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7/27/12
**FILED:
IN CHAMBERS
VINCENT J. GRASSO, A.J.S.C.**

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, BERGEN COUNTY
DOCKET NO. OCEAN-C-

JEFFREY S. CHIESA, Attorney General
of the State of New Jersey,

Plaintiff,

v.

MARK ANTHONY NIEMCZYK and THOMAS
SCALGIONE d/b/a THE 9/11GROUND ZERO
TRUCK
Defendants.

Civil Action

C-164-12

**ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS
PURSUANT TO RULE 4:52**

THIS MATTER being brought before the Court by Anna M. Lascurain, Deputy Attorney General, Charities Registration and Investigation Unit for plaintiff Jeffrey S. Chiesa, Attorney General of the State of New Jersey, ("Plaintiff"), seeking relief by way of temporary restraints, pursuant to R. 4:52, based upon facts set forth in the Verified Complaint and supporting Certifications and Brief filed herewith; and it appearing that immediate and irreparable damage will probably result before notice can be given and a hearing held and for good cause shown.

It is on this 27th day of July, 2012 **ORDERED** that defendants Mark Anthony Niemczyk ("Niemczyk") and Thomas Scalgione ("Scalgione") ("Defendants") individually and as d/b/a The 9/11 Ground Zero Truck ("the 9/11 Truck") appear and show cause before the Superior Court, Chancery Division, General Equity Part, Ocean County, Toms River, New Jersey at 10:00 A.M o'clock in the fore noon or as soon thereafter as counsel can be heard, on the 3rd day of AUGUST, 2012, why an Order should not be issued:

- A. Preliminarily enjoining defendants, individually, and through any corporation, business entity, stockholder, employee, officer, director, principal, trustee, and/or any other person who is directly or indirectly under their control or direction, from violating N.J.S.A. 45:17A-18 et seq. and N.J.A.C. 13:48-1 ("the Charities Registration and Investigation Act and the Charities Regulations (the "Charities Act");
- B. Preliminarily enjoining defendants, individually, and by or through any corporation, business entity, stockholder, employee, officer, director, principal, trustee, and/or any other person, who is directly or indirectly under Niemczyk's or Scalgione's control or direction, from directly or indirectly acting as a charitable organization, or holding itself out as a charitable organization, independent paid fund raiser, or solicitor, or holding itself out as having a charitable purpose, from or within the State of New Jersey;
- C. Preliminarily enjoining Niemczyk and Scalgione, individually and by or through any corporation, business entity, stockholder, employee, officer, director, principal, trustee, and/or any other person, who is directly or indirectly under their control or direction, from directly or indirectly acting on behalf of any 9/11 families, police officers, firefighters, first responders as a charitable organization, or holding themselves out

- as acting on behalf of a charitable organization, independent paid fund raiser, or solicitor, for a charitable purpose, and from acting as employees, officers, directors, principals, trustees, owners, shareholders, founders, managers, agents, servants, volunteers, representatives, independent contractors, independent paid fund raisers, or solicitors of any fund raising organization which solicits charitable contributions from or within the State of New Jersey;
- D. Preliminarily enjoining Niemczyk and Scalgione, by or through any corporation, business entity, stockholder, employee, officer, director, principal, trustee, and/or any other person who is directly or indirectly under their control or direction, from directly or indirectly destroying, altering, concealing, transferring, disposing or removing in any manner, directly or indirectly, any books, records, documents, information stored in electronic format, including on computers or electronic devices, maintained in any form, within their knowledge, possession, direction, or control, relating in any way to the business affairs of The 9/11 Truck.
- E. Preliminarily enjoining Niemczyk and Scalgione, individually and by or through any corporation, business entity, stockholder, employee, officer, director, principal, trustee, and/or any other person, who is directly or indirectly destroying, concealing, altering, transferring, disposing or removing in any manner, directly or indirectly, any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a), in their possession, subject to their control or available to them, that directly or indirectly relate to the donations to the 9/11 Truck; and
- F. Preliminarily enjoining Niemczyk and Scalgione, individually and by or through any corporation, business entity, stockholder, employee, officer, director, principal, trustee, and/or any other person, who is directly or indirectly failing to make and/or keep any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a) that

directly or indirectly relates to the solicitations and donations relating to the 9/11 Truck.

