaQuest).

⁴⁴ Ex. 22, Notice of Withdrawal, May 17, 2019.

Ammon Covino's wildlife trafficking conviction.⁴⁵ Covino staunchly distanced himself from Ammon stating "[t]he legal record will show that he has never been an owner or an employee of SeaQuest."⁴⁶ Covino went even further, stating that he is not in "any way connected to buying sharks without permits" and that those sharks "were delivered by my brother to a non-profit aquarium that I had no affiliation with in Idaho."⁴⁷ While Covino would undoubtedly prefer not to be connected to his brother Ammon, the legal record is quite clear that such a connection exists.

In November 2012, Ammon Covino was indicted on federal crimes related to illegally transporting, harvesting, and purchasing lemon sharks and sting rays.⁴⁸ The indictment details that when a supplier told Ammon that he could not obtain the permits needed to legally acquire stingrays, Ammon said "just start doing it . . . who gives a s***, man?"⁴⁹ Ammon's partner in crime, Chris Conk, sought to purchase lemon sharks for the Idaho Aquarium "on the down low" because the appropriate permits could not be obtained.⁵⁰ After acquiring the lemon sharks, Ammon asked the supplier to acquire additional sharks for the new Portland Aquarium.⁵¹ At the time, Ammon was working with his brother Vince Covino on building the Portland Aquarium, "which, according to the company's operating agreement, [Ammon] owned a 40% interest."⁵²

In December 2013, Ammon was sentenced to 12 months and 1 day in prison followed by 2 years of probation after pleading guilty for wildlife trafficking.⁵³ One of the conditions of his probation was a prohibition on engaging in "any activity that involve[d] exhibiting, importing, transporting, selling, receiving, acquiring or purchasing in interstate or foreign commerce any fish or wildlife."⁵⁴ Within a month of being released from prison, Ammon sought to modify his probation restrictions to allow him to work on the construction of the San Antonio Aquarium with his brother Vince Covino.⁵⁵ The government vehemently opposed this request, arguing that "Vince Covino was formerly associated with defendant Ammon Covino in the opening of three aquariums, in Boise, Idaho, Portland, Oregon, and Austin, Texas."⁵⁶

In October 2015, Ammon was arrested for violating his parole restrictions by working at the San Antonio and Austin Aquariums.⁵⁷ Ammon was sent back to prison for 90 days and had another six months added to his probation period with the same restrictions.⁵⁸ Five days after Ammon was released from prison for these parole violations, he was emailing the construction supervisor for

⁴⁵ Aug. 2 Video, available at <https://youtu.be/CyIdKsW8atk?t=10889> (3:01:29-3:02:28).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Ex. 23, *U.S. v. Idaho Aquarium, LLC*, Civ. 4:12-cr-10020-JEM (S.D. Florida, November 9, 2012).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Ex. 24, Idaho Attorney General Findings on the Idaho Aquarium (April 2, 2015), at 10; Ex. 25, Portland Aquarium Business Filings (2012).

⁵³ Ex. 26, Motion to Modify Conditions of Supervised Release and Permit Employment (September 20, 2014).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Ex. 27, Government's Response in Opposition to Defendants Motion to Modify Conditions of Supervised Release (October 7, 2014).

⁵⁷ Ex. 28, Warrant for Arrest of Supervised Release (October 20, 2015); Ex. 29, Detention Hearing Documents (2015).

⁵⁸ Ex. 30, Judgement and Commitment upon Revocation of Offender under Supervision (February 24, 2016).

the planned SeaQuest facility in Las Vegas discussing the design and construction of the facility, which is “precisely what he had just gotten out of jail for doing.”⁵⁹ For the months that followed, Ammon was involved with the construction and animal acquisitions for SeaQuest Las Vegas and SeaQuest Utah.⁶⁰ According to the Department of Justice, the evidence of Ammon’s involvement with SeaQuest “was incredibly detailed of a kind one would expect only from somebody with a financial interest, direct or concealed in these two facilities.”⁶¹ In September 2016, Ammon was arrested again for violating his parole by working on these two SeaQuest Aquariums.⁶² At a November 2016 hearing on those violations, Ammon was sent back to prison for another eight months, followed by a year of probation with all the same restrictions as his previous parole.⁶³

Despite his strong statements to the contrary, Covino has an extensive history of working closely with his brother Ammon on aquarium projects, including SeaQuest.

