

IN THE CIRCUIT COURT FOR PASCO COUNTY, FLORIDA

STATE OF FLORIDA,
DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES,

PLAINTIFF,

vs.

CASE NO.

STEARNS ZOOLOGICAL RESCUE AND
REHAB CENTER INC., DADE CITY'S
WILD THINGS, INC., STEARNS PEAT C INC.,
RANDALL STEARNS, KATHRYN STEARNS, and
KENNETH STEARNS,

DEFENDANTS.

**COMPLAINT FOR TEMPORARY AND PERMANENT INJUNCTION,
CIVIL PENALTIES, AND OTHER STATUTORY RELIEF**

Plaintiff, FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES ("Department"), sues Defendants, STEARNS ZOOLOGICAL RESCUE AND REHAB CENTER INC.; DADE CITY'S WILD THINGS, INC.; STEARNS PEAT C INC., RANDALL STEARNS, KATHRYN STEARNS, and KENNETH STEARNS, and alleges:

1. This Court has jurisdiction under Section 496.420, Florida Statutes, authorizing the Department to bring a civil action in circuit court to enforce Sections 496.401 through 496.424, Florida Statutes, the "Solicitation of Contributions Act" ("the Act"). In addition, this Court has jurisdiction under Section 120.69, Florida Statutes, authorizing the Department to bring a civil action in circuit court to enforce the Final Orders of the Department.

2. The Department is an agency of the State of Florida, established pursuant to Section 20.14, Florida Statutes. The Department is the enforcing authority, pursuant to Sections 496.401

through 496.424, Florida Statutes, relating to the regulation of charitable organizations soliciting contributions in Florida (“the Act”).

3. STEARNS ZOOLOGICAL RESCUE AND REHAB CENTER INC. (hereinafter referred to as “Stearns Zoological”) is a Florida not-for-profit corporation which incorporated as such in 2007. Its principal location is in Pasco County, Florida. Stearns Zoological is listed with the Florida Department of State as the owner of the fictitious name “Dade City’s Wild Things.” The original fictitious name filing by Stearns Zoological was filed in 2007 followed by a subsequent filing in 2013. Stearns Zoological has operated as a charitable organization soliciting contributions in the state of Florida. Stearns Zoological was administratively dissolved by the Florida Department of State on September 22, 2017, for failure to file its annual report.

4. DADE CITY’S WILD THINGS, INC. (hereinafter referred to as “DCWT”) was a Florida not-for-profit corporation which was incorporated as such in 2014. On April 29, 2017, DCWT filed for voluntary dissolution with the Department of State. Its principal location was in Pasco County, Florida. Prior to DCWT incorporating, there was a prior Florida for profit corporation called Dade City’s Wild Things Inc. (hereinafter referred to as “DCWT-For Profit”) which incorporated in 2012 and was voluntarily dissolved in 2014. DCWT has operated as a charitable organization soliciting contributions in the state of Florida. Stearns Zoological and DCWT shall be referred to together herein as “the Non-profit Corporations.”

5. KATHRYN STEARNS is currently listed as a president and secretary of Stearns Zoological. In prior years she has been identified as director, president and secretary of Stearns Zoological. KATHRYN STEARNS was also listed as director of DCWT. She was also the president and secretary of DCWT-For Profit and listed as an owner in a fictitious name filing for the name “Dade City’s Wild Things” in 2011.

6. KENNETH STEARNS was the vice president of DCWT and DCWT-For Profit. Both he and KATHRYN STEARNS are the titled owners of the land on which Stearns Zoological operates and on which DCWT operated prior to its dissolution. KATHRYN STEARNS and KENNETH STEARNS are the president and vice-president, respectively, of STEARNS PEAT C INC., a Florida profit corporation.

7. RANDALL STEARNS is currently listed as president and director of Stearns Zoological and has held those titles since 2010. He was also the President of DCWT. RANDALL STEARNS is the son of KATHRYN STEARNS and KENNETH STEARNS.

8. KATHRYN STEARNS, KENNETH STEARNS and RANDALL STEARNS are residents of Pasco County Florida.

9. STEARNS PEAT C INC. is a Florida profit corporation which sells soil, landscape, and planting supplies. KATHRYN STEARNS is the president and secretary and KENNETH STEARNS is the vice-president. STEARNS PEAT C INC. has received hundreds of thousands of dollars of non-profit funds. STEARNS PEAT C INC. was administratively dissolved by the Florida Department of State on September 22, 2017, for failure to file its annual report.

10. Defendants have operated in concert to solicit contributions under the auspices of caring for animals and donating to conservation efforts. This includes selling zoo tickets and animal encounters under the representation that the proceeds will assist conservation efforts. The Non-profit Corporations have solicited and received contributions in each others' names, and have transferred and shared funds between them. For at least one year in 2015-2016, an account owned by DCWT became the primary account used by the Non-profit Corporations to deposit their proceeds and received contributions. Prior to April 2015 and from about September 2016

through at least February 2017, accounts owned by Stearns Zoological became the primary accounts used by the Non-profit Corporations to deposit their proceeds and received contributions. Large amounts of Non-profit funds are routinely transferred to STEARNS PEAT C INC. The Non-profit Corporations have both operated under the name Dade City's Wild Things.

11. Stearns Zoological originally registered with the Department in 2007 as a charitable organization. Its registration, CH23363, most recently expired on July 23, 2016. Stearns Zoological attempted to register with the Department on February 15, 2017. The Department responded to the application by asking for additional documents and information. On March 17, 2017, Stearns Zoological contacted the Department to withdraw its application. Stearns Zoological has made no subsequent effort to become registered with the Department.

