

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

JESSE JAMES HILTON, MICHAEL TIERNEY
AND VIRGINIA JOHNSON,

Case No.: 2013-CA-502-K
Division: Civil - Audlin

Plaintiffs/Petitioners,

And

CATHERINE VOGEL in her capacity as THE
STATE ATTORNEY FOR THE SIXTEENTH
JUDICIAL CIRCUIT,

Defendant/Respondent

ORDER OF DISMISSAL

On October 24, 2013, the court considered the parties' Joint Stipulation for Order of Dismissal, and the Court finds that the request should be **GRANTED**.

IT IS ORDERED that the above-entitled and numbered action is **DISMISSED, WITH PREJUDICE** as to those claims raised in said action. The Court retains jurisdiction to enforce the parties' Settlement Agreement, General Release.

DONE AND ORDERED in chambers, in Key West, Monroe County, Florida, this 24
day of October, 2013.

David J. Audlin, Jr.

Judge David Audlin, Judge Presiding

COPIES FURNISHED TO:
Mark Wilson, Esq.
Office of the State Attorney
Attorney for Defendant

The Margalli Law Office P.A.
Giulio Margalli
Attorney for Plaintiffs

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT,
IN AND FOR MONROE COUNTY, FLORIDA

JESSE JAMES HILTON, MICHAEL TIERNEY
AND VIRGINIA JOHNSON,

Case No.: 2013-CA-502-K
Division: Civil - Audlin

Plaintiffs/Petitioners,

And

E-FILED

CATHERINE VOGEL in her capacity as THE
STATE ATTORNEY FOR THE SIXTEENTH
JUDICIAL CIRCUIT,

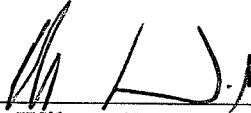
Defendant/Respondent

**JOINT STIPULATION FOR
ORDER OF DISMISSAL**

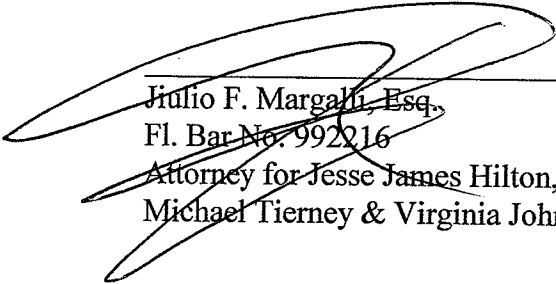
Plaintiffs, JESSE JAMES HILTON, MICHAEL TIERNEY and VIRGINIA JOHNSON, and
Defendant, CATHERINE VOGEL in her capacity as THE STATE ATTORNEY FOR THE
SIXTEENTH JUDICIAL CIRCUIT, file this Joint Stipulation for Order of Dismissal, and stipulate
to the following:

The parties in the cause have reached a compromise and settlement of all issues, claims and
causes of action herein as outline in the attached Settlement Agreement, General Release.

WHEREFORE, Plaintiffs, JESSE JAMES HILTON, MICHAEL TIERNEY and VIRGINIA
JOHNSON, and Defendant, CATHERINE VOGEL in her capacity as THE STATE
ATTORNEYFOR THE SIXTEENTH JUDICIAL CIRCUIT, request that the Court enter an order
dismissing the above-entitled action with prejudice as to those claims raised in said action. The Court
shall retain jurisdiction to enforce the parties' Settlement Agreement, General Release.



Mark Wilson, Esq.
Fl Bar No. 0540331
Assistant State Attorney



Julio F. Margalli, Esq.
Fl. Bar No. 992216
Attorney for Jesse James Hilton,
Michael Tierney & Virginia Johnson

Office of The State Attorney
530 Whitehead Street, Suite 201
Key West, Florida 33040

The Margalli Law Office, P.A.
501 Whitehead Street, Suite 1
Key West, Florida 33040
Telephone: (305) 295-9382
Fax: (305) 295-6916
E-Mail: margallilawoffice@gmail.com

GENERAL RELEASE

WHEREAS, JESSE JAMES HILTON, MICHAEL TIERNEY, AND VIRGINIA JOHNSON, shall hereinafter be collectively referred to as "Plaintiffs";