C. The otter bite incident at SeaQuest Connecticut was serious and was not an anomaly.

In response to a councilmember’s question regarding “the situation” at SeaQuest’s Trumbull Connecticut location, Covino discussed, among other things, the circumstances surrounding a March 25, 2021 citation from the USDA over an incident where “a small child was bitten by one of the otters during public feeding.”⁶⁴ Covino explained that SeaQuest has “to fill out a report if [a bite] draws blood,” but that in this case “it was nothing that needed medical attention” and was nothing that “a Band-Aid wouldn’t fix immediately.”⁶⁵ Covino’s dismissive version of events is entirely inconsistent with the factual record.

In August 2019, a child was bitten by an otter at SeaQuest Trumbull.⁶⁶ According to SeaQuest’s own incident report, the bite drew blood and the parents were intending to seek medical attention.⁶⁷ The child’s parents took them to the doctor for treatment, and the physician reported the incident to the Connecticut State Department of Public Health because “a bite from this species is considered a potential rabies risk and there is no approved quarantine period or rabies vaccination in exotics and wildlife.”⁶⁸ As a result, public health officials recommended that the otter be euthanized and tested for rabies “to avoid the child going through unnecessary rabies treatment.”⁶⁹ However, SeaQuest refused to comply.⁷⁰ In lieu of euthanasia, the Connecticut State Department of Public Health evidently placed the otter under a 6-month quarantine.⁷¹ This initial incident led

⁵⁹ Ex. 31, Transcript of Hearing on Supervised Release Violation (November 30, 2016), at 5.

⁶⁰ *Id.* at 5-6.

⁶¹ *Id.* at 6.

⁶² Ex. 32, Warrant for Arrest (September, 2016).

⁶³ Ex. 33, Judgement and Commitment upon Revocation of Offender Under Supervision (December 5, 2016).

⁶⁴ Aug. 2 Video, available at <https://youtu.be/CyIdKsW8atk?t=9717> (2:41:57-2:42:37); see also Ex. 12.

⁶⁵ Aug. 2 Video, available at <https://youtu.be/CyIdKsW8atk?t=9717> (2:41:57-2:42:37).

⁶⁶ Ex. 34, Email and Otter Bite Incident Report, Aug. 2019.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Ex. 35, Email from State Veterinarian, Aug. 23, 2019.

⁷⁰ Ex. 36, Email from Connecticut Department of Energy and Environmental Protection, Sept. 16, 2019.

⁷¹ Ex. 37, Email from SeaQuest regarding Otter Quarantine, June 24, 2020.

state wildlife officials to warn SeaQuest that it was “at risk of having [its] exempt exhibitor status revoked.”⁷²

After completing the 6-month quarantine, SeaQuest resumed public interactions with the otters on July 1, 2020.⁷³ Two weeks later, on July 16, 2020, another child was bitten by an otter.⁷⁴ The child was bitten on the finger, resulting in a cut that bled.⁷⁵ This second otter bite led to a citation from the USDA.⁷⁶

SeaQuest’s facilities across the country have had similar incidents with otters biting guests and employees. At SeaQuest Las Vegas, an 8-month-old otter named Chip bit an employee on two separate occasions and after each incident the otter had to be quarantined because of the risk of rabies exposure.⁷⁷ Another otter in Las Vegas, a 4-month-old named Dale, also bit an employee and had to be quarantined for 10 days.⁷⁸ At SeaQuest’s location in Layton Utah, a guest was bitten by an otter and the animal had to be quarantined for 10 days because of potential rabies exposure.⁷⁹ In a separate incident at the same location, Covino’s father was bitten by the same otter and the animal had to once again be quarantined.⁸⁰ The USDA cited SeaQuest’s Fort Worth Texas location multiple times after repeated incidents of guests being injured during public encounters with the otters.⁸¹

