

the Investigation and consented to the entry of the within order (“Consent Order”) and for good cause shown,

IT IS on this _____ day of _____, 2009 **ORDERED AND AGREED** as follows:

1. EFFECTIVE DATE

1.1 This Consent Order shall be effective on the date that it is filed with the Division.

2. DEFINITIONS

As used in this Consent Order, the following words or terms shall have the following meanings:

2.1 “Attorney General” shall refer to the Attorney General of the State of New Jersey (or designated representative) and the Office of the Attorney General.

2.2 “CRIA” shall refer to the New Jersey Charities Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq.

2.3 “Charitable Purpose” means (1) any purpose described in section 501(c)(3), of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3); or (2) any benevolent, philanthropic, humane, social welfare, public health, or other eleemosynary objective, or an objective that benefits law enforcement personnel, firefighters, or other persons who protect the public safety.

2.4 “Charities Regulations” shall refer to the Regulations Governing Charitable Fundraising, N.J.A.C. 13:48-1.1 et seq.

2.5 “Contribution” means the conveyance, promise or pledge of money, credit, property, financial assistance or other thing of any kind or value in response to a solicitation. It does not include any of the following: bona fide fees, dues or assessments paid by members provided that membership is not conferred solely as consideration for making a contribution in response to a

solicitation; moneys received pursuant to a governmental grant or contract; or, personal services rendered by a volunteer.

2.6 “Division” shall refer to the New Jersey Division of Consumer Affairs.

2.7 “Person[s]” shall be defined in accordance with N.J.S.A. 56:8-1(d).

2.8 “Solicit” shall be defined in accordance with N.J.S.A. 45:17A-20.

2.9 “State” shall refer to the State of New Jersey.

3. INJUNCTIVE RELIEF AND BUSINESS PRACTICES

3.1 Respondent, its principals, officers, trustees, agents, representatives and employees shall not engage in any unregistered or deceptive acts or practices in soliciting Contributions for any Charitable Purpose in the State and shall comply with such state laws, rules and regulations as now constituted or as may hereafter be amended, including but not limited to, the CRIA.

3.2 Respondent, unless exempt, shall file the required registration renewals and appropriate fees within six months of the Respondent’s fiscal year end in accordance with N.J.S.A. 45:17A-23.

3.3 Respondent shall keep complete and accurate financial records of its activities pursuant to N.J.S.A. 45:17A-31. These records shall be made available for inspection and copying upon demand by the Division and/or the Attorney General.

4. SETTLEMENT PAYMENT

4.1. Upon signing the Consent Order the Respondent shall pay to the Division the sum of Five Thousand and 00/100 Dollars (\$5,000.00) as a civil monetary penalty pursuant to N.J.S.A. 45:17A-33.

4.2 All payments in satisfaction of this Consent Order shall be made by certified or cashier's check made payable to "New Jersey Division of Consumer Affairs" and shall be forwarded to the undersigned:

State of New Jersey
Department of Law and Public Safety
Case Management Tracking
124 Halsey Street- 7th Floor
Newark, New Jersey 07101

5. GENERAL PROVISIONS

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

5.2 This Consent Order shall be governed by, and construed and enforced in accordance with, the laws of the State.

5.3 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 this Consent Order.

5.4 This Consent Order contains the entire agreement between the Parties. Except as otherwise provided herein, this Consent Order shall be modified only by a written instrument signed by or on behalf of the Parties.

5.5 Except as otherwise explicitly provided in this Consent Order, nothing in this Consent Order shall be construed to limit the authority of the Attorney General to protect the interests or the people of the State.

5.6 If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

5.7 This Consent Order shall be binding upon the Respondent(s) as well as their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, successors and assigns, and any entity or device through which it may now or hereafter act, as well as any Persons who have authority to control or who, in fact, control and direct their business.

5.8 This Consent Order shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Order be used to avoid compliance with this Consent Order.

