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ACTING ATTORNEY GENERAL OF NEW
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Division of Law
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Attorney for Petitioner

By: Anna M. Lascurain
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[REDACTED]

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS

IN THE MATTER OF AN INVESTIGATION BY
THE NEW JERSEY CONSUMER AFFAIRS

of

THE ARABIAN RESCUE MISSION, INC.,
a New Jersey nonprofit corporation;
THERESE A. FIGUEROA,
individually and as a trustee
of The Arabian Rescue Mission,
Inc.; and
CYNTHIA J. MILLAR,
individually and as a trustee
of The Arabian Rescue Mission Inc.

Respondents.

Administrative Action
No.

CONSENT ORDER

This matter was opened by Thomas R. Calcagni, Director of the New Jersey Division of Consumer Affairs ("Director"), as an investigation to determine whether violations of New Jersey's Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq. ("Charities Act"), have allegedly been committed by respondents The Arabian Rescue Mission Inc. ("ARM"), Theresa A. Figueroa ("Figueroa"), and Cynthia J. Millar ("Millar") (collectively, "Respondents"). The Director, in the interest of preserving resources and, without prejudicing the

public interest, and Respondents, in the interest of preserving the resources of ARM, have agreed to resolve any and all issues in controversy in this matter on the terms set forth in this Consent Order, which terms have been reviewed and approved by the Director as confirmed by his entering this Consent Order. Jeffrey S. Chiesa, the Attorney General of New Jersey, and the Director also find that the remedial provisions of this Consent Order are in the public interest, for the protection of donors and consistent with the policy and purposes intended by the Charities Act.

The Director makes the following findings of fact and conclusions of law:

The Parties

1. ARM is a non-profit 501(c)(3) corporation, incorporated in New Jersey on May 30, 2006, with a principal place of business at 42 Glen Road in Colesville, New Jersey ("Colesville Property"). ARM's stated charitable purpose is to rescue, rehabilitate and re-home Arabian horses in need. ARM has never been registered as a charitable organization with the Attorney General and is not exempt from registration. ARM currently maintains 20 to 25 horses at the Colesville Property. The following e-mail addresses are associated with ARM: info@arabianrescue.org; info@arabianrescuemission.org; and camelothonhorses@arabianrescuemission.org.

2. Figueroa resides at [REDACTED] Branchville, New Jersey (the "Branchville Residence"), is an ARM trustee, and has

served as President of ARM from 2003 to the present. Figueroa co-owns the Branchville Residence and the Colesville Property with Millar.

3. Millar is also an ARM trustee and was the Vice President of ARM from 2006 through 2010. Millar co-owns the Branchville Residence and lives on the Colesville Property.

Background

4. Ever After Horse Rescue ("EAHR") is a name used by Figueroa and Millar as a conduit to accept donations for horse rescue and is located on the Colesville Property.

5. East/West Arabians, LLC ("EWA"), d/b/a TLC Stables ("TLC"), is a private horse boarding and training facility. Figueroa incorporated EWA in 2006. EWA's principal place of business is located on the Colesville Property. From 2006 forward, Figueroa has operated EWA to support ARM and herself by boarding and breeding horses. The following e-mail addresses are associated with EWA: info@eastwestarabians.com, ewa-tlc@yahoo.com.

6. Equine Supplements ("Equi-Supps") is a name used by Figueroa to offer and sell nutritional supplements at and from the Branchville residence.

Commingling of Charitable Contributions with Other Income

7. Between 2003 and September 2011, Figueroa and/or Millar solicited charitable contributions on behalf of ARM through fundraisers for ARM. Such fundraisers included barbecues and group trips.

8. Between 2006 and September 2011, Figueroa and/or Millar also solicited charitable contributions on behalf of ARM through fund-raising on the ARM website, <http://www.arabianrescuemission.org/home> ("ARM website"), and through advertising on the EWA websites (<http://www.ewatlcstables.com/events.html>; <http://www.eastwestarabians.com/>) and the Equi-Supps website (<http://www.equisupps.com/>).

9. Between 2009 and September 2011, Figueroa and/or Millar also solicited charitable contributions on behalf of ARM through the website, <http://www.facebook.com> ("Facebook"). Figueroa and ARM solicited charitable contributions on Facebook through at least two group pages: <http://www.facebook.com/pages/Arabian-Rescue-Mission-Re-Homing> and <http://www.facebook.com/pages/Arabian-Rescue-Mission-Inc>.