AND IT IS FURTHER ORDERED that on the return date herein, Defendants appear and show cause why an Order should not be issued:

- A. Freezing all assets of Defendants in which they hold a legal or equitable interest including, but not limited to, real property, securities, bonds, notes and monies held in any of their bank accounts, money market accounts, certificates of deposit or safe deposit boxes or held in petty cash, and preventing Defendants from removing, selling, encumbering, assigning, transferring or engaging in other acts of disposition of any such assets;
- B. Seizing and impounding the 9/11 Truck, license plate GZT-911, and tee shirts to prevent further misrepresentations and solicitations on behalf of police officers, firefighters, first responders and 9/11 families by the attendance of the vehicle at military, patriotic, veteran's or law enforcement events.
- C. Seizing and impounding the following items located at the personal residences located at 70 Pine Street Tinton Falls, NJ and 281 Bulkhead, Manahawkin: all documents, files, records, computers, keyboards, monitors, printers, and any other tangible item relating to the business affairs of 9/11 Truck and any financial records relation to charitable solicitations by made by Niemczyk and Scalgione on behalf of police officers, firefighters, first responders and 9/11 families permitting Plaintiffs to retain such documents, files, records, computers, keyboard, monitors, printers, and any other tangible item until such items are copied plaintiff. Plaintiff will then provide Niemczyk and Scalgione copies all items duplicated.
- D. Preventing defendants from selling, encumbering, transferring or engaging in any act of disposition of any assets of the Defendants that relate to the subject matter of the Verified Complaint including, but not limited to, deposits or monies donated by the public;
- E. Continuing any temporary restraints directed by the Court; and

- F. Granting such other relief as the Court deems equitable and just.

AND IT IS FURTHER ORDERED that pending the return date herein, Defendants are temporarily enjoined and restrained from:

- A. Engaging in, continuing to engage in, or doing any acts or practices in violation New Jersey Charitable Registration and Investigation Act N.J.S.A. 45:17A-18 et seq. ("Charities Act"), and all regulations promulgated thereunder, N.J.A.C. 13:48-1 et seq. including, but not limited to, the acts and practices alleged in the Verified Complaint;
- B. Removing, selling, encumbering, transferring or engaging in any act of disposition of any assets of the Defendants that relate to the subject matter of the Verified Complaint including, but not limited to, donations made by the public;
- C. Destroying, concealing, altering, transferring, disposing or removing in any manner, directly or indirectly, any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a), in their possession, subject to their control or available to them, that directly or indirectly relate to the 9/11 Truck;
- D. Failing to make and/or keep any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a) that directly or indirectly relate to the 9/11 Truck.

RESERVED AND TO BE ADDRESSED ON RETURN DATE

AND IT IS FURTHER ORDERED that pending the return date herein:

- A. A temporary freeze is placed on all assets of Defendants in which they hold a legal or equitable interest including, but not limited to, real property, securities, bonds, notes and monies held in any of their bank accounts, money market accounts, certificates of deposit or safe deposit boxes or held in petty cash, and Defendants and any third party with written notice of this Order are prevented from removing, selling,

reserved for return date

encumbering, assigning, transferring or engaging in other acts of disposition of any these assets;

- B. Within days _____ of this Order, Defendants, Niemczyk and Scalgione shall identify, in writing by name, address and telephone number, if available, all donors from whom they have accepted donations at the various events they attended through the 9/11 Truck; and
- C. Within days _____ of this Order Defendants shall each complete and return to Plaintiff's counsel the Financial Disclosure Statements attached to this Order.

reserved for return date

AND IT IS FURTHER ORDERED that:

1. The Defendants may move to dissolve or modify the temporary restraints herein contained on two (2) days' notice to the Plaintiff's counsel.

2. A copy of this Order to Show Cause, Verified Complaint, Brief and supporting Certifications submitted in support of this application shall be served upon the Defendants personally (or by other means) within 3 days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

3. The Plaintiff must file with the Court his proof of service of the pleadings on the Defendants no later than three (3) days before the return date.

4. Defendants shall file and serve a written response to this Order to Show Cause and the request for entry of injunctive relief and proof of service by AUG 1ST, 2012. The original documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. You must send a copy of your opposition papers directly

to Judge VINCENT J. GRASSO ^{Courtroom #1}, whose address is 108
WASHINGTON ST., Toms River, N.J. ⁷³²⁻⁹²⁹⁻²¹⁷⁶
~~Court House Lane~~, Ocean County, New Jersey.

You must also send a copy of your opposition papers to Plaintiff's counsel whose name and address appears above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$_____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief Plaintiff's is seeking.

5. Plaintiff may file and serve any written reply to the Defendants' Order to Show Cause opposition by Aug. 2nd, 2012. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the Chambers of Judge V. GRASSO.