12. Stearns Zoological was fined for its actions of soliciting donations on September 21, 2016, without being registered with the Department. By Final Order dated December 27, 2016, Stearns Zoological was ordered to pay a \$500 administrative fine and to cease and desist from soliciting contributions. A true and accurate copy of the Final Order is attached hereto and incorporated herein as "Exhibit A." Despite the order to cease and desist, Stearns Zoological has actively solicited donations in the state of Florida from July 23, 2016, up to the date of this filing.

13. DCWT has never been registered as a charitable organization with the Department despite soliciting contributions and depositing said contributions into its account.

14. Stearns Zoological was, at one point, identified with the Internal Revenue Service (IRS) as a 501(c)(3) tax-exempt organization. However, the exemption was revoked on May 15, 2013, for failure to file a Form 990-series return or notice for three consecutive years. DCWT was never a 501(c)(3) tax-exempt organization.

15. The Non-profit Corporations' website, www.dadecityswildthings.com (hereinafter, the "Website"), up until at least March 17, 2017, contained various donation requests and links through which donations could be made online. The website falsely stated that donations were tax deductible, despite the fact that Stearns Zoological's 501(c)(3) status had been revoked in 2013. In addition, the website failed to provide the required disclosure statement and information on each page that "identifies a mailing address where contributions are to be sent, identifies a telephone number to call to process contributions, or provides for online processing of contributions." Section 496.411(3), Florida Statutes.

16. The Non-profit Corporations maintained an Endangered Species Conservation Fund (hereinafter referred to as "ESCF"). The ESCF had its own page on the Website which outlined the purpose for the fund, provided an input field for visitors to process an online donation and linked to other documents including a ESCF brochure. The ESCF's stated purpose was to provide funds for conservation efforts and education. The webpage stated:

We receive no state or federal funding. We survive strictly on the generosity of animal lovers like yourself who understand the importance of providing for these animals. If you care to make a tax-deductable donation now, call 352-567-WILD (9453).

The website page also referenced Stearns Zoological's (prior) charitable organization registration number with the Department. There is also an ESCF Facebook page maintained by the Non-profit Corporations.

17. The ESCF brochure located on the website is titled "Help Us Help the Animals." In addition to soliciting for donations, the brochure makes the following statement after thanking people for visiting Dade City's Wild Things:

Through your visit we are able to provide funding to critical on the ground international wildlife conservation programs, thereby complementing the educational message and field research of the zoo.

The ESCF website page further stated that “The fund receives a percentage of its financing through Animal Encounters at Dade City’s Wild Things in Dade City, Florida.” The Non-profit Corporations have utilized a charitable appeal to sell tickets to the zoo and the animal encounters offered at the zoo. In addition, the website stated that all proceeds from the gift shop go to support the animals. The online gift shop also contained various donation packages for purchase.

18. In the February 2017 application with the Department, Stearns Zoological stated that contributions would be used for the “care, upkeep, feeding of animals and conservation threw [sic] ESCF.” The application also stated that KATHRYN STEARNS was uncompensated. Along with the application, Stearns Zoological submitted a financial statement for the year ending December 31, 2015, in which it claimed that no funds were used for salaries or wages of officers or employees.

19. The prior application, submitted in October of 2015, also stated that contributions would be used for “care, upkeep, feeding of animals and conservation threw [sic] ESCF.” The application also stated that KATHRYN STEARNS was uncompensated.

20. An analysis of financial information covering the period from March 2016 through February 2017 shows that each month, money from the Non-profit Corporations was deposited into the account of the for-profit STEARNS PEAT C INC. The following amounts were transferred from an account in the name of DCWT to STEARNS PEAT C INC.: March 2016 - \$34,500.50; April 2016 - \$13,500.00; May 2016 - \$36,300.00; June 2016 - \$28,668.35; July 2016 - \$25,526.06; August 2016 - \$14,450.00; September 2016 - \$13,400.00. The following amounts were transferred from an account in the name of Stearns Zoological to Stearns Peat C Inc.: September 2016 - \$3,350.00; October 2016 - \$7,350.00; November 2016 - \$7,000; December 2016 - \$15,614.90; January 2017 - \$8,200.00; February 2017 - \$3,450.00.

The total amounts transferred from the Non-profit Corporations to Stearns Peat C Inc. for this time period was \$211,659.81.

21. While Stearns Zoological and DCWT were non-profit corporations and held themselves out as such, they continually transferred their funds to the for-profit entity, STEARNS PEAT C INC. to be used by that entity and to pay personal expenses of the corporate officers and directors of STEARNS PEAT C INC., Stearns Zoological and DCWT.

22. For example, in 2013 KATHRYN STEARNS filed for personal bankruptcy under a Chapter 13 reorganization. Under the Chapter 13 reorganization plan, KATHRYN STEARNS was required to make monthly payments to the bankruptcy trustee or risk having her bankruptcy dismissed. On February 24, 2016, KATHRYN STEARN's bankruptcy case was dismissed for delinquency in payments. On March 16, 2016, through counsel, KATHRYN STEARNS filed a motion to reconsider the dismissal. The bank records for STEARNS PEAT C INC. shows that on March 21, 2016, \$17,500.50 was transferred to the account from the account for DCWT. On the same day a cashier's check was drawn from the STEARNS PEAT C INC. account for \$17,550.00 made to the bankruptcy trustee. On March 24, 2016, another cashier's check for \$6,693.00 was drawn from the same account and made to the bankruptcy trustee. As the delinquent payments had been paid, the bankruptcy court allowed the bankruptcy case to be reinstated. Non-profit funds were intentionally transferred to the STEARNS PEAT C INC. so that they could be used to pay the delinquent personal bankruptcy payments of KATHRYN STEARNS. The registration applications submitted to the Department on October 5, 2015, to register as a charitable organization for the 2015-2016 registration year stated that KATHRYN STEARNS was an uncompensated director. The February 2017 application also affirmed that KATHRYN STEARNS was not compensated.