Like many other marine mammals, otters are predatory in nature, have sharp teeth, and a strong jaw. Despite their small size, [otters are not](#) “placid, cuddly creature[s]” and have been observed hunting alligators. There are plenty of examples of the danger from these animals, including:

- [January 2019](#): A rabid otter attacked multiple people in Florida before police located and shot the animal. The otter latched on to one woman’s leg and would not release despite the woman running for approximately 25 yards.
- [March 2018](#): A 77-year-old kayaker was attacked by an otter in Florida who jumped onto her boat and began biting and clawing her face. The woman received stitches and treatment for rabies.
- [August 2016](#): Between three and five otters attacked two teenage boys swimming in a lake in California resulting in injuries to their necks, legs, and feet, which required treatment and resulted in the boys receiving rabies shots.

Allowing interactions with otters puts the public and the animals themselves at risk, a fact that Covino should be well aware of given the numerous incidents at SeaQuest facilities. Covino downplayed this risk to the public by equating an otter bite to a minor cut that just needs a Band

⁷² Ex. 38, Warning Letter from Connecticut Department of Energy and Environmental Protection, Aug. 29, 2019.

⁷³ Ex. 37.

⁷⁴ Ex. 39, SeaQuest Incident Report, July 16, 2020.

⁷⁵ *Id.*

⁷⁶ Ex. 12.

⁷⁷ Ex. 40, Clark County Animal Control Activity Card, Jan. 3, 2020; Ex. 41, Clark County Animal Control Activity Card, Sept. 7, 2019.

⁷⁸ Ex. 42, Clark County Animal Control Activity Card, May 20, 2019.

⁷⁹ Ex. 43, Davis County Health Department Rabies Exposure Reporting Form, Aug. 26, 2019.

⁸⁰ Ex. 44, Davis County Health Department Rabies Exposure Reporting Form, Nov. 30, 2019.

⁸¹ Ex. 45, USDA Inspections Reports for June 16, 2016 and Feb. 6, 2019.

Aid. What he failed to mention is that any injury from an otter could be a potential rabies risk, and that rabies, which is nearly universally fatal, cannot be fixed with a Band Aid.

D. SeaQuest Las Vegas was fined for unpermitted animals after breeding otters in violation of its permit.

Covino’s explanation for “how the accusation came up that [he] was illegally breeding Asian small clawed otters” is also entirely inconsistent with the factual record.⁸² According to Covino, he “bought an Asian small clawed otter” and found out “2 months later” that she was pregnant when they bought her.⁸³ Covino explained that after the otter had babies, “Animal Control came in and said you don’t have a breeding permit for these and we have to fine you.”⁸⁴ Covino’s account is false.

SeaQuest Las Vegas had a permit to possess two individual otters, but breeding was strictly prohibited.⁸⁵ In August 2018, one of these otters died.⁸⁶ On October 2, 2018, SeaQuest secretly replaced the dead animal with another otter named Hazelnut, who was housed with the surviving male otter.⁸⁷ Given the gestation period of otters, regulatory officials determined that Hazelnut was likely impregnated about a month *after* she arrived at SeaQuest.⁸⁸ Notably, SeaQuest did not know that Hazelnut was pregnant until about one week before she gave birth, which raised questions about “the knowledge and experience” of its staff.⁸⁹ When SeaQuest advised officials that Hazelnut was pregnant, officials told SeaQuest that this was a violation of its permit.⁹⁰ Yet, “[i]nstead of remedying this violation, SeaQuest Aquariums attempted to capitalize and profit from it, by issuing a press release about an event exhibiting baby otters on Valentine’s Day.”⁹¹ SeaQuest was cited and fined \$2,000 for unlawful possession of the four baby otters because these four animals were not authorized on their permit.⁹²

Hazelnut did not arrive at SeaQuest pregnant. She became pregnant at SeaQuest because she was carelessly housed with a male otter despite the strict prohibition on breeding in SeaQuest’s permit. This was a clear permit violation that SeaQuest tried to use to its financial advantage.

E. There is no evidence that SeaQuest has ever received a million dollars in public funding.

Covino told the Grand Forks City Council that SeaQuest has received funding “in every city” they’ve gone to, leaving the distinct impression that this type of investment of public funds was

⁸² Aug. 2 Video, available at <https://youtu.be/CyIdKsW8atk?t=11083> (3:04:43-3:05:46).

