

DISTRICT COURT ARAPAHOE COUNTY, COLORADO Arapahoe County Justice Center 7325 S. Potomac Street Centennial, CO 80112	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case Number: 2008cv2659</p> <p style="text-align: center;">CTRM/DIV: 404</p>
<p><b>Plaintiff:</b></p> <p>STATE OF COLORADO, ex rel. JOHN W. SUTHERS,          ATTORNEY GENERAL</p> <p><b>Defendants:</b></p> <p>COLORADO HUMANE SOCIETY &amp; S.P.C.A., INC.;          MARY C. WARREN, an individual; ROBERT          WARREN, an individual; and STEPHENIE L.          GARDNER, an individual.</p>	
<b>ORDER AUTHORIZING AND CONFIRMING THE JUDICIAL SALE OF CERTAIN          ASSETS OF COLORADO HUMANE SOCIETY &amp; S.P.C.A., INC.,</b>	

This matter coming before the Court on the Motion (the "Motion") of Waverton Group, LLC, acting in its capacity as the duly-appointed Receiver in this case (in its capacity as Receiver, "Waverton") for an Order (I) Approving Bidding Procedures for the Sale of Certain Assets of Colorado Humane Society & S.P.C.A., Inc., Through a Judicial Sale, (II) Approving Protections for Prospective Purchasers, and (III) Scheduling an Auction, and, following the completion of the Sale process set forth in the Motion and in this Court's earlier Order, dated \_\_\_\_\_, 2010, granting the Motion (the "Sale Procedures Order"), for an Order authorizing and confirming the judicial sale of certain assets and ownership interests (the "Assets") of Colorado Humane Society & S.P.C.A., Inc. ("CHS") upon the terms and subject to the conditions set forth in that certain Asset Purchase Agreement dated February 3, 2010 (the "APA"), between Waverton and Colorado Anti-Cruelty Society ("Buyer"), a Colorado nonprofit corporation, a copy of which APA is attached as an Exhibit to the Motion, the Court having reviewed the Motion and the Affidavit of Richard A. Block, Managing Member, Waverton Group, LLC, as Receiver, the Court having conducted a hearing to consider the request for approval of the Sale of the Assets to Buyer (the "Confirmation Hearing"), the Court having considered the statements of counsel and the evidence presented at the Confirmation Hearing, the Court being duly informed as to all relevant matters to the extent deemed necessary by the Court, and with all capitalized terms not otherwise defined having the meanings ascribed to those terms in the Motion or in the Bidding Procedures,

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 PATEL-BRYAN, M. J.

NOW, THEREFORE, the Court having considered the Motion and the Sale Procedures Order, other pleadings and papers filed in support of the Motion, and upon the entire record of this case; and good cause appearing therefor:

IT IS HEREBY FOUND AND CONCLUDED, that:

A. The Court has jurisdiction over the Motion and the Assets, and to authorize and confirm the Sale as set forth herein, in accordance with this Court's Stipulated Order Appointing Custodian and Issuing Preliminary Injunctive Relief, dated December 16, 2008 (the "Custodian Order"), and the Sale Procedures Order.

B. Proper, timely, adequate and sufficient notice of the Motion, the Bidding Procedures, the Sale Procedures Order, the Sale and the Confirmation Hearing has been provided in accordance with the Sale Procedures Order, and such notice was good and sufficient, and appropriate under the particular circumstances, and no other or further notice of any of the foregoing or the entry of this Confirmation Order is required.

C. The Sale Procedures Order and the Bidding Procedures are and were reasonable and appropriate and represent the best method for obtaining the highest and best offer for the Assets, in order to maximize the value of such assets for the benefit of the CHS Estate and its creditors.

D. The Sale Procedures Order and the Bidding Procedures provided a transparent and fair mechanism to govern the marketing and sale of the Assets.

E. Waverton has complied with the Sale Procedures Order and the Bidding Procedures for soliciting, analyzing and determining Qualified Bids for the Sale of the Assets.

F. The Sale Procedures Order has been fully complied with in all material respects.

G. A reasonable opportunity to object or be heard with respect to the Sale Procedures Order, the Bidding Procedures and the Confirmation Order, and the relief requested therein, has been afforded to all creditors, equity interest holders, interested persons and entities.

H. Creditors, parties-in-interest and other entities have been afforded a reasonable opportunity to bid for the Assets pursuant to the Sale Procedures Order. Waverton marketed the Assets and the sale process in compliance with the Sale Procedures Order and the requirements of applicable law.