WHEREAS, CATHERINE VOGEL in her capacity as THE STATE ATTORNEY FOR THE SIXTEENTH JUDICIAL CIRCUIT shall hereinafter be referred to as "SAO";

WHEREAS, the parties hereto voluntarily enter this Settlement Agreement, General Release;

WHEREAS, on or about May 23, 2013, Plaintiffs filed a QUO WARRANTO AND DECLARATORY ACTION against the SAO in case 2013-CA-502-K;

WHEREAS, the parties recognize that it is in their mutual best interests to resolve this matter;

WHEREAS, neither party admits any wrongdoing;

WHEREAS, Plaintiffs agrees to release the SAO as more specifically set forth herein;

WHEREAS, the SAO agrees to release Plaintiffs as more specifically set forth herein;

WHEREAS, the grant monies previously provided through the Guidance/Care Center, Inc. and the South Florida Behavioral Health Network, Inc. to partially fund a DUI prosecutor have been terminated at the request of those agencies;

WHEREAS, the SAO cannot receive funding from the Guidance/Care Center, Inc. and/or the South Florida Behavioral Health Network, Inc. to fund a prosecutorial position as these entities have unilaterally ceased funding due to the prospect of the Quo Warranto action filed by The Margalli Law Office P.A. (see attached affidavits) (specific consideration), and Plaintiffs agree to dismiss case number 2013-CA-502-K with prejudice (specific consideration).

THEREFORE, in exchange for the specific consideration given by, between, or among, the SAO and Plaintiffs and the representation that the previously referenced declarations are true and correct and serve as representations designed to induce each party to enter this General Release, it is hereby agreed as follows:

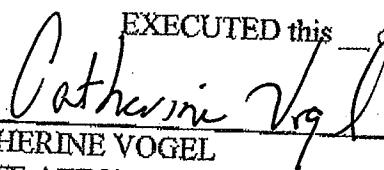
Plaintiffs, for and in consideration of the previously referenced consideration, received from or on behalf of the SAO, the receipt hereof is hereby acknowledged, does hereby remise, release, acquit, satisfy, and forever discharge the SAO of and from any and all manner of action, and actions, cause and causes of actions, suits, claims, losses, demands, damages, injuries, loss of

services, loss of consortium, property damage, bad faith claims, and claims arising from the manner in which the claim or litigation was adjusted, handled, administered, or litigated, as well as any and all debts, dues, sums of money, accounts, bonds, bills, specialties, covenants, contracts, trespasses, controversies, agreements, promises, judgments, executions, liens, costs, expenses, claims for attorneys' fees, pre-judgment interest, interest, demands, punitive damages and any and all claims for any other amount arising out of case 2013-CA-502-K which formed the basis for the litigation.

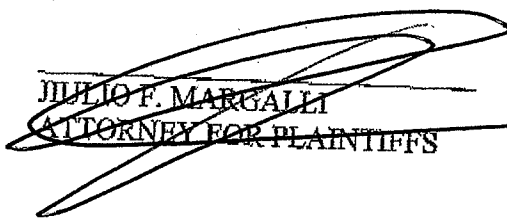
The SAO, for and in consideration of the previously referenced consideration, received from or on behalf of Plaintiffs the receipt hereof is hereby acknowledged, does hereby remise, release, acquit, satisfy, and forever discharge Plaintiffs of and from any and all manner of action, and actions, cause and causes of actions, suits, claims, losses, demands, damages, injuries, loss of services, loss of consortium, property damage, bad faith claims, and claims arising from the manner in which the claim or litigation was adjusted, handled, administered, or litigated, as well as any and all debts, dues, sums of money, accounts, bonds, bills, specialties, covenants, contracts, trespasses, controversies, agreements, promises, judgments, executions, liens, costs, expenses, claims for attorneys' fees, s. 57.105 fees, pre-judgment interest, interest, demands, punitive damages and any and all claims for any other amount arising out of the incident(s) complained of.

The SAO and Plaintiffs agree to enter into a joint voluntary order of dismissal with prejudice with the court reserving jurisdiction to enforce this settlement agreement.

EXECUTED this ___ day of September, 2013.