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Ex. 17.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

routine.⁹³ Specifically, Covino stated that they’ve “never gone in with anything lower” than a million dollars and that this would “would be the smallest amount of funds” they’ve ever received.⁹⁴ Despite submitting routine and comprehensive public records requests, PETA has only found evidence of one jurisdiction giving SeaQuest money: Layton, Utah. In 2017, the Layton Community and Economic Development Department provided SeaQuest a \$40,000 grant “as a labor expense subsidy” *after* SeaQuest had been open for business for a month and had more than 20 full-time equivalent employees.⁹⁵ Here, Covino is asking Grand Forks to give SeaQuest 25 times more taxpayer money, on a purely prospective basis.

Covino further explained that they have also obtained funds from commercial landlords and that “[g]enerally when the landlord comes in and gives [them] money” it is typically “between 1 million and 3.45 million” with an average of “around 2.5 million.”⁹⁶ Based on a lease agreement from the Galleria Mall in Fort Lauderdale Florida, the landlord agreed to reimburse SeaQuest for renovation costs up to \$2.5 million.⁹⁷ However, this landlord *only* agreed to pay for the actual cost of work performed and required that SeaQuest contribute almost a million dollars of its own money into the renovation costs.⁹⁸ A private cost-sharing agreement between a commercial landlord and a tenant for renovations is not the same as receiving a no strings attached, blank check from a municipality. Covino’s attempt to conflate the two is entirely misleading.

If Grand Forks gives Covino a million dollars, it would apparently be the first time SeaQuest has ever received that amount of public money from a local government. Covino’s statements to the city council give the exact opposite impression.

F. Public records suggest SeaQuest’s gross revenue maybe significantly less than what Covino claims.

Covino told the City Council that he believed they would “do between 3 and 3.5 million in gross revenue per year” at a Grand Forks location.⁹⁹ He also claimed, while arguing that his facilities were “first class” destinations, that SeaQuest is “a company that does millions a month.”¹⁰⁰ According to public records, the gross revenue for SeaQuest’s Folsom California location from November 2018 through October 2019 was \$1,156,641.¹⁰¹ This Folsom California facility is located in a larger city (approximately 80,000 residents)—Grand Forks only has around 59,000 residents—and within a mall that has a number of high profile anchor tenants, including Barnes & Noble, Whole Foods, and Nordstrom Rack. The Grand Cities Mall—where SeaQuest Grand Forks would be located—lost its most high profile anchor tenant, K-Mart, and the other anchor tenants are a church, a music store, and Ace Hardware. Covino’s projection that a Grand Forks location in a smaller, presumably less profitable mall, would bring in almost two and half times more in gross revenue than its Folsom California facility is suspect.

⁹³ July 26 Video, available here <https://youtu.be/3lfhOQM-Klg?t=3150> (52:30-53:30).

⁹⁴ Aug. 2 Video, available at <https://youtu.be/CyIdKsW8atk?t=9570> (2:39:30-2:39:48).

⁹⁵ Ex. 46, Agreement between Layton City Utah and SeaQuest.

⁹⁶ July 26 Video, available here <https://youtu.be/3lfhOQM-Klg?t=3150> (52:30-53:30).

⁹⁷ Ex. 47 ¶ H, Lease Agreement for Defunct SeaQuest Fort Lauderdale Project.

⁹⁸ *Id.*

⁹⁹ July 26 Video, available here <https://youtu.be/3lfhOQM-Klg?t=2656> (44:17-44:26).

¹⁰⁰ Aug. 2 Video, available here <https://youtu.be/CyIdKsW8atk?t=10635> (2:57:15-2:57:44).

¹⁰¹ Ex. 48, 2019-2020 Folsom Business Certificate.