I. Buyer was the only party that submitted a Qualified Bid for the Assets. No other person or entity submitted a Qualified Bid by the deadline established in the Sale Procedures Order, and, except for Buyer, no person or entity has submitted a bid of any sort since such deadline. As a result, pursuant to the terms of the Sale Procedures Order, Waverton and the Court were not required to conduct the Auction, and the bid submitted by Buyer is the highest and best offer for the Assets and the Successful Bid.

J. The APA, a copy of which is attached to the Motion, reflects the exercise of Waverton's sound business judgment on behalf of the CHS Estate.

K. Waverton has full limited liability company power and authority to execute the APA and all other documents contemplated thereby, and to perform and consummate all transactions contemplated by the APA.

L. Approval at this time of the APA and consummation of the Sale is in the best interests of CHS Estate and its creditors.

M. Waverton has demonstrated reasonable and compelling business purpose and justification for the sale of the Assets to Buyer, including the fact that the CHS Estate has insufficient funding to continue any on-going business operations and, as a result, the value of the Assets is likely to depreciate rapidly in the absence of the Sale.

N. The APA was negotiated, proposed and entered into by Waverton and Buyer without collusion, in good faith, and from arm's-length bargaining positions.

O. Buyer is a good faith purchaser for value of the Assets. The APA was not entered into for the purpose of hindering, delaying or defrauding any past or future creditors of CHS or the CHS Estate, under the laws of the United States or any state, territory, possession, or district thereof.

P. The terms and conditions of the APA and the Purchase Price thereunder (i) are fair and reasonable, (ii) represent the highest and best offer for the Assets, (iii) will provide a greater recovery for the CHS Estate's creditors than would be provided by any other practical alternative and (iv) constitute fair consideration and reasonably equivalent value in exchange for the Assets. The Credit Bid is a valid and fair component of the Purchase Price, and has been approved by the Court, as stated in the Sale Procedures Order.

Q. Waverton's sale of the Assets to Buyer shall be free and clear of all liens, claims, encumbrances and interests of any kind or nature whatsoever against CHS, Waverton or the CHS Estate or any of each of its respective past or present insiders, affiliates, representatives, officers and directors whatsoever arising from any transaction, event or occurrence before the Court's Confirmation Order, including any claims made by any former directors or officers, or any affiliates thereof, of CHS, and all claims and liens against CHS, Waverton or the CHS Estate shall attach to the Sale proceeds in the valid amount and priority afforded those claims and liens under applicable law, and the amounts of any valid liens of record shall be paid out of such proceeds to the extent possible, as determined by the Court upon notice to parties in interest.

R. The Sale of the Assets to Buyer under the APA will vest Buyer with good and marketable title to the Assets.

S. Consummation of the sale, including, without limitation, the transfer of the Assets to Buyer will not subject Buyer to any debts, liabilities, obligations, commitments,

responsibilities or claims of any kind or nature whatsoever, whether known or unknown, contingent or otherwise, existing as of the date hereof or hereafter arising, of or against CHS, Waverton or the CHS Estate, any affiliate of CHS, or any other person by reason of such transfers and assignments, including, without limitation, based on any theory of antitrust or successor or transferee liability, except that Buyer shall only be liable for payment of the amounts set forth in the APA.

T. Buyer will not consummate the Sale and the transactions contemplated by the APA if the Sale of the Assets to Buyer is not free and clear of all liens, claims, encumbrances and interests of any kind or nature whatsoever, or if Buyer would, or in the future could, be liable for any liens, claims, encumbrances and interests of any kind or nature whatsoever.

U. Waverton is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Colorado. Upon the entry of this Confirmation Order and following the prior orders of this Court, including the Sale Procedures Order, Waverton has full power, authority and capacity to execute and deliver the APA and all Related Agreements (as used herein, as defined in the APA) and, subject to obtaining this Court's approval set forth herein, to perform its obligations under the APA and the Related Agreements and to consummate the transactions contemplated in this Confirmation Order, the APA and the Related Agreements.