CATHERINE VOGEL
STATE ATTORNEY
16TH JUDICIAL CIRCUIT



JULIO F. MARGALLI
ATTORNEY FOR PLAINTIFFS


JESSIE HILTON
PLAINTIFF


VIRGINIA JOHNSON
PLAINTIFF

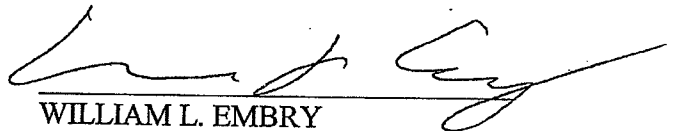

MICHAEL TIERNEY
PLAINTIFF

AFFIDAVIT OF WILLIAM L. EMBRY, PRESIDENT OF THE BOARD OF DIRECTORS OF THE MONROE COUNTY COALITION

I, WILLIAM L. EMBRY, after first being sworn, does hereby make oath to the following:

1. That all funding pursuant to the Prosecutor Funding Agreement ("Agreement") entered into by and between the State Attorney's Office for the 16th Judicial Circuit in and for Monroe County, FL ("SA"), the Monroe County Coalition ("MCC") and the Guidance/Care Center, Inc. ("GCC") effective the 1st day of December, 2012, was terminated effective on or before May 31, 2013. A copy of said Agreement is attached hereto and made a part hereof as Exhibit 1;
2. There are no plans to continue the funding of the prosecutor position set forth in Exhibit 1 beyond the on or before May 31, 2013 termination effective date; and
3. There will be no future funding of any prosecutor position.

FURTHER AFFIANT SAYETH NAUGHT.

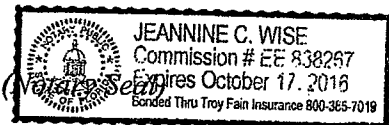


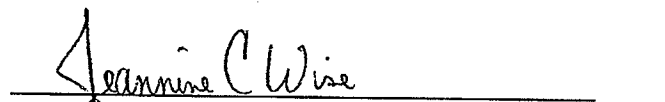
WILLIAM L. EMBRY
President, Monroe County Coalition Board of Directors

Date: June 12, 2013

STATE OF FLORIDA)
) ss
COUNTY OF MONROE)

Subscribed and sworn to before me by WILLIAM L. EMBRY, in his capacity as President of the Monroe County Coalition Board of Directors, who is personally known to me, on this 12th day of June, 2013.




JEANNINE C. WISE - Notary Public, State of Florida
My Commission Expires: October 17, 2016



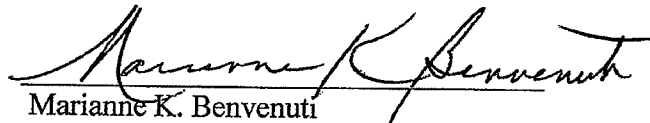
UPLIFTING THE HUMAN SPIRIT

GUIDANCE/CARE CENTER, INC.

I, Marianne K. Benvenuti, after first being sworn, do hereby make oath to the following:

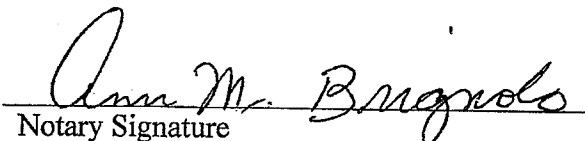
1. That all funding pursuant to the Prosecutor funding Agreement (Agreement) entered into by and between the State Attorney Office for the 16th Judicial Circuit in and for Monroe County Florida, the Monroe county Coalition and the Guidance/Care Center Inc., effective December 1, 2012, was terminated effective on or before May 31, 2013. A copy of said Agreement is attached hereto and made a part hereof as Exhibit 1.
2. There are no plans to renew said funding.

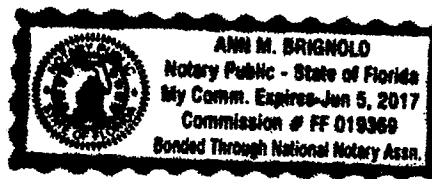
Further the Affiant sayeth not.


 Marianne K. Benvenuti
 Regional Controller

STATE OF FLORIDA
COUNTY OF MONROE

Subscribed and sworn to before me by MAR IANNE K. BENVENUTI (Regional Controller), who is personally known or identification provided to me on the 11th day of June, 2013.