23. Also in March of 2016, RANDALL STEARNS got married. The reception was held at the Dade City Wild Things zoo. A number of wedding expenses showed up on the STEARNS PEAT C INC. account: \$2,897.38 catering; \$332.11 catering; \$986.00 floral; \$80.25 floral; \$478.00 floral; \$900.50 wedding confections; \$629.10 tuxedo/suits; \$324.15 menswear; \$725.46 jewelry and \$363.80 jewelry; \$472.56 equipment rental; and \$1,492.65 wedding photography. The total of the above expenses equals \$9,681.96. It is likely that there are additional charges in the account related to the wedding. The above expenses could not have been paid from the account without the influx of non-profit cash from DCWT.

24. In addition to the funds that were transferred from the Non-profit accounts to the STEARNS PEAT C INC. account, there were also personal expenditures that were paid directly out of the non-profit accounts. For example, on November 30, 2015, KATHRYN STEARNS drew a cashier's check for \$8,000 from the DCWT account to make a payment on her personal bankruptcy. On October 11, 2016, KATHRYN STEARNS drew a cashier's check of \$7,350.00 from the Stearns Zoological account also to make a payment on her personal bankruptcy.

25. Section 617.0833, Florida Statutes, states that non-profit corporations may not make loans "to [its] directors or officers, or to any other corporation, firm, association, or other entity in which one or more of its directors or officers is a director or officer or holds a substantial financial interest" except a loan from one 501(c) entity to another 501(c) entity. A Non-profit corporation cannot make distributions to its members, directors, or officers. See Section 617.0505, Florida Statutes.

26. On February 28, 2017, the Department sent a subpoena to Stearns Zoological requesting documents, a true and accurate copy of which is attached hereto and incorporated herein as "Exhibit B." On March 17, 2017, a response was provided. In the response, Stearns

Zoological acknowledged that solicitation materials existed, but failed to provide them to the Department as requested. They failed to provide any documents showing any financial accounts used by Stearns Zoological. They failed to provide all documents relating to 2015 and 2016 payroll, employees and W-2s for those years. While they provided some such documents for 2017 and 2016 W-2s they failed to provide any documentation for 2015. They also did not provide payroll information and W-2s for all employees in 2016. Information subpoenaed from Chase Bank shows that employees were paid in 2015 and that employees not referenced in Stearns Zoological responsive documents were paid for both 2015 and 2016 – which included RANDALL STEARNS. When asked for documents relating to damages and repairs related to Hurricane Hermine, Stearns Zoological provided a short summary of expenditures with no receipts and a link to a newspaper article. Stearns Zoological also failed to provide documentation related to entities and funds that were referenced on their webpage in connection with donation requests. Stearns Zoological failed to provide solicitation materials and documents showing contributions and expenditures related to the Endangered Species Conservation Fund.

27. In e-mail communications with the Department’s investigator, Sasha Velez, KATHRYN STEARNS made several statements, presumably as a defense against the Department’s investigation into the Defendants. On June 14, 2017, KATHRYN STEARNS wrote, “I am confused as lisc [sic] ended thru [sic] you in 2016 forward stearns zoological was not a nonprofit. But was lisc [sic] as a for profit that would solicit donations.” On June 15, 2017, KATHRYN STEARNS wrote, “Left a phone message confused as Stearns Zoological was not a charity in 2016 or 2017.” Again, on June 15, 2017, KATHRYN STEARNS wrote, “Stearns zoo became a for profit a few years ago and was registered as for profit with your

agency too. not [sic] a§ [sic] charity for a few years.” On June 16, 2017, KATHRYN STEARNS stated: Stearns Zoological in [sic] a for profit – and runs the ZOO – and is listed under your agency as a for profit and the IRS – it is still being updated on state of Florida. Dade City’s Wild Things ran the zoo for a period – but has been closed – it was always a for profit org.”

28. KATHRYN STEARNS’s statements above are an admission of mismanaging non-profit funds. She states that she has operated both Stearns Zoological and DCWT as if they were for profit entities for years. This is consistent with the evidence showing hundreds of thousands of non-profit funds being transferred to STEARNS PEAT C INC. Stearns Zoological has, since its incorporation under the laws of Florida in 2007, always been a not-for-profit corporation. DCWT has been a not-for-profit since its incorporation in 2014. Neither Stearns Zoological nor DCWT has ever identified itself to the Department as a for-profit entity prior to June of 2017. Stearns Zoological and DCWT’s status with the IRS as a 501(c)(3) entity is irrelevant to the question of whether or not Stearns Zoological and DCWT are not-for-profit entities. In addition, the status of Stearns Zoological and DCWT as a 501(c)(3) organization or as a not-for-profit or for profit entity is irrelevant as to whether or not the entities are charitable organizations as defined in Section 496.404(1), Florida Statutes.

