



GRANTED

The moving party is hereby **ORDERED** to provide a copy of this Order to any pro se parties who have entered an appearance in this action within 10 days from the date of this order.

Charles M. Pratt
District Court Judge

DATE OF ORDER INDICATED ON ATTACHMENT

DISTRICT COURT, COUNTY OF ARAPAHOE,
STATE OF COLORADO
7325 South Potomac Street
Centennial, Colorado 80112
Phone: 303-649-6355

Plaintiffs: STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL,

v.

Defendants: COLORADO HUMANE SOCIETY & S.P.C.A., INC.; MARY C. WARREN, an individual; ROBERT WARREN, an individual; and STEPHENIE L. GARDNER, an individual.

FILED Document

CO Arapahoe County District Court 18th JD

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Case No.: 2008 CV 2659

Division: 404

CONSENT DECREE

The parties have reached a settlement in this action. The terms of the settlement are contained in a separate Stipulated Motion for Entry of Consent Decree signed by the parties, which has been filed with the Court prior to entry of this Consent Decree. Upon the parties' request, and upon finding that good cause has been shown for entering this Consent Decree, the Court HEREBY ORDERS that:

GENERAL PROVISIONS

1. The terms of this Consent Decree are entered pursuant to the authority given this Court pursuant to the Colorado Consumer Protection Act ("CCPA") 6-1-101 *et. seq.*, C.R.S. (2009).

2. The Stipulated Motion for Entry of Consent Decree, and this Consent Decree entered pursuant thereto, fully and finally resolve all matters which were brought or could have been brought by the State of Colorado against Robert Warren, Mary C. Warren and Stephenie L. Gardner in this litigation, including but not limited to: (i) civil or statutory penalties; (ii) injunctive relief; (iii) disgorgement; (iv) accounting and production of documents; (v) consumer restitution; (vi) attorneys fees and costs; (vii) any statutory violations and (viii) all pending motions.

3. As a term of this Consent Decree, Robert Warren, Mary C. Warren and Stephenie L. Gardner agree to dismiss without prejudice any and all cross-claims they currently have or may have against CHS and agree not to re-file said claims or to further pursue said claims against CHS.

4. Robert Warren, Mary C. Warren and Stephenie L. Gardner also agree to withdraw any and all administrative claims they have asserted against CHS pursuant to the claims process instituted by this Court.

5. Robert Warren, Mary C. Warren and Stephenie L. Gardner additionally agree to release CHS and all of its former employees, officials, agents, attorneys, heirs, successors in interest, executors, administrators, and assigns (the "Other Released Parties") from any and all claims, causes of action, liabilities, expenses and/or damages of every kind and nature, sounding in law or in equity, whether presently known or unknown including, but not limited to, anything arising from or based upon any transaction, matter or occurrence, alleged in or addressed by the Complaint, the cross-claims addressed by paragraph 3, and the administrative claims addressed by paragraph 4; provided, however, that such release applies to the Other Released Parties only in their capacity as representatives of CHS.

6. Robert Warren, Mary C. Warren and Stephenie L. Gardner further agree and covenant that they will not sue, or assert any federal, state or administrative cause of action, at law or in equity, whether before a court of law or an administrative agency, against CHS, or any of the Other Released Parties for any claims, causes of action, liabilities, expenses and/or damages, including, but not limited to, anything arising from or based upon any transaction, matter or occurrence, alleged in or addressed by the Complaint, the administrative claims addressed by paragraph 3, and the cross-claims addressed by paragraph 4 provided, however, that such release applies to the Other Released Parties only in their capacity as representatives of CHS.

7. Entry of the Consent Decree shall not affect any prior orders of this Court.

8. No other persons are beneficiaries of the Consent Decree, other than the State of Colorado, Robert Warren, Mary C. Warren and Stephenie L. Gardner, except as set forth in paragraphs 3 through 6 above and in the Stipulated Motion for Entry of Consent Decree.

9. If any provision of this Consent Decree should be declared to be unenforceable or invalid, then the remainder of this Consent Decree shall continue to be binding upon the parties.