Covino’s claim that SeaQuest makes “millions a month” is equally questionable. If each of SeaQuest’s nine locations has a gross revenue similar to the Folsom facility, then the company as a whole would have an annual gross revenue of around 10.5 million dollars. It is unknown the exact amount of monthly rent SeaQuest pays at each location, but for a 21,000 square foot space in Florida, SeaQuest was paying a minimum of \$467,544 in annual rent, which was set to increase each year.¹⁰² If SeaQuest is paying similar rent for each of its nine locations, the company is spending at least 4 million dollars in rent annually. Thus, after rent, SeaQuest’s profit is only around 6.5 million dollars *annually*—or around \$540,000 monthly—and that does not take into account any other expenses, such as payroll, electricity, and animal care costs. This is not even close to making “millions a month.” While these are just estimates based on the limited public information available from SeaQuest Folsom, these estimates provide a reasonable basis to question the accuracy of the information provided by Covino.

There is also reason to doubt Covino’s statements regarding SeaQuest’s financial impact on shopping malls. Covino boldly stated that SeaQuest accounts for “half of the traffic” to the Ridgmar Mall in Fort Worth Texas, claiming “it’s pretty significant what we’ve done to that mall.”¹⁰³ SeaQuest opened a location at the Ridgmar Mall in late 2017 as part of a [redevelopment strategy](#) after the mall lost two anchor tenants (Macy’s and Neiman Marcus).¹⁰⁴ Two years later, the [appraisal value](#) of the mall reportedly dropped nearly \$53 million, and the mall’s \$30 million redevelopment loan was [reported as delinquent](#).¹⁰⁵ By December 2020, [financial reports](#) reflected another \$3.5 million drop in the mall’s appraisal value.¹⁰⁶ Despite SeaQuest’s presence, the Ridgmar Mall still appears to be in serious financial decline.

As a privately held company, SeaQuest’s profitability is not a matter of public record. This lack of required transparency allows Covino to exaggerate SeaQuest’s financial success because there is limited publicly available information to prove he is wrong. However, the information outlined above is enough to raise significant questions as to the accuracy of Covino’s statements regarding SeaQuest’s financial success. The North Dakota Attorney General has ample tools at its disposal to seek out SeaQuest’s financial records in order to fully investigate whether Covino’s statements are indeed false.

III. Covino has previously demonstrated his willingness to skirt the law when it benefits him financially.

This is not the first time Covino has mislead the public or investors. In fact, Covino has a long history of questionable business practices and resulting sanctions that demonstrate a pattern of dishonest behavior. In 2012, the Financial Industry Regulatory Authority (FINRA) fined Covino \$5,000 and suspended him for 30 days for purchasing a home from a client with seller financing,

¹⁰² Ex. 47.

¹⁰³ Aug. 2 Video, available at <https://youtu.be/CyIdKsW8atk?t=9443> (2:37:23-2:37:48)

¹⁰⁴ Ex. 49, SeaQuest Aquarium Aims to Revive Ridgmar Mall, NBCDFW, Nov. 10, 2017.

¹⁰⁵ Ex. 50, Fort Worth’s Ridgmar Mall Appraisal Drops \$53M. Is A Foreclosure or Debt Restructuring In Its Future?, Bisnow, Sept. 23, 2019); *see also* Ex. 51, The Five Largest CMBS Loans to Turn Newly Delinquent, Trepp, Oct. 25, 2019.

¹⁰⁶ Ex. 52, Press Release, DBRS Morningstar Downgrades Four Classes of COMM 2014-UBS5 Mortgage Trust, Confirms All Others, Dec. 1, 2020.

thus borrowing money from the client in violation of FINRA’s rules.¹⁰⁷ Later that same year, the Idaho Department of Insurance revoked Covino’s license to sell insurance in the state and fined him \$1,000 for failing to disclose the FINRA action on his renewal application, which he submitted under penalty of perjury.¹⁰⁸ This license revocation was also based, in part, on at least 10 “actions involving loans made to Mr. Covino which became delinquent and were settled and compromised at significantly less than the original loan amounts,” causing his creditors to lose “approximately \$3 million based on his speculation and financial irregularities.”¹⁰⁹ Similarly, in 2017, the Idaho Department of Finance fined Covino \$5,000 for failing to disclose his 2012 FINRA disciplinary action to SeaQuest investors and for permitting an unlicensed agent to conduct business on SeaQuest’s behalf.¹¹⁰