V. CHS is a nonprofit corporation duly incorporated and in good standing in the State of Colorado.

W. CHS is an organization described in Section 501(c)(3) of the Internal Revenue Code.

X. The execution, delivery and performance of the APA and the Related Agreements by Waverton, and the consummation of the transactions contemplated thereby and in this Confirmation Order, have been duly authorized and approved by Waverton, and no other corporate action on the part of Waverton or CHS is necessary to authorize the execution, delivery and performance of the APA and the Related Agreements by Waverton and the consummation of the transactions contemplated thereby. Subject to obtaining this Court's approval set forth in this Confirmation Order, the APA has been duly and validly executed and delivered by Waverton and constitutes, and upon the execution and delivery by Buyer and Waverton of the Related Agreements, the Related Agreements shall constitute, legal, valid and binding obligations of Waverton enforceable against Waverton in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency, reorganizations, moratorium or other laws affecting creditors' rights generally.

Y. Subject to this Court's approval set forth herein, no consent, approval or action of, filing with or notice to any Governmental Authority (as defined in the APA) on the part of Waverton is required in connection with the execution, delivery and performance of the APA or any of the Related Agreements or the consummation of the transactions contemplated hereby or thereby.

Z. Neither Waverton nor any Affiliate (as defined in the APA) thereof has incurred any liability for any fee or commission to any broker, finder, investment banker or other intermediary in connection with the transactions contemplated by the APA that would result in any liability or obligation being imposed on Buyer.

AA. There is no claim, action, suit, litigation, arbitration, proceeding, inquiry or investigation pending or, to Waverton's knowledge, threatened, before or by any court, governmental authority or arbitrator that seeks to enjoin or prohibit, that questions the validity of, that might materially hinder or impair Waverton's performance of its obligations under the APA, or that if adversely decided would adversely affect the Assets.

BB. To the knowledge of Waverton, the use of the Assets does not infringe or misappropriate the intellectual property of any third party or constitute unfair competition or trade practices under the laws of any jurisdiction and is not subject to any pending or threatened litigation or other adverse claim of infringement or misappropriation by any person or entity; and there have been no threats or other indications received or known by Waverton alleging that any of the Assets are invalid or unenforceable.

CC. To the knowledge of Waverton, no person or entity is infringing or misappropriating any of the Assets. Waverton has not threatened, initiated or contemplated any claim or allegation against any person or entity alleging that such person or entity infringes, misappropriates or otherwise violates any intellectual property rights in the Assets.

DD. Waverton has taken commercially reasonable steps to maintain and preserve the Assets.

EE. The CHS Estate, including through the prior orders of this Court, has acquired all valid legal ownership of all domain names listed in Section 2.1(e) of the APA; Waverton, including through the prior orders of this Court, has acquired all valid legal right, authority and ability to transfer title on behalf of the CHS Estate to all domain names listed in Section 2.1(e) of the APA.

FF. Neither the APA nor any of the Related Agreements contains any untrue statement of a material fact regarding the Purchased Assets (as defined in the APA) or omits any statement of a material fact necessary to make any statement contained therein regarding the Purchased Assets not misleading.

GG. Waverton will maintain the 501(c)(3) status of CHS in good standing and the CHS Estate will not incur any material adverse changes in its legal, organizational or financial condition or in its ability to complete the transaction set forth in the APA and this Confirmation Order.

HH. Waverton has withheld, paid and properly reported all taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, creditor, or other third party. The Assets are not subject to any liens for taxes payable

by Waverton, except for the claim and lien asserted by the Internal Revenue Service in the approximate amount of \$26,300 arising from the potential late filing of a Form 990 on behalf of CHS for the tax period ending June 30, 2007 (the "IRS Claim"). Seller has reserved sufficient funds necessary to satisfy the IRS Claim.

II. There are no legal or equitable reasons to delay the Closing of the Sale according to the terms of the APA.

JJ. To the extent any findings of fact herein constitute conclusions of law, they are adopted as such. To the extent any conclusions of law herein constitute findings of fact, they are adopted as such