29. Despite KATHRYN STEARNS claims to the contrary, Defendants have held Stearns Zoological and DCWT out to the public as a not-for-profit entity and as a charity. On December 6, 2016, the following post was made on the Dade City’s Wild Things’ Facebook page: “Family in town ? [sic] Bring them to our Non-profit zoo and help support some wonderful animals this Christmas.” On April 17, 2016, on the Facebook page, it was again affirmed that “[w]e are a non-profit zoo.” In that case, the non-profit status was used to refute criticism of the

zoo. On September 15, 2016, a post was made on the Facebook page noticing the “Taste of Safari Fundraiser for non-profit Zoo 9/17/2016.” The post included a video of RANDALL STEARNS talking about the upcoming fundraising event. The Facebook page continues to falsely state that Stearns Zoological is registered with the Department as a charitable organization.

30. The Taste of Safari fundraiser was held by the Non-profit Corporations on September 17, 2016. The cost of admission for the event was \$100 per couple. The event brought out 100 people and involved an auction, food and music. This event was the subject of numerous posts on the Dade City’s Wild Things’ Facebook page, with such comments as “We need your support,” “Please come to our fundraiser mentioned above or send a donation,” and “Are u [sic] supporting us by coming to our Taste of Safari Fundraiser.” Some contributions received in connections with this fundraiser were directly deposited into the STEARNS PEAT C INC. bank account.

31. The Non-profit Corporations also engaged in fundraising through sites like gofundme.com. A post on the Dade City’s Wild Things’ Facebook page from September 4, 2016 showed one of their sloths named Lola and encouraged people to donate \$5 to \$10 to help rebuild Loa’s home after damage caused by Hurricane Hermine. The post contained a link to www.gofundme.com/dcwildthings where donations could be made. The Facebook page is replete with requests for donations to support the animals. This is in addition to the solicitation materials contained on the webpage as discussed in paragraphs 15 through 17.

32. On August 18, 2017, another gofundme.com page was created by a Kim Wysong “on behalf of Kathy Stearns” titled Help Dade City’s Wild Things. The stated goal of the page is to collect \$5,000 in support of the zoo. The Dade City’s Wild Things’ Facebook page links to

the gofundme.com page multiple times including noting specific donations and the name of the donor with a personal note thanking the donor such as “Thank you for your generous support of our animals your kind words of support mean allot [sic] too!!” In one post, a Facebook user expressed concern about having to use gofundme.com to donate. Stearns Zoological, in a response post, advised the user to make the donation directly to its PayPal account. In a Facebook post dated September 17, 2017, which has been pinned to appear as the top post on the Facebook page, Stearns Zoological asks consumers to “help with our go fundme [sic].” As of September 22, 2017, the Help Dade City’s Wild Things gofundme.com page has been changed to a request for donations to “Help DCWT zoo animals post Irma.”

33. The Dade City’s Wild Things’ Facebook page also contains posts about a fundraiser scheduled for October 7, 2017, called Pasta with a Purpose – A Benefit for Dade City’s Wild Things. Tickets are \$25.00 each and must be purchased by September 29, 2017. The event includes a Silent Auction and a “50/50” – which is presumably a reference to a 50/50 raffle event. Such a raffle would appear to be an unlawful lottery as none of the Defendants are 501(c)(3) entities, therefore they cannot operate under Section 849.0935, Florida Statutes. It likewise would not qualify as a game promotion under Section 849.094, Florida Statutes.

34. On September 11, 2017, a post was made on the Facebook page for Dade City’s Wild Things requesting donations:

All the animals are fine [praying hands emoticon] however, there's tremendous damage to many outdoor enclosures! Since we are closed to the public until we make all necessary repairs and cleanup, our finances are almost out. We need your help. If you could donate any amount regardless how small it all adds. It will be greatly appreciated. Also if anyone can bring us generator we really could use it to run our freezer for the animals. Your support will be truly appreciated

35. On September 12, 2017, a video was posed on the Facebook page for Dade City’s Wild Things in which KATHRYN STEARNS solicited donations. After discussing many of the

financial troubles faced by Stearns Zoological and asking for assistance, KATHRYN STEARNS stated, "I really need you guys to step it up a little bit. A dollar even helps please."

36. Defendants have also used a Facebook page for The Tiger Man LLC to solicit contributions and make statements on behalf of the Non-profit corporations. The Tiger Man LLC was created in May of 2017 with RANDALL STEARNS as president. On the page there are numerous videos of KENNETH STEARNS and RANDALL STEARNS. In one video dated August 11, 2017, KENNETH STEARNS falsely claims that Stearns Zoological is a 501(c)(3). In another video dated June 13, 2017, titled: ""The Tiger Man" Vlog: How can you help?" RANDALL STEARNS states:

You want to help our park – come out -- take a tour. You know, that's how we fund and feed and care and take in all these animals is by sponsors, you guys coming out – taking a tour.

This request is similar to calls for support found in other videos on the page. The video also contained a request for donation of building supplies.

37. On July, 2014, Stearns Zoological held a "Free the Zoo" fundraiser. Stearns Zoological described the fundraiser as follows:

Help us at Dade City's Wild Things Free the Zoo from Debt. We have the opportunity to be debt free and own our own property. A donor will match \$2,00 for every \$1.00 donated if our goal is reached to pay off our property. Goal to Free the Zoo is \$450,000.00. If half of our supporters donated \$5.00 we will reach our goal and be able to move forward with a FREE SOO and be able to do more Conservation and Education. Please help us FREE THE ZOO. Donate by calling 352-567-WILD(9453) or mail a check to 37245 Meridian Ave. Dade City, FL 33525.

