ANNE MILGRAM
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FILED

APR 01 2009

Division of Consumer Affairs

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 CHURCH ALIVE, INC. (dba RANDOLPH CHRISTIAN CHURCH, INC.), ERIC SIMONS, MARIANNE SIMONS and PHILIP DuPLESSIS, Respondents.	Administrative Action No. **CONSENT ORDER**

This matter was opened by the Division of Consumer Affair, Office of Consumer Protection ("Division" or "Consumer Affairs"), 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"), and New Jersey Nonprofit Corporation Act, N.J.S.A. 15A:1-1 et seq. ("Nonprofit Corporation Act"), have allegedly been or are allegedly being committed by respondents Church Alive, Inc. dba Randolph Christian Church, Inc., Eric

Simons, Marianne Simons and Philip DuPlessis (collectively, "Respondents"). The Division, in the interest of preserving resources and, without prejudicing the public interest, and Respondents, also in the interest of preserving the Church resources, neither admitting or denying liability 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 of Consumer Affairs as confirmed by his entering this Consent Order. The Attorney General of New Jersey and the Director of Consumer Affairs also find that the remedial actions herein are in the public interest, for the protection of donors and consistent with the policy and purposes intended by the Charities Act and Nonprofit Corporation Act.

Now, for good cause shown,

IT IS, on this 1st *day of* APRIL, *2009,* **ORDERED AND AGREED:**

THE PARTIES

1. Church Alive, Inc. dba Randolph Christian Church, Inc. ("The Church or Randolph Christian Church") is a New Jersey not-for-profit 501 (c) (3) corporation with a principal place of business at 791 State Route 10, Randolph, New Jersey 07869.
2. Eric Simons ("Simons") resides in Mendham, New Jersey. Pastor Simons is the senior pastor at Randolph Christian Church and is a signatory on The Church's bank accounts.

3. Marianne Simons ("Mrs. Simons") resides in Mendam, New Jersey and is Pastor Simons' wife. Mrs. Simons is an assistant pastor at Randolph Christian Church and is a signatory on The Church's bank accounts. Mrs. Simons was ordained by Pastor Simons in 2006.

4. Philip DuPlessis ("DuPlessis") resides in Jersey City, New Jersey. Pastor DuPlessis is an assistant pastor at Randolph Christian Church and is the Secretary of Church Alive, Inc. Pastor DuPlessis was ordained by Pastor Simons in or around November 2007. He helps manage The Church's finances and is a signatory on The Church's bank account.

5. Sharon DuPlessis ("Mrs. DuPlessis") resides in Jersey City, New Jersey and is Pastor DuPlessis' wife. Mrs. DuPlessis is an assistant pastor at Randolph Christian Church and was ordained by Pastor Simons in or around November 2007. While Mrs. DuPlessis is not a respondent, some of the provisions herein apply to her.

PERMANENT INJUNCTION

6. Respondents Eric Simons, Marianne Simons and Philip DuPlessis individually, and by or through any corporation, business entity, agent, employee, partner, officer, director, attorney, stockholder and/or any other person who is directly or indirectly under their control or direction, are permanently restrained and enjoined from directly or indirectly violating

the Charities Act including, but not limited to, N.J.S.A. 45:17A-32 and the Nonprofit Corporation Act, N.J.S.A. 15A:3-2.

7. Respondents Eric Simons, Marianne Simons and Philip DuPlessis are hereby barred for a period of 10 years from serving on any financial board or acting as an officer, director, and/or any other person who is directly or indirectly in control of a financial organization.

RESTORATION OF MONEYS OR PROPERTY, REAL OR PERSONAL TO DONORS

8. Respondents shall restore certain moneys and/or property, real or personal to donors pursuant to N.J.S.A. 45:17A-33 that were donated for the express purpose of the Building Fund, i.e. the building and/or reconstructing of a new sanctuary for The Church which was referred to as the "Fusion Auditorium", and that were not apportioned to such express purpose, or other donations that were allocated improperly, in an amount of $ 142,675.00. The list of such donations, approved by the Division and Respondents, is attached hereto as Exhibit A. Subsequent complainants may seek relief from the Provisional Director/Fiscal Monitor as described in paragraph 15 of this Consent Order.

9. Restoration of funds may be done in accordance with the applicable provisions of the IRS Code and any and all restored funds may be donated to another qualified 501(c)(3) organization, at the direction of the donor's wishes through

the Provisional Director/Fiscal Monitor as described in paragraph 15 of this Consent Order.

Reformation of Corporate Governance

10. Respondents Eric Simons, Marianne Simons and Philip DuPlessis, as well as Sharon DuPlessis, shall immediately resign as board members of Church Alive, Inc. d/b/a Randolph Christian Church.

11. Respondents Eric Simons, Marianne Simons and Philip DuPlessis, as well as Sharon DuPlessis, shall have no authority with respect to any financial decisions of The Church.

12. Respondents Eric Simons, Marianne Simons and Philip DuPlessis, as well as Sharon DuPlessis, shall immediately relinquish all control and signatory authority over The Church's banking and financial accounts, including, but not limited to the TD Bank North account, the Charles Schwab brokerage account, and any and all credit cards, to the Provisional Director/Fiscal Monitor, as set forth below.

13. Respondent Church Alive, Inc. d/b/a Randolph Christian Church shall:

    a. Adopt an independent Official Board, which shall not include Simons, DuPlessis, Mrs. Simons or Mrs. DuPlessis, and which will have the authority to present proposed expenditures or investments to the Provisional Director/Fiscal Monitor for his/her approval, as set forth in paragraph 15 of this Consent Order; and

b. Adhere to the "Best Practice Policies" for tax-exempt religious organizations under IRC section 501(c)(3).

14. Respondents Eric Simons, Marianne Simons and Philip DuPlessis, shall not bind The Church into any financial merger agreements with any other entity. Any and all financial merger agreements shall be reviewed and voted upon by The Church's independent Official Board, pursuant to paragraph 13 of this Consent Order.

APPOINTMENT OF PROVISIONAL DIRECTOR/FISCAL MONITOR

15. Mr. Donald Conway, of Mercadien Group is hereby appointed to serve as Provisional Director/Fiscal Monitor, without bond, as to The Church. The Provisional Director/Fiscal Monitor will:

a. take control over The Church's banking and financial accounts including, but not limited to the TD Bank North bank account, the Charles Schwab brokerage account, and any and all credit cards. The Provisional Director/Fiscal Monitor and one Official Board member shall have signatory authority for The Church's banking and financial accounts. The Official Board member with signatory authority for The Church's banking and financial accounts shall not be a present or past employee of any of the respondents or have had any control directly or indirectly of The Church's banking or

financial accounts;

b. within 30 days of appointment provide a report to the Director of the Division of Consumer Affairs regarding the restructuring of The Church's corporate governance including, but not limited to, the appointment of the independent Official Board;

c. within 30 days of appointment of the Official Board, provide a report to the Director of Division of Consumer Affairs regarding the review of the employment status of all Church employees including, Simons, DuPlessis, and Mrs. Simons by the Official Board;

d. review all the books and records of and pertaining to The Church, and (i) after giving due consideration to the views of the Official Board, shall determine the fair and reasonable compensation and other expenses to be paid to any and all Church employees; (ii) provide to the Director of the Division of Consumer Affairs within 90 days of this Consent Order a report of The Church's financial records; (iii) determine the amount of monies due and owing to donors pursuant to paragraph 8 of this Consent Order; and (iv) restore funds to donors pursuant to paragraph 9 of this Consent Order;

e. report to the Division Director within 60 days of appointment:

(i) the prospects for sale of The Church parsonage located at 14 Kingsbrook Court, Mendham, New Jersey ("The Parsonage"), for $1.6 million, which was the purchase price for The Parsonage by Simons using The Church funds;

(ii) the fair offering rental value of The Parsonage; and

(iii) whether the Simonses should be permitted to reside in The Parsonage pending sale or rental.

The Provisional Director/Fiscal Monitor's findings relating to The Parsonage shall be submitted to the Official Board upon appointment for review.

f. report to the Division Director within 60 days of appointment the status of all Church licenses including, but not limited to the WinsloResearch Institute license, leaseholds and/or contracts and make recommendations relating thereto.

g. review all proposed expenditures, investments and disposition of assets of or by the Official Board and determine whether the proposed expenditures, investments and disposition of assets are within the best financial interests of The Church consistent with its mission.

(i) should the Provisional Director/ Fiscal Monitor determine that the proposed expenditures,

investments and disposition of assets is not appropriate, the Provisional Director/Fiscal Monitor may veto the decision of the Official Board provided that such veto is accompanied by a written statement setting forth the reasons for the veto of the proposed expenditure, investments and/or disposition of assets within three (3) days of said decision;

(ii) should a dispute regarding the proposed expenditures, investments and disposition of assets arise between the Provisional Director/ Fiscal Monitor and the Official Board in that the Provisional Director/ Fiscal Monitor vetoes any Official Board action or advice, such dispute shall be submitted within ten (10) days to a qualified mediator for resolution. The parties shall be required to participate in the mediation process for at least three (3) hours. The mediator shall be an individual who is qualified on the New Jersey Superior Court list of approved mediators. If the parties cannot mutually agree on a mediator then each party shall designate a representative who jointly will agree upon a third party who is directed to chose the mediator. In the event that

the mediation fails, the dispute shall be submitted to an arbitrator qualified on the New Jersey Superior Court approved list of arbitrators, chosen either by consent or in the same manner above indicated. The outcome of the arbitration shall be binding on the parties.

h. be held harmless from and against any liabilities, including costs and expenses of defending claims, for which the Provisional Director/Fiscal Monitor may become liable, or incur by reason of any act or failure, to act in the course of performing the Provisional Director/Fiscal Monitor's duties, except upon a finding by a Court of gross negligence or willful failure of a Provisional Director/Fiscal Monitor to comply with the terms of this Consent Order or any other order by any Court, irrespective of the time when such claims are filed;

i. retain counsel or professionals including, but not limited to, accountants, appraisers and/or brokers as needed;

j. be compensated for his/her reasonable fees and costs by The Church, subject to approval by the Official Board, which shall not be unreasonably withheld; and

k. be permitted to resign upon giving written notice to the

Division Director and Official Board of The Church of the Provisional Director/Fiscal Monitor's intention to resign, which resignation shall not become effective until a successor is agreed upon by the Division Director and Official Board of The Church.

16. The position of Provisional Director/Fiscal Monitor shall remain in place within The Church for a period of time not to exceed two (2) years from the date of this Consent Order, unless the Division Director and The Church agree that such time period should be extended by a length of time also agreed upon by the Division Director and The Church.

RETURN OF CHURCH FUNDS

17. Respondent DuPlessis and Mrs. DuPlessis shall immediately turn over to the aforementioned Provisional Director/Fiscal Monitor the title, registration and any related documents of the vessel, "Liberty Schooner."[1]

18. Respondent DuPlessis and Mrs. duPlessis shall, by June 30, 2009, pay to The Church for deposit into bank accounts under the supervision and control of the Provisional Director/Fiscal

[1]On or about May 1, 2008, HP Group, LLC, a Delaware corporation owned by DuPlessis, purchased a vessel, The Liberty Schooner, for approximately $450,000. The Church, at the direction of Simons and DuPlessis, paid for $225,000 of the vessel's purchase price with Church funds and honoraria, which Simons and DuPlessis gave themselves with Church funds. The remainder was paid by DuPlessis and Mrs. DuPlessis with personal funds.

Monitor, $125,000, which represents the amount of Church funds used towards the purchase of the Liberty Schooner.

19. Respondents Simons and DuPlessis shall, by June 30, 2009, pay to The Church for deposit into bank accounts under the supervision and control of the Provisional Director/Fiscal Monitor their honoraria of $50,000 each[2], which was used for the Liberty Schooner.

20. Should said Respondents fail to pay such funds to The Church by June 30, 2009, the Liberty Schooner shall be listed for sale with a boat broker selected by the Provisional Director/Fiscal Monitor and approved by the Official Board for the sale price of $450,000. Upon sale of the vessel, $226,320[3] shall be turned over to The Church for deposit into bank accounts under the supervision and control of the Provisional Director/Fiscal Monitor. The remaining sale proceeds shall be released to Respondent DuPlessis and Mrs. DuPlessis.

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[2] In 2008, Simons and DuPlessis gave themselves an honorarium with The Church funds. Simons' honorarium totaled $100,000 and DuPlessis' honorarium totaled $50,000. DuPlessis allocated all his honorarium monies towards the Liberty Schooner and Simons allocated $50,000 of his honorarium monies toward the Liberty Schooner.

[3] $226,320 represents: (1) $125,000 of Church funds used for the purchase of the Liberty Schooner; (2) $100,000 of honoraria, which Simons and DuPlessis gave themselves with Church funds used towards the Liberty Schooner; and (3) $1,320 that The Church had paid for a charter of the vessel.

21. Respondent Simons shall re-pay $14,495 to The Church, for deposit into bank accounts under the supervision and control of the Provisional Director/Fiscal Monitor.[4]

COSTS FOR USE OF THE STATE

22. Respondents are jointly and severally liable for investigative costs and attorneys' fees incurred in the prosecution of this matter, in the total amount of $60,917.94, for the use of the State of New Jersey, as authorized by the Charities Act, N.J.S.A. 45:17A-33.

GENERAL PROVISIONS

23. Respondents shall not represent or imply that any act or practice hereinafter used or engaged in by Respondents 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.

24. The parties acknowledge that for purposes of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

25. This Consent Order constitutes the entire agreement between

[4] $14,495 represents the monies Simons paid for his life-coaching education using Church funds. Simons also used $24,900 of Church funds as payment for a license, which is held by The Church, to the WinsloResearch Institute, an institute that provides instruction in life-coaching. "Life coaching" is Simons' for-profit business offered to non-congregants.

the parties hereto and shall bind the parties hereto and their respective officers, directors, agents, employees, successors, parents, subsidiaries, affiliates and assigns.

26. This Consent Order resolves all issues outstanding between the Division of Consumer Affairs and the Respondents regarding enforcement of and compliance with the provisions of the Charities Act and Nonprofit Corporation Act that are known or are the subject of consumer complaints received by the Division at the time of the execution of this Consent Order.

27. Nothing contained herein shall in any manner be construed to limit or affect any position that petitioner or any other governmental agency may take in any future or pending action not specifically encompassed herein.

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

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

30. The terms and conditions of this Consent Order may be modified with the written consent of the parties hereto and approval of the Director of the Division of Consumer Affairs in the form

of a written consent order.

Dated:

_____
David Szuchman
Director, New Jersey
Division of Consumer Affairs

The undersigned have read this Consent Order, have been advised of their rights to review it with counsel before signing it, understands it, and agrees to be bound by its terms.

_____ Dated:
Eric Simons

_____ Dated:
Marianne Simons

_____ Dated:
Philip DuPlessis

_____ Dated:
Sharon DuPlessis

of a written consent order.

Dated: 4/1/09

David Szuchman
Director, New Jersey
Division of Consumer Affairs

The undersigned have read this Consent Order, have been advised of their rights to review it with counsel before signing it, understands it, and agrees to be bound by its terms.

Eric Simons

Dated: 3/17/2009

Marianne Simons

Dated: 3/17/2009

Philip DuPlessis

Dated: 3/17/2009

Sharon DuPlessis

Dated: 3/17/2009

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Dated:

Marianne Simons

Dated:

Philip DuPlessis

Dated:

Sharon DuPlessis

Consent to the Form
and Entry of this Order:

MARGULIES WIND, P.C.
Attorneys for Eric Simons
and Marianne Simons

By: Dated:
Robert E. Margulies, Esq.

GREENBERG DAUBER EPSTEIN & TUCKER, P.C.
Attorneys for Philip DuPlessis and
Sharon DuPlessis

By: Dated:
Edward J. Dauber, Esq.

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Attorneys for Philip DuPlessis and
Sharon DuPlessis

By: _____ Dated:
Edward J. Dauber, Esq.

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for David Szuchman, Director
New Jersey Division of
Consumer Affairs

By: _____ Dated: 3/31/2009
Anna M. Lascurain
Deputy Attorney General

By: _____ Dated: 3/31/09
Isabella T. Stempler
Deputy Attorney General

Consent to the Form
and Entry of this Order:

MARGULIES WIND, P.C.
Attorneys for Eric Simons
and Marianne Simons

By: _____ Dated:
Robert B. Margulies, Esq.

GREENBERG DAUBER EPSTEIN & TUCKER, P.C.
Attorneys for Philip DuPlessis and
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By: _____ Dated: 4/1/09
Edward J. Dauber, Esq.

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY
Attorney for David Szuchman, Director
New Jersey Division of
Consumer Affairs