10. Figueroa and ARM encouraged donors to contribute through PayPal.

11. In 2002, Millar opened PayPal account xxxx2560 (the "Millar PayPal Account"), which was linked to various personal accounts from which her personal expenses were paid.

12. From April 4, 2008 through May 12, 2011, charitable contributions to ARM were made to the Millar PayPal account. Approximately, \$13,500 in donations were deposited in this account. Among others, the e-mail info@everafterhorserescue.org was associated with the Millar PayPal Account.

13. Between April 2004 and November 2007, such charitable donations were commingled in the Millar PayPal Account with funds used to pay for personal items not related to horse rescue.

14. Between 2008 and 2010, Millar commingled consulting payments and ARM charitable contributions in the Millar PayPal Account. Millar then transferred charitable contributions from the Millar PayPal Account to one or more of her personal bank accounts ("the Millar Personal Accounts"). Following these transfers, Millar issued checks from these accounts to one or more of the ARM bank accounts for the charitable contributions. However, Millar kept no formal documentation of these transactions.

15. Beginning in 2010, two different PayPal accounts held jointly in the names of Figueroa and ARM, were used to accept charitable contributions: info@arabianrescue.org ("ARM PayPal Account") and Camelothorse@arabianrescuemission.org ("Camelot PayPal Account"). However, the Millar PayPal Account continued to accept charitable contributions throughout 2010 and early 2011.

16. Upon information and belief, between January 2010 and December 2010, total charitable donations in the approximate amount of \$62,106 were deposited in the Millar, ARM, and Camelot PayPal Accounts. However, donor, business, and personal funds in these accounts were so heavily commingled by Figueroa and Millar, it is impossible to determine how funds from these accounts were disbursed.

17. Upon information and belief, between January 2011 and May 2011, charitable donations in the total approximate amount of \$20,745 deposited in the Millar, ARM, and Camelot PayPal Accounts. However, donor, business, and personal funds in these accounts were so heavily commingled by Figueroa and Millar, it is impossible to determine how funds from these accounts were disbursed.

Record-Keeping Failures

18. From 2003 to approximately 2008 or 2009, Figueroa kept hand-written ledgers for ARM and for EWA. From approximately 2008 or 2009 to the present date, Figueroa has kept her records through accounting software on her computer.

19. EWA charged ARM to board and feed rescue horses, pursuant to a 2006 written agreement. However, ARM was not charged every month for costs, but was instead charged erratically and in inconsistent amounts. EWA never issued invoices to ARM for expenses on a monthly basis.

20. Although ARM, through Figueroa, kept track of expenses through hand-written ledgers and/or through accounting software, records of ARM income and expenses, such as charitable contributions and EWA board and feed charges, are incomplete.

21. In addition, ARM's failure to track the electronic transfers of funds between and among various PayPal and bank accounts of ARM, EWA, Figueroa, and Millar, and the resulting commingling of funds from different sources, reflects a record-keeping failure.

Misleading Statement

22. As of August 2011, EWA represented on its website that EWA and Equi-Supps donated all profits to support ARM in its mission of rescuing horses.

(<http://www.eastwestarabians.com/services>).

However, this statement is untrue because:

a) EWA seldom made a profit from the proceeds of which could actually be donated to ARM;

b) Even if a profit was made by EWA, Figueroa did not disclose to the public that any profit donated was to ARM by EWA was subject to EWA's business and Figueroa's personal expenses.

Unauthorized Use of Taxpayer Identification Number

23. In December 2, 2009, Diane Romano ("Romano"), principal of the Rivers Edge Horse Rescue & Sanctuary, used ARM's federal taxpayer identification number ("TIN") in opening a PayPal account. State and federal regulations prohibit use of another's TIN unless the businesses are consolidated for tax purposes by the original TIN holder. River Edge is not consolidated with ARM.

24. In addition to Romano, Figueroa also gave permission to Peace of Mind, a Tennessee horse rescue, to use ARM's TIN without following proper state and federal taxing guidelines.