The property on which the zoo is located (36909 Blanto Rd., Dade City, Florida) is owned by KENNETH STEARNS and KATHRYN STEARNS and is subject to mortgage. In reviewing checks received from the time of the fundraiser that specifically referenced the Free the Zoo campaign, as well as donations received through a Go Fund Me webpage devoted to the

campaign, it was found that Stearns Zoological received more than \$2,000 in donations to “Free the Zoo.” KATHRYN STEARNS has acknowledged to the Department that the referenced donor willing to match funds was Stearns Peat Co., Inc. – KATHRYN STEARN’S and KENNETH STEARN’S for-profit company. Stearns Zoological solicited contributions under the auspices of giving Stearns Zoological clear title to a property that it had no ownership interest in. None of the solicitations informed consumers that the property was actually owned by KENNETH STEARNS and KATHRYN STEARNS. The statement about a matching donor really meant that the Stearns were going to help pay a lien or mortgage on their own land. Regardless of the propriety of such a solicitation, the over \$2,000 received from the campaign never went to pay off any portion of any lien or mortgage on the property.

38. In August of 2011, KATHRYN STEARNS pled nolo contendere to the crime of obtaining property or services in return for worthless checks, draft or debit card orders. Section 832.05(4), Florida Statutes. Section 496.405(8), Florida Statutes, prohibits a charitable organization or sponsor from allowing any of its officers, directors, trustees, or employees, who have pled guilty or nolo contendere (regardless of adjudication) in the last 10 years to any crime involving fraud, theft, larceny, embezzlement, fraudulent conversion, or misappropriation of property, to solicit contributions. In December of 2011, Stearns Zoological filed an application for registration as a charitable organization prepared by KATHRYN STEARNS that falsely stated that no such plea existed. The application was accepted based on the misrepresentation to the Department. In May of 2012, after the Department became aware of KATHRYN STEARNS plea, an Administrative Complaint was issued based on the failure to disclose the plea and for Stearns Zoological allowing KATHRYN STEARNS to continue to be involved in solicitation efforts. In August of 2012, a Final Order was entered cancelling Stearns Zoological’s

registration and ordering Stearns Zoological to cease and desist from soliciting contributions in the state of Florida.

39. In October of 2012, Stearns Zoological submitted a new application that stated that KATHRYN STEARNS would not handle contributions. The application was denied and Stearns Zoological submitted a request for a hearing which also stated that KATHRYN STEARNS “will have no connections w/ Donation Soliciting Nor [sic] access to Fundraising Bank Accts.[sic].” Based on the representations that KATHRYN STEARNS would not be involved in solicitations and would not have access to funds, the registration was granted. A March 2014 application again stated that KATHRYN STEARNS would not handle contributions.

40. Despite Stearns Zoological’s claims to the contrary and the statutory prohibition in Section 496.405(8), Florida Statutes, KATHRYN STEARNS has continuously been involved in the solicitation of contributions and has had access to said funds. KATHRYN STEARNS has solicited contributions from the public and is also listed as an authorized signer on the Non-profit corporations’ accounts and is the primary person withdrawing funds, signing checks or otherwise handling the funds of the Non-profit Corporations. KATHRYN STEARNS routinely works at the gift shop accepting contributions. As referenced above, KATHRYN STEARNS has continuously transferred funds from the Non-profit Corporations to her for-profit business, STEARNS PEAT C INC. and used non-profit funds to pay personal expenses.

41. Section 496.404, Florida Statutes, provides the following definitions:

(1) “Charitable organization” means a person who is or holds herself or himself out to be established for any benevolent, educational, philanthropic, humane, scientific, artistic, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or a person who in any manner employs a charitable appeal as the basis for any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation. The term includes a chapter, branch, area office, or similar

affiliate soliciting contributions within the state for a charitable organization that has its principal place of business outside the state.

(2) "Charitable purpose" means a benevolent, philanthropic, patriotic, educational, humane, scientific, artistic, public health, social welfare or advocacy, environmental conservation, civic, or other eleemosynary objective.

(24) "Solicitation" means a request, directly or indirectly, for money, property, financial assistance, or any other thing of value on the plea or representation that such money, property, financial assistance, or other thing of value or a portion of it will be used for a charitable or sponsor purpose or will benefit a charitable organization or sponsor. The term includes, but is not limited to, the following methods of requesting or securing the promise, pledge, or grant of money, property, financial assistance, or any other thing of value:

- (a) Making any oral or written request;
- (b) Making any announcement to the press, on radio or television, by telephone or telegraph, or by any other communication device concerning an appeal or campaign by or for any charitable organization or sponsor or for any charitable or sponsor purpose;
- (c) Distributing, circulating, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contribution; or
- (d) Selling or offering or attempting to sell any advertisement, advertising space, book, card, coupon, chance, device, magazine, membership, merchandise, subscription, sponsorship, flower, admission, ticket, food, or other service or tangible good, item, or thing of value, or any right of any description in connection with which any appeal is made for any charitable organization or sponsor or charitable or sponsor purpose, or when the name of any charitable organization or sponsor is used or referred to in any such appeal as an inducement or reason for making the sale or when, in connection with the sale or offer or attempt to sell, any statement is made that all or part of the proceeds from the sale will be used for any charitable or sponsor purpose or will benefit any charitable organization or sponsor.