INJUNCTION

10. Pursuant to, and in accordance with, the terms of the Stipulated Motion for Entry of Consent Decree, Robert Warren and Mary C. Warren (hereinafter "The Warrens") are hereby enjoined for a period of ten (10) years from the following:

- i. the Warrens will not serve as members of the Board of Directors of any charitable organization as defined in Colo. Rev. Stat. §6-16-103(1) of the Colorado Charitable Solicitations Act incorporated or formed in Colorado or

having its principal place of business in Colorado (a "Colorado Charitable Organization");

ii. the Warrens will not "independently operate" any Colorado Charitable Organization, independently operate for purposes of this Consent Decree meaning serving as the executive director, director or officer of any Colorado Charitable Organization;

iii. the Warrens will not have "managerial control" of any Colorado Charitable Organization; managerial control, for purposes of this Consent Decree, includes any employment where the employee's duties regularly consist of any combination of the following factors: financial control of the enterprise, management of the enterprise, regularly directing the work of two or more employees of the charity, having the authority to fire and hire employees or make recommendations that given particular weight regarding firing, hiring or advancement of employees, and regularly exercising discretionary powers.

11. For a period of five (5) years, the Warrens are hereby enjoined from owning, independently operating, or having managerial control over any organization regulated pursuant to the Colorado Pet Animal Care Facilities Act, Colo. Rev. Stat. §35-80-101 et seq., as currently defined and enacted ("PACFA").

12. The Warrens are permanently enjoined from holding any position in any organization regulated by PACFA which involves their participation in deciding to euthanize any animal.

13. The Warrens shall notify Plaintiff within five (5) days of applying for a license to operate an organization governed by PACFA. This provision applies to any license application to PACFA where either of the Warrens would be owning, independently operating, or having managerial control over the entity for which a PACFA license is being sought.

14. Pursuant to, and in accordance with, the terms of the Stipulated Motion for Entry of Consent Decree, Stephenie Gardner is hereby enjoined for a period of two (2) years from the following:

i. Ms. Gardner will not serve as a member of the Board of Directors of any Colorado Charitable Organization;

ii. Ms. Gardner will not independently operate any Colorado Charitable Organization;

iii. Ms Gardner will not have managerial control of any Colorado Charitable Organization.

15. For a period of one (1) year, Ms. Gardner is hereby enjoined from owning, independently operating, or having managerial control over any organization regulated pursuant to PACFA.

16. Ms. Gardner is permanently enjoined from holding any position in any organization regulated by PACFA which involves unilateral approval power in deciding to euthanize any animal.

17. Ms. Gardner shall notify Plaintiff within five (5) days of applying for a license to operate an organization governed by PACFA. This provision applies to any license application to PACFA where Ms. Gardner would be owning, independently operating, or having managerial control over the entity for which a PACFA license is being sought.

18. Pursuant to, and in accordance with the terms of the Stipulated Motion for Entry of Consent Decree, Defendants are permanently enjoined from engaging in any actions contrary to the the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-101 et seq. (2009) (“CCPA”); the Colorado Charitable Solicitations Act, Colo. Rev. Stat. § 6-16-101 et seq. (2009) (“CCSA”); PACFA or the Colorado Revised Nonprofit Corporations Act, Colo. Rev. Stat. §§7-121-101 et seq. (2009) (“CRNPCA”).

CONSIDERATION

19. Defendants are entering into this Consent Decree for the purpose of compromising and resolving disputed claims and to avoid the expense of litigation. Defendants' execution of this Consent Decree shall not be considered an admission by Defendants of liability as to any of the claims asserted by the State of Colorado, an admission of any factual allegations stated in any pleading, or an admission of liability on the part of Defendants, by whom liability is expressly denied. Nothing herein constitutes approval by the State of Colorado of Defendants' past or future practices, and Defendants shall not make any representation to the contrary.