Failure to Register with the State Charities Unit

25. ARM raised more than \$50,000 in charitable contributions in 2010.

26. ARM failed to file a long form charities registration statement with the Attorney General in 2010.

Findings

27. Under N.J.S.A. 45:17A-26, charitable organizations are exempt from registering with the Attorney General if they raise \$10,000 or less per fiscal year and do not compensate persons soliciting contributions.

28. Under N.J.S.A. 45:17A-24(a), charitable organizations not exempt from registration that raise in excess of \$25,000 in gross contributions during a fiscal year or compensate persons soliciting contributions must file a long form registration statement.

29. ARM was not exempt from registration with the Attorney General as a charitable organization in 2010, because ARM raised more than \$10,000 in gross contributions in 2010.

30. ARM was required to file a long form registration statement, because it raised more than \$25,000 in gross contributions in 2010.

31. ARM failed to file a long form registration statement with the Attorney General.

32. Under N.J.S.A. 45:17A-23(a), charitable organizations that are not exempt from registration must file registration statements with the Attorney General.

33. ARM's failure to register and trustees Figueroa and Millar's failure to ensure that ARM registered with the Attorney General is a violation of N.J.S.A. 45:17A-23(a).

34. ARM's failure to file a long form registration statement and trustees Figueroa and Millar's failure to ensure that ARM filed a long form registration statement is in violation of N.J.S.A. 45:17A-24(a).

35. N.J.S.A. 45:17A-23(b) forbids charitable organizations from soliciting contributions or permitting contributions to be solicited on their behalf before the Attorney General has had the opportunity to review their registration statements.

36. ARM solicited charitable contributions at a time when it was not a registered charitable organization or exempt from registration. Such solicitation, while unregistered and not exempt from registration, is a violation of N.J.S.A. 45:17A-23(b).

37. Trustees, Figueroa and Millar, permitted ARM to solicit charitable contributions without ensuring that ARM was a registered charitable organization or otherwise exempt from registration. Such solicitation, while unregistered without an exemption from registration, is a violation of N.J.S.A. 45:17A-23(b).

38. Under N.J.S.A. 45:17A-31, charitable organizations are required to keep complete and accurate records of their fundraising activities in New Jersey.

39. ARM failed to maintain complete and accurate records of its fundraising activities in New Jersey. Such failure is a violation of N.J.S.A. 45:17A-31.

40. The failure of trustees, Figueroa and Millar, to ensure that ARM complied with the obligation to maintain complete and accurate records of ARM's fundraising activities constitutes a violation of N.J.S.A. 45:17A-31.

41. Under N.J.S.A. 45:17A-32(b), a charitable organization must establish and exercise control over fund raising activities conducted for its benefit.

42. ARM failed to establish and exercise control over its fundraising activities by failing to ensure that all charitable contributions were deposited in accounts earmarked only for ARM. The commingling of charitable contributions with other sources of income unrelated to ARM's charitable mission constitutes a failure to establish and exercise control over ARM's fundraising activities. Such failure is a violation of N.J.S.A. 45:17A-32(b).

43. The failure of trustees, Figueroa and Millar, to establish and exercise control over ARM's fundraising activities, through their commingling of charitable contributions with sources of income unrelated to ARM's charitable mission, is a violation of N.J.S.A. 45:17A-32(b).

44. The use of ARM's federal taxpayer identification number by other organizations unrelated to ARM is also a failure to establish and exercise control over ARM's fundraising activities. Such failure constitutes a separate violation of N.J.S.A. 45:17A-32(b).

45. The failure of trustees, Figueroa and Millar, to prevent the use of ARM's federal taxpayer identification number by other organizations unrelated to ARM is a failure to establish and exercise control over ARM's fundraising activities. Such failure constitutes a separate violation of N.J.S.A. 45:17A-32(b).

46. The failure of ARM to ensure that EWA and Equi-Supps made accurate fund raising statements on ARM's behalf is a failure to establish and exercise control over fund raising activity for its benefit. Such failure is a violation of N.J.S.A. 45:17A-32(b).

47. The failure of trustees, Figueroa and Millar, to review fund raising statements for accuracy, made on ARM's behalf, is a failure to establish and exercise control over fund raising activity for ARM's benefit. Such failure is a violation of N.J.S.A. 45:17A-32(b).