A solicitation is considered as having taken place regardless of whether the person making the solicitation receives any contribution. A solicitation does not occur when a person applies for a grant or an award to the government or to an organization that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code and described in s. 501(c) of the Internal Revenue Code and is duly registered with the department.

42. Section 496.405, Florida Statutes, provides:

(1) A charitable organization or sponsor, unless exempted pursuant to s. 496.406, which intends to solicit contributions in or from this state by any means or have funds solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor, or that participates in a charitable sales promotion or sponsor sales promotion, must, before engaging in any of these activities, file an initial registration statement, and a renewal statement annually thereafter, with the department.

(a) Except as provided in paragraph (b), any changes in the information submitted on the initial registration statement or the last renewal statement must be updated annually on a renewal statement provided by the department on or before the date that marks 1 year after the date the department approved the initial registration statement as provided in this section. The department shall annually provide a renewal statement to each registrant by mail or by electronic mail at least 30 days before the renewal date.

(b) Any changes to the information submitted to the department pursuant to paragraph (2)(d) on the initial registration statement or the last renewal statement must be reported to the department on a form prescribed by the department within 10 days after the change occurs.

(c) A charitable organization or sponsor that is required to file an initial registration statement or annual renewal statement may not, before approval of its statement by the department in accordance with subsection (7), solicit contributions or have contributions solicited on its behalf by any other person, charitable organization, sponsor, commercial co-venturer, or professional solicitor or participate in a charitable sales promotion or sponsor sales promotion.

...

(8) A charitable organization or sponsor, or an officer, director, trustee, or employee thereof, may not knowingly allow an officer, director, trustee, or employee of the charitable organization or sponsor to solicit contributions on behalf of such charitable organization or sponsor if such officer, director, trustee, or employee has, in any state, regardless of adjudication, been convicted of, been found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, been found guilty of, or pled guilty or nolo contendere to, a felony within the last 10 years or a crime within the last 10 years involving fraud, theft, larceny, embezzlement, fraudulent conversion, misappropriation of property, or a crime arising from the conduct of a solicitation for a charitable organization or sponsor, or has been enjoined in any state from violating a law relating to a charitable solicitation. The prohibitions in this subsection also apply to a misdemeanor in another state which constitutes a disqualifying felony in this state.

43. Section 496.411, Florida Statutes, provides:

(3) Every charitable organization or sponsor that is required to register under s. 496.405 or is exempt under s. 496.406(1)(d) shall conspicuously display the following statement on every solicitation, confirmation, receipt, or reminder of a contribution:

“A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE.”

The statement must include a toll-free number and website for the division which can be used to obtain the registration information. If the solicitation consists of more than one piece, the statement must be displayed prominently in the solicitation materials. If the solicitation occurs on a website, the statement must be conspicuously displayed on any webpage that identifies a mailing address where contributions are to be sent, identifies a telephone number to call to process contributions, or provides for online processing of contributions.

44. Section 496.415, Florida Statutes, provides:

It is unlawful for any person in connection with the planning, conduct, or execution of any solicitation or charitable or sponsor sales promotion to:

(1) Operate in violation of, or fail to comply with, the requirements of ss. 496.401-496.424.

(2) Submit false, misleading, or inaccurate information in a document that is filed with the department, provided to the public, or offered in response to a request or investigation by the department, the Department of Legal Affairs, or the state attorney.

...

(7) Misrepresent or mislead anyone by any manner, means, practice, or device whatsoever to believe that the person or organization on whose behalf the solicitation or sale is being conducted is a charitable organization or sponsor, or that any of the proceeds of the solicitation or sale will be used for charitable or sponsor purposes, if that is not the fact.

...

(13) Employ in any solicitation any device, scheme, or artifice to defraud or to obtain a contribution by means of any deception, false pretense, misrepresentation, or false promise.

...

(16) Fail to apply contributions in a manner substantially consistent with the solicitation.

45. Section 496.418, Florida Statutes, provides:

Each charitable organization, sponsor, professional fundraising consultant, and professional solicitor must keep for a period of at least 3 years true and accurate records as to its activities in this state which are covered by ss. 496.401-496.424. The records

must be made available, without subpoena, to the department for inspection and must be furnished no later than 10 working days after requested.

46. Defendants, directly or acting in concert, have violated the following Florida statutes as described herein: Section 496.405(1) and (8); 496.411(3); 496.415(1), (2), (7), (13) and (16); 496.418, Florida Statutes. Defendants had actual knowledge or knowledge fairly implied on the basis of objective circumstances of the violations of Chapter 496, Florida Statutes. It is believed that discovery in this matter will reveal additional violations.

47. Section 496.416, Florida Statutes, provides:

Violation as deceptive or unfair trade practice.—Any person who commits an act or practice that violates any provision of ss. 496.401-496.424 commits an unfair or deceptive act or practice or unfair method of competition in violation of chapter 501, part II, and is subject to the penalties and remedies provided for such violation.

48. Section 496.420, Florida Statutes, grants the Department authority to bring a civil action, including seeking temporary or permanent injunction as well as other relief specifically stated therein. The section further provides for the awarding of costs and attorneys' fees as well as a civil penalty of up to \$10,000 for each violation of Sections 496.401 through 496.424, Florida Statutes.

49. At all times material hereto, Defendants KATHRYN STEARNS, RANDALL STEARNS and KENNETH STEARNS participated directly or indirectly, through affiliates, agents, owners, employees, or other representatives in violations set forth in this Complaint, and controlled the acts and practices which constitute violations and/or had authority to control them. Defendants were involved in the day-to-day operations and finances of Defendant Corporations during such times as violations occurred.