 Notary Signature



1205 4th Street
 Key West, FL 33040
 Telephone: 305.434-7660
 Fax: 305.292-6723

3000 41st Street, Ocean
 Marathon, FL 33050
 Telephone: 305.434.7660
 Fax: 305.434.9040

99198 Overseas Hwy, Suite 5
 Key Largo, FL 33037
 Telephone: 305.434.7660
 Fax: 305.451.8019

Partially funded by the Florida Department of Children and Families and Monroe County



**AFFIDAVIT OF JOHN W. DOW
FUNDS WILL NOT BE USED TO PAY FOR STATE ATTORNEY DUTIES**

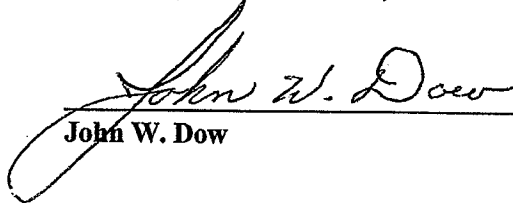
June 17, 2013

I, John W. Dow, affirm:

1. That I am the President and Chief Executive Officer of South Florida Behavioral Health Network, Inc., located at 7205 Corporate Center Drive, Suite #200, Miami, Florida, 33126.
2. That effective June 1, 2013, Monroe County Coalition, Inc. and The Guidance Care Center will not use any State funds or matching funds contracted through its agreement with South Florida Behavioral Health Network, Inc. to pay for State Attorney's Office duties. Please see attached three (3) letters.

I AFFIRM THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

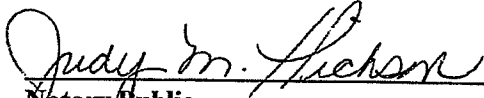
6/18/2013
Date



John W. Dow

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, the undersigned Notary Public, do hereby affirm that John W. Dow personally appeared before me on the 18 day of June 2013, and signed the above Affidavit as his free and voluntary act and deed.



Notary Public



Seal

Personally Known OR

Produced ID - Type of ID _____

Cara Zuckerman

From: Cara Zuckerman
Sent: Friday, May 10, 2013 1:17 PM
To: 'Marianne Benvenuti'
Cc: Frank Scafidi; Frank Scafidi; Wendy Ramos; Maureen Kempa
Subject: RE: DUI Attorney position

Thanks Marianne.

Cara M. Zuckerman
Contract Manager
Contracts Department



7205 Corporate Center Drive
Suite 202
Doral, FL 33126
Direct: 786.507.7474
Fax: 305.860.4869

From: Marianne Benvenuti [<mailto:marianne.benvenuti@westcare.com>]
Sent: Friday, May 10, 2013 11:55 AM
To: Cara Zuckerman
Cc: Frank Scafidi; Frank Scafidi; Wendy Ramos; Maureen Kempa
Subject: RE: DUI Attorney position

Cara,

Attached are the revised fiscal reports, budget narrative and program descriptions for FY 2013 to show that the SAO position would not be providing Prevention services after May 31. Note that the FTE's—at the bottom of the page were reduced from .42 to .38 and the expense was reduced from \$27,094 to \$24,514.

Regarding the budget narrative—I wasn't sure whether you wanted a revision of the narrative for the Prevention ITN or the main contract. Both are attached.

Please note that, because we knew about the change before we submitted the FY 2014 budget information, the SAO position was not in the budgeted in FY 2014.

Thanks...mkb

Marianne K. Benvenuti, MBA
Regional Controller
Guidance/Care Center, Inc.
Westcare Florida

Office Phone 305-434-7660, Ext 31131

Uplifting the human spirit since 1973

From: Cara Zuckerman [mailto:czuckerman@sfbhn.org]
Sent: Monday, May 06, 2013 11:35 AM
To: Frank Rabbito; Frank Scafidi; Marianne Benvenuti; Wendy Ramos; Maureen Kempa
Subject: DUI Attorney position

Dear Mr. Rabbito et al,

Pursuant to our conversation on April 25, 2013, effective May 31, 2013 funds received from South Florida Behavioral Health Network, Inc. (SFBHN) will not be used to fund the Monroe County Prosecutor position contracted by your agency through the State's Attorney's Office in Monroe County.