THEREFORE, based on the above findings and assurances by Respondents Figueroa, Millar, and ARM that they have not made any material misrepresentations or material omissions with respect to any information provided to the Division concerning their knowledge of or involvement in the acts and practices set out in the findings and for good cause shown,

IT IS, on this ____ day of _____, 2012 ORDERED:

a. Respondents ARM, Figueroa, and Millar are found to have engaged in the acts and practices alleged above which constitute violations of the Charities Act.

b. Respondents ARM, Figueroa, and Millar are jointly and severally assessed civil monetary penalties for each separate act of violating the Charities Act, in accordance with N.J.S.A. 45:17A-33(d), in the amount of \$25,000 which shall be suspended as long as the conditions set out in paragraphs d,e, and f are met.

c. Respondents ARM, Figueroa, and Millar are jointly and severally assessed costs in the amount of \$3,000.00.

d. Respondents ARM, Figueroa, and Millar shall restore \$3,000.00 in moneys and/or real or personal property acquired by means of any practice alleged therein to be unlawful and found to be unlawful, pursuant to N.J.S.A. 45:17A-33, that was contributed for the express purposes of rescuing horses and/or any other charitable purpose or objective relating to the rescue of horses, including, but not limited to, bailment, transport, quarantine, boarding, food, and veterinary care, and that were not apportioned to such express purpose, or other donations that were allocated. Such funds shall be restored to the Charities Investigation Unit for the benefit of ARM to rescue, rehabilitate and re-home Arabian horses in need;

e. Payment of the restoration, and costs shall be made by Respondents in accordance with the following schedule:

1. \$1,000.00 within 30 days of the entry of the Consent Order. This payment shall be applied to the balance of the restoration; and

2. \$1,000.00 within 60 days of the entry of the Consent Order. This payment shall be applied to the balance of the costs;

3. \$500.00 a month thereafter for 13 months, to be split between restoration and costs until such time as the amount is paid in full;

f. Payment shall be made by wire transfer or bank check made payable to "New Jersey Division of Consumer Affairs" and shall be forwarded to:

Lawrence J. Biondo, Chief Investigator
Office of Consumer Protection
Division of Consumer Affairs
124 Halsey Street - 7th Floor
P.O. Box 45025
Newark, NJ 07101

g. For a period of 13 months from the date of entry of this Consent Order, the civil penalties assessed pursuant to N.J.S.A. 45:17A-33(d), shall be suspended and automatically vacated at the end of that period, provided that:

1. Respondents ARM, Figueroa, and Millar comply in all material respects with cease and desist directions set forth in the Consent Order;

2. Respondents ARM, Figueroa, and Millar shall timely make all payments referenced in the preceding paragraphs;

h. Respondents ARM, Figueroa, and Millar shall not engage in any acts or practices in violation of the Charities Act. In the event Respondents Figueroa, Millar, and/or ARM

materially fail to comply with any provision of this Consent Order, any unpaid restoration and the penalty of \$25,000 shall be immediately due and payable upon notice by the Division;

i. Respondents ARM, Figueroa, and Millar shall not represent or imply that any act or practice thereafter used or engaged in by them has been required or approved, in whole or part, by the Attorney General of New Jersey, the Division of Consumer Affairs, the State of New Jersey or any of the State's agencies, agents, or subdivisions;

j. The parties acknowledge that for purposes of enforcement of the Consent Order, New Jersey law shall govern the terms and provisions therein;

k. This Consent Order constitutes all of the agreed upon terms reached by the parties thereto and shall bind the parties thereto and their respective officers, directors, principals, trustees, agents, employees, successors, parents, subsidiaries, affiliates and assigns;

l. In the event that any term, provision or paragraph of the Consent Order is ruled invalid or unenforceable by a court of competent jurisdiction, the validity, legality and enforceability of the remaining terms, provisions and paragraphs thereof shall not in any way be affected or impaired thereby;

m. This Consent Order resolves the issues outstanding between the parties regarding enforcement of and compliance with the provisions of the Charities Act that are known or are the subject of consumer complaints received by the Division at the

time of the execution of the Consent Order, unless the Division uncovers information that Respondents Figueroa, Millar, or ARM made any material misrepresentation or material omission with respect to any information provided to the Division in connection with the resolution of the matter;