Most recently, Covino’s “untrustworthiness and financial irresponsibility” were on display in Fort Lauderdale, Florida, during his botched attempt to develop a SeaQuest aquarium at the Galleria Mall. In June 2018, SeaQuest announced that it would open a new location at the Galleria Mall later that year and began selling tickets to the public.¹¹¹ PETA initiated litigation against the city challenging the approval for this project.¹¹² While PETA’s litigation was pending, the owner of the Galleria Mall (Keystone-Florida Property Holdings Corp.) [sued to evict](#) SeaQuest for violating its lease after Covino failed to pay multiple contractors, leading them to file liens against the property.¹¹³ A week after the eviction papers were filed, Covino released a marketing video on the SeaQuest Fort Lauderdale Facebook page, updating customers on the purported progress of the site and assuring the public—including, specifically, people who had already bought tickets—that the location would be open in late 2020.¹¹⁴ SeaQuest Fort Lauderdale and its landlord eventually settled their dispute out of court,¹¹⁵ but not before Covino agreed to abandon the Fort Lauderdale project as part of a stipulated dismissal in PETA’s litigation.¹¹⁶

Thus, in December 2020—two and a half years after SeaQuest Fort Lauderdale announced its upcoming opening and started selling tickets to the unsuspecting public—the project was dead. There were no announcements on SeaQuest Fort Lauderdale’s [website](#) alerting consumers on how to obtain refunds for their previously purchased tickets. A number of savvy consumers filed complaints with the appropriate Florida state agency,¹¹⁷ but—considering that just a few months ago some consumers were still asking when the facility will open—it appears unlikely that everyone who purchased advanced tickets to this abandoned facility received a refund.¹¹⁸

¹⁰⁷ Ex. 53, FINRA Letter of Acceptance, Waiver and Consent, Feb. 9, 2012.

¹⁰⁸ Ex. 54, Findings of Fact and Conclusions of Law, Idaho Department of Insurance, Dkt. No. 18-2751-12, July 2, 2012.

¹⁰⁹ *Id.* (finding that these “failed transactions and unpaid loans demonstrate untrustworthiness and financial irresponsibility which has resulted in a source of injury and loss to others”).

¹¹⁰ Ex. 55, Agreement and Order, Idaho Department of Finance, Dkt. No. 2017-7-05, March 17, 2017.

¹¹¹ Ex. 56, SeaQuest Fort Lauderdale Press Release, June 6, 2018.

¹¹² Ex. 57, *Campos, et al. v. City of Fort Lauderdale*, Complaint, March 6, 2019.

¹¹³ Ex. 58, Complaint for Eviction and Damages, Aug. 18, 2020; *see also* Ex. 59, Liens (totaling more than \$400,000 in unpaid bills from Oct. 2019 – Nov. 2020).

¹¹⁴ Video A (Posted Aug. 25, 2020) (“If everything goes ok, [we would have] a late 2020 opening date”).

¹¹⁵ Ex. 60, Voluntary Dismissal, Feb. 2, 2021.

¹¹⁶ Ex. 61, Stipulation of Dismissal, Dec. 8, 2020.

¹¹⁷ Ex. 62, Consumer Complaints.

¹¹⁸ Ex. 63, Facebook Post, Sept. 8, 2020 (comment from June 14, 2021 asking “[w]hen are you guys opening?”).

Unsurprisingly, Covino appears to be continuing this pattern of disreputable behavior with SeaQuest's funding request in Grand Forks by providing misleading information about SeaQuest to create a positive and false narrative about his company.

Conclusion

Covino has misrepresented information in an effort to secure a financial obligation from Grand Forks, which appears to be unlawful. The USAPA creates legal consequences for business owners who provide false information in order to obtain a financial incentive. Given Covino's history of questionable business practices, it is imperative that the Attorney General investigate this issue and hold Covino fully accountable for his dishonest behavior. If the Attorney General determines that anyone connected with the City of Grand Forks knew or consciously avoided knowing that Covino's statements were false while pushing his request for an investment forward, those officials should also be held accountable per the USAPA.