50. Unless Defendants are enjoined from violating the provisions of Chapter 496, Florida Statutes, and further enjoined from being engaged in any solicitation of contributions in or from the state of Florida, or acting as officers, directors, owners or managers of any entity engaged in any solicitation of contributions in or from the state of Florida, they will continue to engage in violations of Chapter 496, Florida Statutes, and harm consumers.

51. The Department also requests, pursuant to Section 120.69, Florida Statutes, enforcement of the December 27, 2017, Final Order to cease and desist from soliciting contributions in this state by injunction of the Court.

WHEREFORE, the Florida Department of Agriculture and Consumer Services respectfully requests this Court grant the following relief:

- (1) Impose a Civil Penalty of up to \$10,000 per violation of Chapter 496, Florida Statutes, against each Defendant and enter a Judgment for such amounts.
- (2) Enter an Order enjoining each Defendant, temporarily and permanently, from engaging in any solicitation of contributions in the state of Florida or from a location in the State of Florida and from violating any provisions of Chapter 496, Florida Statutes.
- (3) Enter an Order enjoining each Defendant, temporarily and permanently, from registering with the Department as an entity subject to regulation under Chapter 496, Florida Statutes, or registering an entity in which any of the Defendants act as a director, officer, owner, manager or employee, and revoking any such registration or pending application.

(4) Grant such other relief as provided for in Section 496.420(1), Florida Statutes, including reimbursing the Department its investigative costs, attorneys' fees and costs and reimbursing persons from whom contributions have been unlawfully solicited.

Dated: October 2, 2017

By: /s/ Jared S. Gardner

Jared S. Gardner
Senior Attorney: FBN 41042
Florida Department of Agriculture and
Consumer Services
407 S. Calhoun St., Mayo Bldg., Suite 520
Tallahassee, Florida 32399-0800
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**FLORIDA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES**

**DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

Petitioner,

Case No. 1609-34486
Agency Clerk Tracking: B02641

vs.

**STEARNS ZOOLOGICAL RESCUE &
REHAB CENTER, INC., D/B/A DADE
CITY'S WILD THINGS,**

Respondent.

FINAL ORDER

THIS CAUSE, arising under the Florida Solicitation of Contributions Act (the Act), Sections 496.401-496.424, Florida Statutes, came before the Commissioner of Agriculture of the State of Florida for consideration and final agency action. The record in this matter is in accordance with Chapter 120, Florida Statutes.

I. FINDINGS OF FACT

1. The Department has jurisdiction to administer the Act pursuant to Sections 496.401-496.424, Florida Statutes (F.S.).
2. Stearns Zoological Rescue & Rehab Center, Inc., d/b/a Dade City's Wild Things (Respondent), is an organization recognized under 26 U.S.C., s. 501(c)(3), which was registered with the Department as a charitable organization soliciting contributions in or from Florida effective July 23, 2015, with registration number CH-23363.
3. The Respondent was due to renew its registration with the Department on or before June 9, 2016.

4. The Respondent was sent a renewal notice by the Department on July 23, 2016. No response was received.

5. It was determined by internet search on September 21, 2016, that the Respondent was actively soliciting charitable contributions in Florida without being properly registered with the Department.

6. On September 22, 2016, by UPS Ground, the Department issued to the Respondent an Administrative Complaint and Settlement Agreement for failure to comply with either Section 496.405(1), F.S., or Section 496.406(2), F.S., which included a Notice of Rights pursuant to Chapter 120, F.S. The allegations of fact set forth in the Administrative Complaint are adopted and incorporated herein by reference as findings of fact by the Department.

7. The Administrative Complaint and Settlement Agreement were received by the Respondent's Representative on September 27, 2016.

8. On October 13, 2016, the Department attempted to contact the Respondent regarding the Administrative Complaint and Settlement Agreement. A voice message was left for the Respondent to contact the Department.

9. On October 28, 2016, the Department contacted the Respondent regarding the Administrative Complaint and Settlement Agreement and was given instructions for the submission of the application and fine payment. No response has been received.

10. The Respondent has not complied with the terms of the Administrative Complaint and Settlement Agreement, contested the matter, or filed a request for hearing within the 21 day period following delivery of the Administrative Complaint and Settlement Agreement.

II. CONCLUSIONS OF LAW

11. Pursuant to Section 496.405(1), F.S., each charitable organization or sponsor,

unless exempted pursuant to Section 496.406, F.S., which intends to solicit contributions in or from this state by any means, must, before engaging in any of these activities, file an initial registration statement and a renewal statement annually thereafter, with the Department.

12. Pursuant to Section 496.406(2), F.S., before soliciting contributions, each charitable organization or sponsor claiming to be exempt from the registration requirements of Section 496.405, F.S., under Section 496.406(1)(d), F.S., must submit a Small Charitable Organizations/Sponsors Application annually to the Department.

13. The Respondent solicited contributions in or from the State of Florida without having complied with the requirements of either Section 496.405(1), F.S., or Section 496.406(2), F.S.

14. Section 496.419(5), F.S., grants the Department authority to order the Respondent to cease and desist fundraising activities and to impose an administrative fine not to exceed \$500 per violation.

Upon consideration of the foregoing, a review of the record, and being otherwise fully advised in the premises, it is hereby **ORDERED AND ADJUDGED** that:

- A. The Respondent shall pay an administrative fine in the amount of \$500;
- B. The Respondent shall cease and desist from acting as a charitable organization soliciting contributions in or from the State of Florida until such time as the Respondent is in compliance with the Florida Solicitation of Contributions Act;
- C. The Respondent shall immediately submit to the Department all necessary documents and applicable fees to become properly registered under the Florida Solicitation of Contributions Act; or, if Respondent is claiming to be exempt from registration under Section 496.406(1)(d), F.S., Respondent shall immediately submit a Small Charitable

Organizations/Sponsors Application, and;


D. The Respondent's failure to obey this Final Order and the continued operation as a charitable organization soliciting contributions without complying with the terms of this Final Order may result in the Department pursuing further action against the Respondent by a civil action in circuit court seeking injunctive relief, civil penalties, and any other remedy authorized by law.

NOTICE OF RIGHTS


Any party to these proceedings adversely affected by this Final Order is entitled to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Judicial review proceedings must be instituted by filing a Notice of Appeal with the Department's Agency Clerk, 407 South Calhoun Street, Suite 509, Tallahassee, Florida, 32399-0800, within thirty (30) days of rendition of this order. A copy of the Notice of Appeal must be filed with the Clerk of the appropriate District Court of Appeal accompanied by any filing fees prescribed by law.

Done and Ordered this 27th day of December, 2016.

ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE


AMY TOPOL
DIVISION DIRECTOR

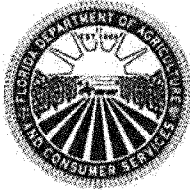
Rendered, this 27th day of December, 2016.


Agency Clerk

Copies by USPS to:

**Stearns Zoological Rescue & Rehab Center, Inc.,
d/b/a Dade City's Wild Things
Ms. Kathryn P. Stearns, Registered Agent
37237 Meridian Avenue
Dade City, FL 33523**

DIVISION OF CONSUMER SERVICES
(850) 410-3800



THE RHODES BUILDING
2005 APALACHEE PARKWAY
TALLAHASSEE, FLORIDA 32399-6500

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

ADMINISTRATIVE SUBPOENA DUCES TECUM

TO: Stearns Zoological Rescue & Rehab Center Inc.
Randall Stearns, President
37237 Meridian Ave.
Dade City, FL 33525

Case No.: 1609-37624

YOU ARE COMMANDED to appear before an authorized representative of the Department of Agriculture and Consumer Services at 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, FL 32301, on March 14, 2017, at 11:00 a.m. for the production of the following documents in this matter:

See Attached "Schedule A"

This subpoena is issued pursuant to the authority of Section 570.07(22), Florida Statutes, and Section 496.419(2), Florida Statutes, relating to the powers and duties of the Department of Agriculture and Consumer Services. In lieu of a personal appearance, the requested documents may be produced at the time and place indicated or mailed to the above address before the requested appearance.

DATED: February 28, 2017

By: 

Craig Moon, Section Chief
Regulatory Investigation Section
Office of Agricultural Law Enforcement
Department of Agriculture and
Consumer Services

Please respond to:

Sasha Velez, Senior Financial Investigator
FDACS – Regulatory Investigations Section
1707 Orlando Central Pkwy, Ste 175
Orlando, FL 32809
Telephone: (407) 888-8723
Fax: (407) 888-8725
Email: sasha.velez@freshfromflorida.com



“Schedule A”

1. Copies of all solicitation materials. Solicitation materials include, but are not limited to, donation receipts, confirmations, reminders, crowdfunding websites, and any other document or social media platform used to solicit such a donation;
2. All documents showing any financial account(s) used by STEARNS ZOOLOGICAL RESCUE & REHAB CENTER INC. (“STEARNS”);
3. A complete and detailed financial report for Year End 2016;
4. Any and all documents relating to 2015 and 2016 Payroll;
5. All 2015 and 2016 W2’s and 1099’s;
6. Any and all documents showing 2015 and 2016 employees and/or contractors with their positions and/or current status with the organization;
7. Any and all documents relating to or showing the damage and losses incurred as a result of Hurricane Hermine (Labor Day Week 2016), including, but not limited to, receipts for repairs completed;
8. Any and all documents relating to or showing the name, address, email and telephone number of the donor offering to match \$2 for every \$1 raised on the “Free the Zoo” solicitation campaign of 2014;
9. Any and all documents relating to or showing the name, address, email and telephone number for the American Captive Exotic Feline Repository;
10. Any and all documents relating to or showing solicitations by STEARNS for the American Captive Exotic Feline Repository;
11. Any and all documents relating to or showing contributions received that were designated for the American Captive Exotic Feline Repository;
12. Any and all documents relating to or showing where the contributions were held that were designated for the American Captive Exotic Feline Repository;
13. Any and all documents relating to or showing what the contributions designated for the American Captive Exotic Feline Repository were eventually used for;
14. Any and all documents relating to or showing the name, address, email and telephone number for the Endangered Species Conservation Fund;
15. Any and all documents relating to or showing solicitations by STEARNS for the Endangered Species Conservation Fund;

16. Any and all documents relating to or showing contributions received that were designated for the Endangered Species Conservation Fund;
17. Any and all documents relating to or showing where the contributions were held that were designated for the Endangered Species Conservation Fund;
18. Any and all documents relating to or showing what the contributions designated for the Endangered Species Conservation Fund were eventually used for;
19. Any and all documents relating to or showing the contract and/or agreement of partnership with The University of Arizona's Wild Cat Research and Conservation.