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Sale and the APA are hereby approved, authorized and confirmed by the Court.
2. The Motion is granted to the full extent necessary to consummate the Sale of the Assets according to the APA.
3. All objections to the Motion and entry of this Confirmation Order that have not been withdrawn, waived or settled are hereby overruled on the merits. All persons and entities given notice of the Motion that failed to timely object thereto are deemed to consent to the relief sought therein, including, to this Confirmation Order.
4. The transfer of the Assets by Waverton to Buyer under the APA shall be a legal, valid and effective transfer of the Assets, passing to Buyer all good and valid legal title to the Assets in all respects. The Closing of the Sale and all other transactions contemplated by the APA are hereby approved and authorized.
5. Notwithstanding any other provisions of this Confirmation Order or the APA, Waverton shall hold the full amount of the Purchase Price, less the Credit Bid, in accordance with the Custodian Order, pending further Order of this Court.
6. The Escrow Agent is hereby authorized and directed to disburse to Waverton the full amount of the Purchase Price held by the Escrow Agent, with any accruals to, deductions from, or expenses chargeable to the Purchase Price to be made or distributed by the Escrow Agent in accordance with the Escrow Agreement.
7. Waverton is authorized to and shall sell, and Buyer shall buy, the Assets on the terms and conditions set forth in the APA free and clear of all mortgages, deeds of trust, security interests, pledges, liens, judgments, demands, encumbrances, easements, restrictions or charges, rights-of-way, covenants, encroachments, building, use, voting or other restrictions, conditional sale or other title retention agreements and interests of any kind or nature, whether incurred voluntarily or arising by operation of law (the foregoing collectively referred to as "Liens"

herein), and all debts arising in any way in connection with any acts of CHS, Waverton or the CHS Estate, claims, obligations, liabilities, demands, guaranties, options, rights, contractual commitments, restrictions, interests and matters of any kind and nature, arising prior to the Closing of the Sale or relating to acts occurring prior to the Closing, whether imposed by agreement, understanding, law, equity or otherwise and whether known or unknown, disclosed or undisclosed, absolute, contingent, inchoate, fixed or otherwise (the foregoing collectively referred to as "Claims" herein). The amounts of any valid Liens of record shall attach to the cash proceeds of the Purchase Price paid to Waverton and such Liens shall be satisfied out of such proceeds to the extent possible, as determined by the Court upon notice to parties in interest.

8. In furtherance of the foregoing, Buyer is not assuming nor shall it or any affiliate of Buyer in any way whatsoever be liable or responsible, as a successor or otherwise, for any Liens or Claims against CHS, Waverton or the CHS Estate or Claims in any way whatsoever relating to or arising from the Assets or CHS's, Waverton's or the CHS Estate's operations or use of the Assets, on or prior to the Closing. Any Liens or Claims that in any way whatsoever relate to periods on or prior to the Closing or are to be observed, paid, discharged or performed on or prior to the Closing (in each case, including any Liens or Claims that result from, relate to or arise out of tort or other product liability claims) or any Liens or Claims calculable by reference to CHS, Waverton, the CHS Estate, or any of each of its respective assets or operations, or relating to continuing conditions existing on or prior to the Closing, are hereby extinguished insofar as they may apply to Buyer or any affiliate of Buyer or otherwise give rise to successor liability.

9. All parties holding Liens or Claims of any kind or nature whatsoever against or in CHS, Waverton, the CHS Estate or the Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, senior or subordinated), arising under or out of, in connection with, or in any way relating to, CHS, Waverton, the CHS Estate, the Assets, the operation of the business of CHS, Waverton or the CHS Estate prior to the Closing, or the transfer of the Assets to Buyer, hereby are forever barred, estopped, and permanently enjoined from asserting such persons' or entities' Liens or Claims against Buyer, any affiliate of Buyer, or their respective successors or assigns, affiliates, officers, directors, employees, trustees, property, or assets, which Liens and Claims are hereby extinguished.

10. Any person or entity receiving notice of the Motion or the Confirmation Order, whether prior to or after the Confirmation Order, including all creditors and parties in interest in this case, and all persons or entities affiliated with or acting in concert with them, are hereby forever barred, estopped, and permanently enjoined from interfering with, or commencing any litigation regarding, the use or operation of any Assets based on any Liens or Claims.

11. All entities that are presently, or at the Closing may be, in possession of some or all of the Assets are hereby directed to surrender possession of said assets to Buyer at the Closing.

12. Waverton shall, and is hereby authorized to, take all actions necessary to ensure that CHS will, upon entry of the Confirmation Order and prior to Closing of the APA, amend its

Articles of Incorporation to change its name to a name that would not create a likelihood of confusion with Buyer or any of the Assets.

13. After satisfying all creditors of the CHS Estate to the extent possible under the terms of the APA, and as authorized by further Order of this Court, Waverton shall file for dissolution of the renamed (pursuant to the immediately foregoing paragraph) entity formerly known as Colorado Humane Society & S.P.C.A., Inc. with the Colorado Secretary of State.