n. Nothing contained in this Consent Order shall in any manner be construed to limit or affect any position that the Division or any other governmental agency may take in any future or pending action not specifically encompassed therein;

o. An authorized representative of each party has signed this Consent Order with full knowledge, understanding, and acceptance of its terms and the person has done so with authority to legally bind the respective party;

p. The entry of this Consent Order has been consented to by Respondents ARM, Figueroa, and Millar as their own free and voluntary act and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed upon them by this Consent Order. Respondents ARM, Figueroa, and Millar consent to this Consent Order's entry without further notice, and aver that no offer, agreement or inducements of any nature whatsoever have been made to them by the Division or the Division's employees to procure this Consent Order;

q. The parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Order and the rule that uncertainty or ambiguity is to be construed against the drafter

shall not apply to the construction or interpretation of the Consent Order;

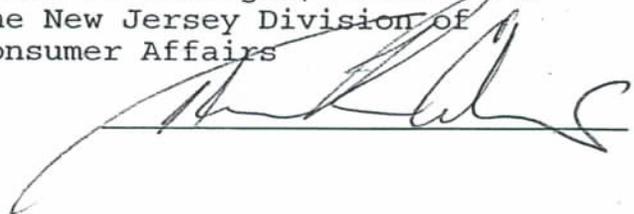
r. This Consent Order may be signed in counterparts, each of which shall be deemed an original; and

s. Petitioner shall serve a copy of this Consent Order upon Respondents ARM, Figueroa, and Millar within 5 days of having received a copy of it (conformed to entry and filing).

Thomas R. Calcagni, Director of
the New Jersey Division of
Consumer Affairs

Dated:

3/20/12



We consent to the form and entry of this Consent Order.

The Arabian Rescue Mission, Inc.

By: _____
Theresa A. Figueroa, President

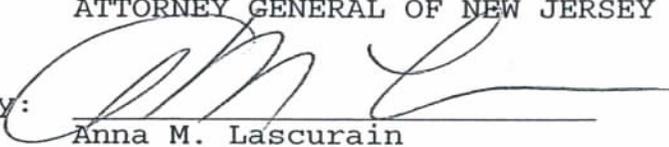
Therese A. Figueroa, individually
and as a Trustee of ARM

Dated:

Cynthia J. Millar, Individually
as a Trustee of ARM

Dated: _____

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By: 

Anna M. Lascurain
Deputy Attorney General

Dated: 3-20-2012

having received a copy of it (conformed to entry and filing).

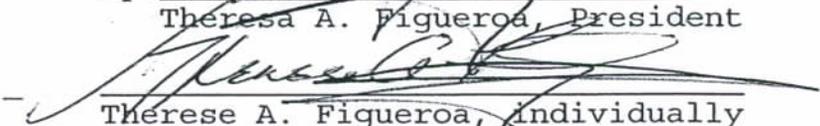
Thomas R. Calcagni, Director of
the New Jersey Division of
Consumer Affairs

We consent to the form and entry of this Consent Order.

The Arabian Rescue Mission, Inc.

By: 

Theresa A. Figueroa, President


Therese A. Figueroa, individually
and as a Trustee of ARM

Dated:

To Be Mailed Separately
Cynthia J. Millar, individually
as a Trustee of ARM
as she is travelling

Dated:

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

having received a copy of it (conformed to entry and filing).

Thomas R. Calcagni, Director of
the New Jersey Division of
Consumer Affairs

We consent to the form and entry of this Consent Order.

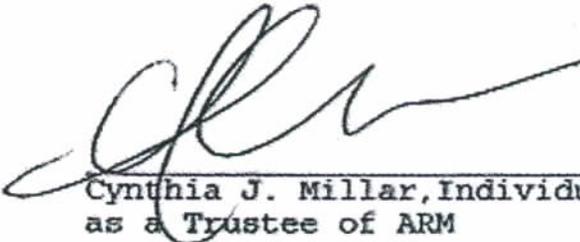
The Arabian Rescue Mission, Inc.

(sent separately) By: _____
Theresa A. Figueroa, President

Therese A. Figueroa, individually
and as a Trustee of ARM

Dated:

3/18/12



Cynthia J. Millar, Individually
as a Trustee of ARM

Dated:

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY