

DEPARTMENT OF THE ATTORNEY GENERAL
STATE OF HAWAII

IN THE MATTER OF THE
INVESTIGATION OF ANIMAL CARE
FOUNDATION, INC.

ASSURANCE OF DISCONTINUANCE

WHEREAS, MARK J. BENNETT, Attorney General of the State of Hawaii, pursuant to his authority under sections 467B-9.3 and section 28-2.5, Hawaii Revised Statutes, has conducted an investigation into certain practices of the Animal Care Foundation, Inc.;

WHEREAS, the Animal Care Foundation, Inc. is a Hawaii non-profit corporation and is registered with the Attorney General pursuant to section 46B-2.1, Hawaii Revised Statutes;

WHEREAS, the Animal Care Foundation Inc.'s registration statement contained false and incorrect information;

WHEREAS, the Animal Care Foundation's Form 990 for the year ending September 30, 2007 was incomplete and inaccurate in material respects;

WHEREAS, the Animal Care Foundation, Inc. engaged in a conflict of interest transaction with an officer or director of the corporation;

WHEREAS, the Attorney General alleges by virtue of the foregoing that the Animal Care Foundation, Inc. engaged in deceptive acts and practices and violated sections 467B-6.5, 467B-9(g), 467B-10, and 467B-10.5, Hawaii Revised Statutes.

WHEREAS, the Attorney General is willing to accept this Assurance pursuant chapter 467B, Hawaii Revised Statutes, in lieu of commencing a civil action or proceeding against the Animal Care Foundation, Inc.;

WHEREAS, the Attorney General accepts this Assurance by the Animal Care Foundation, Inc.;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between Mark J. Bennett, Attorney General, State of Hawaii, by Hugh R. Jones, Supervising Deputy Attorney General, and the Animal Care Foundation, Inc. as follows:

1. On or before 90 days after the execution of this Assurance, the Animal Care Foundation shall re-file its registration statement with the Attorney General and such statement shall be complete and accurate.
2. The Animal Care Foundation, Inc. shall file an amended IRS Form 990 for fiscal year end 2008 and shall file a Form 990 for the fiscal year ending September 2008 and 2009.
3. The Animal Care Foundation shall submit all Form 990's to the Attorney General as required by section 467B-6.5, Hawaii Revised Statutes and pay the annual fees.
4. Within 90 days after the execution of this Assurance, the Animal Care foundation shall reimburse the Attorney General the costs of his investigation (\$1,309.12).
5. Within 120 days following the execution of this Assurance, the Animal Care Foundation, Inc. shall pay the Attorney General the \$1,000 civil penalty required by section 467B-6.5, HRS
6. Within 120 days after the execution of this Assurance, the Animal Care Foundation, Inc. shall remove Frank De Giacomo, Vice President as and officer and director and the Foundation agrees that he shall no longer serve any such capacity in the future.
7. The Animal Care Foundation shall consult with a qualified CPA on whether the housing benefits provided to its President and Vice President are taxable to them both as income.
8. The Animal Care Foundation, Inc. shall develop and implement a conflicts of interest policy and provide education to the board on the requirements of section 414D-150, HRS within 120 days after the execution of this Assurance.
9. The Board of the Animal Care Foundation, Inc. shall attend the Hawaii Community Foundation's Board Leadership Conference on February 18, 2010, or undergo similar training in their fiduciary duties and responsibilities.

10. The Animal Care Foundation shall comply with the provisions of chapter 467B, HRS.

11. This Assurance shall be binding on the Animal Care Foundation, Inc., its successors and assigns, employees, agents, corporate successors and another individual through whom it acts.

12. This assurance shall constitute the entire agreement between the parties hereto. This Assurance cannot be changed or modified except in a writing duly executed by the parties hereto.

13. In the event of a breach of this Assurance, provided such breach is determined by a court of competent jurisdiction, the Attorney General shall be entitled to an order permanently enjoining the Animal Care Foundation, Inc. from soliciting contributions in Hawaii.


14. In the event of a breach of this Assurance by the Animal Care Foundation, Inc., the Foundation shall indemnify the Attorney General for the cost, including legal fees, in enforcing this Assurance.

15. The Animal Care Foundation, Inc. agrees that a violation of this Assurance shall be deemed prima facie proof of a violation of applicable law in any civil proceeding hereafter commenced.

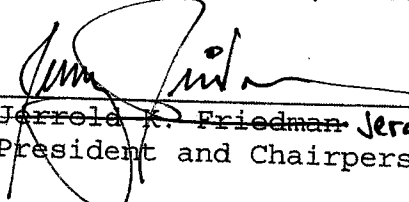
IT IS FURTHER UNDERSTOOD AND AGREED THAT the acceptance of this Assurance by the Attorney General shall not be deemed or construed as approval by the Attorney General of any activities of the Animal Care Foundation, Inc. and it shall not make any representation to the contrary.

WHEREFORE, the following signatures are affixed this 29 day of October, 2009.

MARK J. BENNETT
Attorney General

By: 
Hugh R. Jones
Supervising Deputy Attorney General

ANIMAL CARE FOUNDATION, INC.

By: 
~~Jerold K. Friedman~~ Jerold D. Friedman
President and Chairperson