20. Pursuant to, and accordance with the terms of the Stipulated Motion for Entry of Consent Decree, entry of the Consent Decree shall not release any third parties or claims not specifically named in the Stipulated Motion for Entry of Consent Decree or in this Consent Decree.

21. This Consent Decree is intended to resolve finally and fully all of the civil disputes between the Attorney General and Defendants arising out of the conduct alleged in the Complaint. This Consent Decree shall not be construed to affect any claims by the Attorney General against any other defendants, named or unnamed, or against any other individuals or entities regarding the conduct alleged in the Complaint. This Consent Decree shall not be construed to affect any criminal actions or charges against Defendants or against any other defendants, named or unnamed, or against any other individuals or entities regarding the conduct alleged in the Complaint.

COMPLIANCE AND MONITORING

22. Plaintiff shall provide the Defendants written notice of any alleged violation of the Consent Decree that it discovers, including any alleged violation discovered by any legal means. Defendants shall respond to Plaintiff within fifteen days from the date of receipt of written notice and cure any violation within thirty days from the date of receipt of written notice.

23. In the event an alleged pattern of such violations continues after the initial notice of an alleged violation of the injunctive terms set forth herein and the response submitted thereto, Plaintiff may take any steps that it is otherwise lawfully permitted to take and that are reasonably necessary to correct such continuing pattern of alleged violations, including but not limited to seeking an order of contempt of court, subject to the meet-and-confer provision in the following paragraph.

24. Prior to the filing of any contempt proceeding or any other proceedings related to this Consent Decree, Plaintiff shall make a good-faith attempt to meet-and-confer, in person, with the Defendants. For purposes of any meet-and-confer obligations, Plaintiff may contact any of the Defendants directly and may continue to do so unless and until a Defendant advises he or she is represented by legal counsel for purposes of such topic.

25. Plaintiff and Defendants shall each bear their respective attorney fees and costs with regard to the claims resolved by the Stipulated Motion for Entry of Consent Decree and this Consent Decree.

RETENTION OF JURISDICTION

26. This Court shall retain jurisdiction of this matter for the purpose of enabling any party to this Consent Decree to apply to the Court at any time for any further orders which may be necessary or appropriate for the construction, modification or execution of this Consent Decree, and for the enforcement of compliance herewith and the punishment of violations hereof.

27. This Consent Decree shall not be construed to affect the rights of any private party to pursue remedies pursuant to Colo. Rev. Stat. §6-1-113 (2009) of the CCPA, Colo. Rev. Stat. § 6-16-111(5) (2009) of the CCSA, or under any other statutes through actions in common law.

28. The Stipulated Motion for Entry of Consent Decree sets forth the parties' understanding and agreement that a violation of any provision of this Consent Decree shall give

rise to the remedies provided under Colo. Rev. Stat. §6-1-112(b) (2009) as well as to remedial and punitive sanctions available under C.R.C.P. 107.

29. In addition to the remedies available as set forth in the preceding paragraph, if the Court finds that a Defendant has willfully violated this Consent, the Court may impose treble the maximum amount of civil penalties allowed pursuant to Colo. Rev. Stat. §6-1-112(b) for said violation.

30. In the event that a Defendant engages in any actions contrary to the CCPA, CCSA, PACFA or CRNCA as referenced in paragraph 18, Plaintiff shall be entitled to seek remedies pursuant to those statutes as well as remedies for violation of this Consent Decree as set forth above.

31. The March 1, 2010 trial is hereby vacated as all of the claims set for said trial are resolved by entry of this Consent Decree.

DONE this ____ day of _____, _____.

BY THIS COURT:

Hon. Charles M. Pratt
District Court Judge
Arapahoe County District Court

This document constitutes a ruling of the court and should be treated as such.

Court: CO Arapahoe County District Court 18th JD

Judge: Charles M Pratt

File & Serve

Transaction ID: 29232535

Current Date: Jan 28, 2010

Case Number: 2008CV2659

Case Name: STATE OF CO EX REL JOHN W SUTHERS et al vs. COLORADO HUMANE SOCIETY
SPCA INC et al

/s/ **Judge Charles M Pratt**