5.9 This Consent Order is entered into by the Parties for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Order shall constitute, or be construed as: (a) an approval, sanction or authorization by the Attorney General, the Division or any other governmental unit of the State of any act or practice of Respondent(s); and (b) an admission by Respondent(s) that any of their acts or practices described in or prohibited by this Consent Order are unfair or deceptive or violate the CRIA and/or the Charities Regulations.

5.10 The Parties represent and warrant that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms and that the representative has done so with authority to legally bind the respective Party.

5.11 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Consent Order may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Order.

5.12 Respondent acknowledges that this Consent Order is a public document subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 to -13.

6. RELEASE

6.1 In consideration of the undertakings, mutual promises and obligations provided for in this Consent Order and conditioned on Respondent's compliance with the CRIA and the Charities Regulations, the Division hereby agrees to release Respondent from any and all civil claims, to the extent permitted by State law, which the Division could have brought prior to the Effective Date against Respondent for violations of the CRIA and the Charities Regulations, as well as the matters specifically addressed in this Consent Order (the "Released Claims").

6.2 Notwithstanding any term of this Consent Order, the following do not comprise Released Claims: (a) private rights of action; (b) actions to enforce this Consent Order; and (c) any claims against Respondent by any other agency or subdivision of the State of New Jersey.

7. FORBEARANCE ON EXECUTION AND DEFAULT

7.1 Respondent agrees to pay all reasonable attorneys' fees and costs including, but not limited to, Court costs, associated with any successful collection or enforcement efforts by the Division pursuant to this Consent Order.

7.2 On the Effective Date, Respondent shall provide the Division with current addresses, telephone numbers and facsimile numbers for service of process in the event of default until its obligations under this Consent Order are completed. Within five (5) days of relocating to a new address or obtaining new telephone or facsimile numbers, Respondent shall provide such information to the Division. In the event of Respondent's default under Sections 3.1 through 4.2, service upon Respondent shall be effective upon mailing a notice via First Class Mail accompanied by a confirmed receipt facsimile transmission.

8. PENALTIES FOR FAILURE TO COMPLY

8.1 The Attorney General (or designated representative) shall have the authority to enforce the injunctive provisions of this Consent Order or to seek sanctions for violations hereof or both.

8.2 The Parties agree that any future violations of the injunctive provisions of this Consent Order, the CRIA and/or the Charities Regulations shall constitute a second or succeeding violation pursuant to N.J.S.A. 45:17A-33 and that Respondent may be liable for enhanced civil penalties.

9. COMPLIANCE WITH ALL LAWS

9.1 Except as provided in this Consent Order, no provision herein shall be construed as:

a. Relieving Respondent of their obligation to comply with all State and Federal laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or

b. Limiting or expanding any right the Division may otherwise have to obtain information, documents or testimony from Respondent pursuant to any State or Federal law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Respondent may otherwise have pursuant to any State or Federal law, regulation or rule, to oppose any process employed by the Division to obtain such information, documents or testimony.

10. NOTICES UNDER THIS CONSENT ORDER

10.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Parties pursuant to this Consent Order shall be sent by United States mail, Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides tracking

services and identification of Person signing for the documents. The notices and/or documents shall be sent to the following addresses:

- a. All notices directed to the Division shall be sent to:


Jennifer Dougherty, Deputy Attorney General
State of New Jersey, Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

- b. All notices directed to Respondents shall be sent to:

THE BERNARD KERIK LEGAL DEFENSE TRUST
c/o ANTHONY MODAFFERI III & ASSOCATES, P.C.
647 RAMAPO VALLEY RD
OAKLAND, NJ 07436


THE PARTIES CONSENT TO THE FORM, CONTENT AND ENTRY OF THIS CONSENT ORDER ON THE DATES UNDER THEIR RESPECTIVE SIGNATURES.

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

By: 
David Szuchman, DIRECTOR
DIVISION OF CONSUMER AFFAIRS

Dated: Dec-1, 2009

THE BERNARD KERIK LEGAL DEFENSE TRUST.

By: 
Signature
Anthony Modafferi
Print Name
Trustee
Title

Dated: November 8, 2009