6. If Defendants do not file and serve opposition to this Order to Show Cause, their application will be decided on the papers on the return date and relief may be granted by default, provided that Plaintiffs file a proof of service and a proposed form of Order at least three (3) days prior to the return date.

7. If Plaintiff has not already done so, a proposed form of Order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.

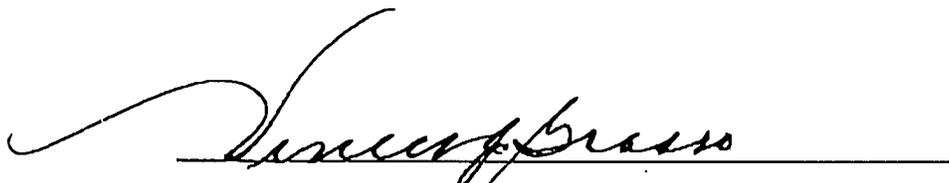
8. Defendants take notice that the Plaintiffs have filed a lawsuit against you in the Superior Court of New Jersey. The Verified Complaint attached to this Order to Show Cause states the basis of the lawsuit. If you dispute this Complaint, you, or your attorney, must file a written Answer to the Complaint and proof of service within thirty-five (35) days from the date of service of this Order to Show Cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is provided. Include a \$^{AS} ~~required~~ filing fee payable to the "Treasurer State of New Jersey." You must also send a copy of your Answer to Plaintiff's counsel whose name and address appear above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the Order to Show Cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief Plaintiff's demands.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live. A list of the Legal Services offices in New Jersey is provided. If you do not have an attorney and are both eligible for free legal assistance you may obtain a referral to an attorney by calling one of the

Lawyer Referral Services. A list of these numbers is also provided.

10. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the Court and parties are advised to the contrary no later than N/A day(s) before the return date.



VINCENT J. GRASSO, A.J.S.C.

Directory of Superior Court Deputy Clerk's Offices County Lawyer Referral and Legal Services Offices

ATLANTIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Room 115
Justice Center, 10 Main St.
Hackensack, NJ 07601

LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Rd
Mt. Holly, NJ 08060

LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(800) 496-4570

CAMDEN COUNTY:

Deputy Clerk of the Superior Court
Civil Processing Office
Hall of Justice
1st Fl., Suite 150
101 South 5th Street
Camden, NJ 08103

LAWYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk of the Superior Court
9 N. Main Street
Cape May Court House, NJ 08210

LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
60 West Broad Street
P.O. Box 10
Bridgeton, NJ 08302

LAWYER REFERRAL
(856) 696-5550
LEGAL SERVICES
(856) 691-0494

ESSEX COUNTY:

Deputy Clerk of the Superior Court
Civil Customer Service
Hall of Records, Room 201
465 Dr. Martin Luther King Jr. Blvd.
Newark, NJ 07102

LAWYER REFERRAL
(973) 622-6204
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
First Fl., Court House
1 North Broad Street
Woodbury, NJ 08096

LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:

Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Court House--1st Floor
583 Newark Ave.
Jersey City, NJ 07306

LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:

Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822

LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:

Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 S. Broad Street, P.O. Box 8068
Trenton, NJ 08650

LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:

Deputy Clerk of the Superior Court,
Middlesex Vicinage
2nd Floor - Tower
56 Paterson Street, P.O. Box 2633
New Brunswick, NJ 08903-2633

LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:

Deputy Clerk of the Superior Court
Court House
P.O. Box 1269
Freehold, NJ 07728-1269

LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:

Morris County Courthouse
Civil Division
Washington and Court Streets
P. O. Box 910
Morristown, NJ 07963-0910

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:

Deputy Clerk of the Superior Court
118 Washington Street, Room 121
P.O. Box 2191
Toms River, NJ 08754-2191

LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton Street
Paterson, NJ 07505

LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 523-2900

SALEM COUNTY:

Deputy Clerk of the Superior Court
Attn: Civil Case Management Office
92 Market Street
Salem, NJ 08079

LAWYER REFERRAL
(856) 935-5629
LEGAL SERVICES
(856) 451-0003

SOMERSET COUNTY:

Deputy Clerk of the Superior Court
Civil Division
P.O. Box 3000
40 North Bridge Street
Somerville, N.J. 08876

LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:

Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:

Deputy Clerk of the Superior Court
1st Fl., Court House
2 Broad Street
Elizabeth, NJ 07207-6073

LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:

Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500

LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(908) 475-2010