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

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
25 Market Street
POB 117
Trenton, NJ 08625-0112

Anna M. Lascurain
Deputy Attorney General
609-777-3430

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MONMOUTH COUNTY
DOCKET NO.: C-164-12

JEFFREY S. CHIESA, Attorney General of New Jersey, on behalf of the Division of Consumer Affairs, Plaintiff, v. MARK ANTHONY NIEMCZYK, THOMAS SCALGIONE d/b/a THE 9/11 GROUND ZERO TRUCK, Defendants.	**FINAL CONSENT JUDGMENT** (As to Thomas Scalgione)

THIS MATTER was presented to the Court by Attorney General Jeffrey S. Chiesa, on behalf of the New Jersey Division of Consumer Affairs ("DCA" or collectively the "Plaintiff"), (Anna M. Lascurain, Deputy Attorney General appearing), by filing a Verified Complaint and an Order to Show Cause with Temporary Restraints, pursuant to R. 4:52-1, against Mark Anthony Niemczyk ("Niemczyk") and Thomas Scalgione ("Scalgione"), (collectively "the Defendants"), (Defendants appearing Pro Se).

On August 3, 2012, the Court entered an Order granting, among other things, temporary restraints and a partial asset freeze against the Defendants for numerous violations of the Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq. ("Charities Act"). After the entry of the Order, the Plaintiff and the Defendants agreed to resolve any and all issues in controversy in this action on the terms set forth in this Final Judgment.

IT IS on this _____ day of October, 2012,

ORDERED, that the Court makes the following findings of fact, all of which are admitted by the Defendant Scalgione:

FACTUAL FINDINGS

1. Scalgione was the "public relations manager/booking agent" for the 9/11 Ground Zero Truck bearing New Jersey license plate "911-GZT."

2. Scalgione appeared with the 9/11 Truck at military, veterans, and 911 memorial events and claimed to raise funds for 911 victims' families.

3. Scalgione ~~a partner~~ worked with, Niemczyk who was the owner and operator of the 9/11 Truck.

4. When the 9/11 Truck appeared at these events, Scalgione solicited.an~~d accepted donations from the publi~~c. He also sold tee shirts emblazoned with the logos of the New York City Police Department ("NYPD"), the Fire Department of the City of New York ("FDNY"), and the Port Authority Police Department ("PAPD").

5. Neither Scalgione or ~~his partner~~, Niemcyzk, had permission to replicate the logos of the NYPD, FDNY, or PAPD on their tee shirts or place these logos on the 9/11 Truck.

6. Scalgione solicited ~~and collected~~ donations which ~~he~~ were turned over to Niemczyk. He represented to the public that the funds collected would be used to benefit survivors, and the families of survivors of the attack on the World Trade Center on September 11, 2001 ("(9/11 Attack").

7. The donations solicited by Scalgione were collected by Niemczyk. The funds commingled with Niemczyk's personal funds and used to pay for personal expenses and for 9/11 Truck maintenance and upkeep.

8. Scalgione made untruthful statements in soliciting charitable contributions in violation of N.J.S.A. 45:17A-32.

9. Scalgione solicited on behalf of an unregistered charity in violation of N.J.S.A. 45:17A-23.

PERMANENT INJUNCTIVE RELIEF

AND IT IS FURTHER ORDERED THAT:

10. Scalgione, and his agents, employees, partners, officers, directors, attorneys, and/or any person who is directly or indirectly under his control or direction, are permanently restrained and enjoined from directly or indirectly violating the Charities Act and from directly or indirectly engaging in the following conduct:

(a) soliciting or promoting any charities to, from, or within the State of New Jersey;

(b) acting as a charity or giving the impression that he is collecting on behalf of a charity to from or within the State of New Jersey;

(c) conducting any fund raising on behalf of any 9/11 responders, their families or any other charitable organization to, from or within the State of New Jersey.

11. Upon signing this agreement, Scalgione shall surrender any items associated with this fraud, including but not limited to, the "9/11 Cost," brochures, tee shirts, cds, decals, and emblems to the DCA, for disposal. The "9/11 cost" will be donated to charity or organization of DCA's choosing. VJG

SETTLEMENT PAYMENTS

AND IT IS FURTHER ORDERED THAT:

13. Defendant Scalgione shall pay the sum of fifty thousand dollars ($50,000) as a civil monetary penalty, in addition to attorney's fees of eight thousand three hundred ninety-two dollars and eighty-two cents ($8,392.82), and fifteen thousand six hundred one dollars and seven cents ($15,601.07) in investigative costs.

14. This fifty thousand dollar ($50,000) civil monetary penalty, attorney's fees and investigative costs shall remain **suspended** as long as Scalgione abides by the terms of this Final Judgment and pays the sum of $100.00 until the sum of $5,000 is paid in full. $250 — upon signing and 250 for each month thereafter (3 months) until $1,000 VJG

15. In the event that the Defendant fails to comply with any other provision of this final judgment, the entire unpaid portion of the total civil penalty, along with attorney's fees and costs shall be immediately due and payable along with post judgment interest as set forth in R. 4:42-11.

16. In that event, all payments shall be made by attorney trust account check, bank check or other guaranteed funds and be sent to:

Mr. Van Mallett, Investigator
Office of Consumer Protection
Division of Consumer Affairs
124 Halsey Street - 7th Floor
P.O. Box 45025
Newark, NJ 07101

ASSET FREEZE AND RETURN OF PROPERTY

AND IT IS FURTHER ORDERED THAT:

17. Paragraph 7a of the Order Granting Preliminary Injunctive and Other Relief, entered on August 3, 2012, which provided for an asset freeze, is hereby vacated.

18. Upon signing of this agreement, Plaintiff shall return all personal items not related to the fraud to Scalgione.

GENERAL PROVISIONS

In order to effect the purposes of this Order, the parties hereby agree and consent as follows:

19. Defendant Scalgione's liability to pay the civil monetary penalty, attorney's fees and costs pursuant to this Final Judgment, shall be non-dischargeable in bankruptcy.

20. The findings of fact and the terms of this Final Judgment may be disclosed and are admissible as evidence against Defendant Scalgione in any subsequent civil, criminal, administrative or any other action or proceeding against him.

21. This Final Judgment applies to and is binding upon Defendant.

22. The parties acknowledge that for the purpose of enforcement of this Final Judgment, New Jersey Law shall govern the terms and provisions herein.

23. The parties represent that an authorized representative of each has signed this Final Judgment with full knowledge, understanding and acceptance of its terms and that this person has done so with authority to legally bind the respective party.

24. This Final Judgment constitutes the entire agreement among the parties with respect to its subject matter. Any addition, deletion or change to this Final Judgment must be in writing and signed by all parties to be bound and approved and signed by the Court.

25. This Final Judgment is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Final Judgment.

26. The Parties have negotiated, jointly drafted, and fully reviewed the terms of this Final Judgment and the rule that uncertainty or ambiguity is to be construed against the

drafter shall not apply to the construction or interpretation of this Final Judgment.

27. As used in this Final Judgment, the plural shall include the singular and the singular shall include the plural. In addition, "or" and "and" shall be interpreted conjunctively.

28. Except as otherwise explicitly provided in this Final Judgment, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

The Honorable Vincent J. Grasso, A. J.S.C.

Dated: 10/24/12

We consent to the form and entry of this Final Judgment.

Dated: 10/24/12

By: _____
Thomas Scalgione
Defendant, Pro Se

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

Dated: 10-24-12

By: _____
Anna M. Lascurain
Deputy Attorney General
On behalf of the Plaintiff