We ask that you please submit revised Fiscal Year 2012-2013 Personnel Detail Record, Projected Cost Center Operating Capital Budget, Budget Narrative, Program Description, by no later than Noon, May 31, 2013 reflecting the elimination of this position as a funded position through the SFBHN contract.

Should you have any questions please do not hesitate to contact me.

Thank you.

Cara M. Zuckerman
Contract Manager
Contracts Department



7205 Corporate Center Drive
Suite 202
Doral, FL 33126
Direct: 786.507.7474
Fax: 305.860.4869

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Jessica Rodriguez

From: Elba Taveras
Sent: Tuesday, June 18, 2013 9:56 AM
To: Jessica Rodriguez
Subject: FW: Prosecutor position

From: Elba Taveras
Sent: Wednesday, May 01, 2013 9:58 AM
To: Frank Sauer
Subject: Prosecutor position

Dear Mr. Sauer,

Pursuant to the telephone conversation on April 25, 2013 between Jose Vempala, VP of Finance, Frank Sauer, CEO Monroe County Coalition, and myself, Elba Taveras, Contract Manager, effective May 31, 2013 funds received from South Florida Behavioral Health Network, Inc. (SFBHN) will not be used to fund the Prosecutor position contracted by your agency through the State's Attorney's Office in Monroe County.

We ask that you please submit revised Fiscal Year 2012-2013 Personnel Detail Record, Projected Cost Center Operating Capital Budget, Budget Narrative, Program Description, by no later than Noon, May 31, 2013 reflecting the elimination of this position as a funded position through the SFBHN contract.

Should you have any questions please do not hesitate to contact me.

Thank you.

Elba Taveras, MBA
Contract Manager



**South Florida
Behavioral
Health Network, Inc.**

www.sfbhn.org
7205 Corporate Center Drive, Suite 200
Miami, FL 33126
Direct Line: (786) 507-7462
Main Line: (305) 858-3335 ext. 7462
Fax: (305) 860-4869

I need the documents below immediately. I am being questioned on this. Please send me them right away.

Elba

From: Elba Taveras
Sent: Wednesday, May 01, 2013 9:58 AM
To: Frank Sauer
Subject: Prosecutor position

Dear Mr. Sauer,

Pursuant to the telephone conversation on April 25, 2013 between Jose Vempala, VP of Finance, Frank Sauer, CEO Monroe County Coalition, and myself, Elba Taveras, Contract Manager, effective May 31, 2013 funds received from South Florida Behavioral Health Network, Inc. (SFBHN) will not be used to fund the Prosecutor position contracted by your agency through the State's Attorney's Office in Monroe County.

We ask that you please submit revised Fiscal Year 2012-2013 Personnel Detail Record, Projected Cost Center Operating Capital Budget, Budget Narrative, Program Description, by no later than Noon, May 31, 2013 reflecting the elimination of this position as a funded position through the SFBHN contract.

Should you have any questions please do not hesitate to contact me.

Thank you.

Elba Taveras, MBA
Contract Manager



www.sfbhn.org
7205 Corporate Center Drive, Suite 200
Miami, FL 33126
Direct Line: (786) 507-7462
Main Line: (305) 858-3335 ext. 7462
Fax: (305) 860-4869

JESSIE HILTON
PLAINTIFF

Michael Tierney
MICHAEL TIERNEY
PLAINTIFF

Virginia Johnson
VIRGINIA JOHNSON
PLAINTIFF



South Florida Behavioral Health Network, Inc.

May 2, 2013

Catherine Vogel, State Attorney
Office of the State Attorney
530 Whitehead Street
Suite 201
Key West, Florida 33040

Dear Ms. Vogel:

The South Florida Behavioral Health Network, Inc. has decided to terminate its funding of your DUI prosecutor two months before the expiration of our contract. We have decided that we prefer these funds go to treatment rather than prosecution of offenders.

This action was taken solely for the purpose of better aligning The South Florida behavioral Health Network's (SFBHN's) budget with community system of care needs and is not related to any performance on your organizations part. I hope that you can appreciate and understand SFBHN's need to allocate our limited funding in a manner that best supports the entire system of care needs and I look forward to working with you in the future.

Sincerely,

John W. Dow
President and CEO

JWD:jmh



Partially funded by the Florida Department of Children & Families