14. Any donations to or other proceeds and, to the extent permitted under applicable law, any bequests obtained by Waverton (prior to the entry of the Confirmation Order) or the entity formerly known as the CHS (after the Confirmation Order) that are not necessary to satisfy creditors of the CHS Estate shall be assigned and conveyed to Buyer upon the termination of the CHS Estate.

15. To the extent permitted by applicable law, after termination of the CHS Estate, any bequests to the "Colorado Humane Society" or to any entity having a name comprised within the Assets shall be automatically assigned and conveyed to Buyer without further action of any party.

16. Waverton is authorized to execute, acknowledge and deliver such corporate name change certificates, trademark or tradename applications, registrations and related documents, deeds, bills of sale, assignments, conveyances, and other assurances, documents, and instruments of transfer and take such other action that may be reasonably necessary to perform the terms and provisions of the APA, and shall take any other action for purposes of assigning, transferring, granting, conveying, and confirming to Buyer, or reducing to possession, any or all of the Assets and to execute such nonmaterial amendments to the APA and the consummation of the Sale as may be reasonably necessary or useful and that do not materially conflict with the provisions hereof.

17. Any party other than CHS, Waverton or the CHS Estate that is party to any contract or agreement included within the Assets is hereby forever barred, estopped, and permanently enjoined from asserting against CHS, Waverton, the CHS Estate, Buyer, any affiliate of Buyer, or the property of any of them, any default existing as of the date of this Confirmation Order, or any counterclaim, defense, setoff or any other claim asserted or assertable against CHS, Waverton or the CHS Estate.

18. Waverton shall exercise its best efforts to satisfy promptly any Claim or Lien, asserted by the Internal Revenue Service relating to the IRS Claim, and shall reserve and segregate from the cash proceeds of the Purchase Price sufficient funds to satisfy the IRS Claim.

19. Other than as may be expressly included within the Assets as set forth in the APA, Buyer assumes none of CHS's contracts or liabilities of any type or nature and shall have no liability whatsoever thereunder.

20. This Court retains jurisdiction to (i) enforce and implement the terms and provisions of the APA, all amendments thereto, any waivers and consents thereunder, and each of the agreements executed in connection therewith, (ii) compel delivery of the Assets to Buyer, (iii) compel performance under the APA, (iv) resolve any disputes, controversies or claims arising out of or relating to the APA, (v) interpret, implement and enforce the provisions of this Confirmation Order, and (vi) protect Buyer against any Claims, Liens, demands, causes of action or other liabilities of whatever nature of CHS, Waverton or the CHS Estate.

21. The provisions of this Confirmation Order authorizing Waverton to enter into the APA and authorizing the transactions contemplated thereby shall be self-executing, and neither Waverton nor Buyer shall be required to execute or file any releases, termination statements, assignments, consents, or other instruments in order to effectuate consummation to implement the foregoing provisions hereof except as expressly provided in the APA. Notwithstanding the foregoing, Waverton, Buyer and all other parties are authorized and directed to take any and all actions necessary and appropriate to effectuate, consummate and implement fully the Asset Purchase Agreement.

22. This Confirmation Order is binding upon and inures to the benefit of any successors or assigns of Waverton or Buyer.

23. This Confirmation Order is and shall be (i) effective as a determination that, at the Closing, all Liens and Claims existing as to the Assets prior to the Closing have been unconditionally released, discharged and terminated, and that the conveyance of the Assets described herein have been effected free and clear of all such Claims and Liens, and (ii) binding upon and shall govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required by operation of law, the duties of their office, or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any of the Assets.

24. In the event that any finding of fact set forth herein shall be false or untrue in any material respect, or shall be claimed to be false or untrue in any material respect, Buyer shall be permitted to exercise all remedies available to Buyer under applicable law and equity for the breach of a representation or warranty in a contract, including without limitation to prosecute a claim for rescission of the APA or to assert a claim for damages or any other legal or equitable relief for breach of the APA.

25. This Confirmation Order shall be effective and enforceable immediately upon entry.

26. The provisions of this Confirmation Order and the APA are non-severable and mutually dependent, and the provisions of the APA are severable to the extent set forth therein.

27. The APA and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto in accordance with the terms thereof without further order of the Court, provided that any such modification, amendment or supplement does not both substantially conflict with any of the terms hereof and create a materially negative financial effect upon creditors of the CHS Estate.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2010.

BY THE COURT:

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DISTRICT COURT JUDGE