By: _____ Dated:
Anna M. Lascurain
Deputy Attorney General

By: _____ Dated:
Isabella T. Stempler
Deputy Attorney General

Adams, Karen	8/4/2005			1023	$2,000	
Adams, Karen	8/11/2005			1026	$2,000	
Adams, Karen	8/27/2005			1035	$2,000	
adams	12/18/2005			136	$2,000	
Adams, Karen	9/18/2005			1059	$1,000	
Adams, Karen	10/2/2005			1070	$1,000	
ken adams	various				$39,000	
Ciolko, Ana Marie	4/23/2006			1065	$15,000	
Ciolko, Ana Marie	7/2/2006			1125	$700	
Ciolko, Ana Marie	8/24/2006			1147	$1,300	
Ciolko, Ana Marie	10/13/2006			1242	$1,500	
Ciolko, Ana Marie	8/22/2008			1010	$5,000	
Ciolko, Ana Marie	11/20/2006					$1,000
Ciolko, Ana Marie	12/30/2006			1288	$1,500	
Emanse	7/10/2005			1683	$5,000	
Emanse	9/4/2005			1766	$5,000	
Garcia, Betsy and He	12/4/2005			1382	$3,600	
Garcia, Betsy and He	12/19/2005			1383	$1,800	
Loda, Paul and Charl	8/21/2005			558	$20,000	
Loda, Paul and Charl	12/4/2005			175	$5,000	
Meinhold, Kent and V	7/13/2005			1180	$100	
Meinhold, Kent and V	7/20/2005			1186	$100	
Meinhold, Kent and V	7/24/2005			1192	$200	
Meinhold, Kent and V	8/3/2005			1197	$200	
Meinhold, Kent and V	8/10/2005			1206	$200	
Meinhold, Kent and V	8/17/2005			1212	$200	
Meinhold, Kent and V	8/24/2005			1218	$200	
Meinhold, Kent and V	9/4/2005			1223	$200	
Meinhold, Kent and V	9/21/2005			1235	$200	
Meinhold, Kent and V	9/28/2005			1242	$200	
Meinhold, Kent and V	10/2/2005			1070	$1,000	
Meinhold, Kent and V	10/12/2005			1250	$200	
Meinhold, Kent and V	10/19/2005			1257	$200	
Meinhold, Kent and V	10/26/2005			1306	$200	
Meinhold, Kent and V	11/2/2005			1308	$200	
Meinhold, Kent and V	11/9/2005			2038	$200	
Meinhold, Kent and V	11/16/2005			2036	$200	
Meinhold, Kent and V	11/23/2005			2043	$200	
Meinhold, Kent and V	11/30/2005			2050	$200	
Meinhold, Kent and V	12/7/2005			2056	$200	
meinhold	12/14/2008			2058	$200	
Meinhold, Kent and V	12/28/2005			2064	$200	
meinhold	12/29/2005			2067	$200	
Meinhold, Kent and V	1/4/2006			2079	$200	
Meinhold, Kent and V	1/11/2006			2081	$200	
Meinhold, Kent and V	1/18/2006			2088	$200	
Meinhold, Kent and V	1/25/2006			2091	$200	
meinhold	2/8/2006			2108	$200	
Meinhold, Kent and V	2/15/2006			2112	$200	
Meinhold, Kent and V	2/22/2006			2121	$200	

meinhold	3/7/2006			2131	$200	
Meinhold, Kent and V	3/1/2006			2125	$200	
Meinhold, Kent and V	3/28/2006			2143	$200	
Meinhold, Kent and V	4/5/2006			1339	$200	
Meinhold, Kent and V	4/12/2006			1341	$200	
Meinhold, Kent and V	4/19/2006			1354	$200	
Meinhold, Kent and V	4/26/2006			1355	$200	
Meinhold, Kent and V	5/3/2006			1359	$200	
Meinhold, Kent and V	5/10/2006			1363	$200	
Meinhold, Kent and V	5/17/2006			1367	$200	
meinhold	5/24/2006			1369	$200	
Meinhold, Kent and V	6/7/2006			2176	$800	
Meinhold, Kent and V	9/20/2006			1285	$200	
Meinhold, Kent and V	10/13/2006			2207	$400	
Meinhold, Kent and V	10/30/2006			2213	$1,900	
Meinhold, Kent and V	12/24/2006			2362	$5,200	
Palumbo, Maria	7/27/2006			2108	$500	
Ritchie, Carol	6/12/2005			2320	$1,000	
Ritchie, Carol	3/19/2006			2445	$4,000	
Westby, Anthony and	12/27/2005			1036	$1,500	
Westby, Anthony and	3/22/2006			1076	$500	
westby	4/10/2006			1088	$500	
westby	4/4/2006			1080	$500	
westby	6/5/2006			1114	$975	
Westby, Anthony and	2/27/2006			1066	$500	

of a written consent order.

Dated:

David Szuchman
Director, New Jersey
Division of Consumer Affairs

The undersigned have read this Consent Order, have been advised of their rights to review it with counsel before signing it, understands it, and agrees to be bound by its terms.

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