STATE OF NORTH CAROLINA
COUNTY OF FRANKLIN

NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, VETERINARY DIVISION

IN THE MATTER OF MR. TAYLOR BARTHOLOMEW & FRANKLIN COUNTY ANIMAL SHELTER	)))))))))	SETTLEMENT AGREEMENT For Violations Of: Animal Welfare Act N.C. General Statute § 19A-24 2 N.C. Administrative Code 52J .0402

RECITALS

Franklin County Animal Shelter ("FCAS), Mr. Taylor Bartholomew ("Mr. Bartholomew") and the North Carolina Department of Agriculture and Consumer Services (the "Department" or "NCAWS") desire to fully and finally settle this and all other disputes and controversies surrounding Mr. Bartholomew's actions while serving as Director of FCAS, a registered animal shelter operated by Franklin County, North Carolina. Mr. Bartholomew, FCAS and the Department desire to affect a full and final settlement solely in order to avoid the burden and expense of continued litigation.

Whereas, the Department has found credible evidence of the following facts:

1. At all times pertinent to this matter Mr. Bartholomew was employed by Franklin County as Director of the FCAS and FCAS was and is an animal shelter registered pursuant to N.C. Gen. Stat. § 19A-26.

2. On July 25, 2013, Mr. Bartholomew was not a certified euthanasia technician.

3. On July 25, 2013, Mr. Bartholomew assessed the physical condition of a male basset hound, impound number 4-3-0534, call no. 20, which was then being held at FCAS in accordance with the North Carolina Animal Welfare Act (hereinafter,

"NCAWA"). Mr. Bartholomew observed that the dog appeared to be in excruciating pain because it had gnawed its foot to the bone at the site of a dog bite injury.

4. Mr. Bartholomew has provided the NCDA&CS with a written statement in which he admits that he made the decision to "dispatch the animal." Mr. Bartholomew decided to euthanize the basset hound himself because it appeared to be in extreme pain, because of the absence of all Certified Euthanasia Technicians ("CETs") from the FCAS and because no CETs would be available to return within a reasonable time period.

    a. Mr. Bartholomew voluntarily reported the incident to the Department before this incident became known to the public, the press or the Department.

    b. Mr. Bartholomew had no medications to relieve pain at FCAS at the time he decided to euthanize the basset hound.

5. FCAS' animal impoundment record for the dog Mr. Bartholomew euthanized states:

    a. that the dog was euthanized on July 25, 2013, by "gunshot" while being held at FCAS;

    b. that the dog was "attacked by a male pitbull, (sic) dog had bitten off toe and tore muscle and tendon in back right leg. Other bite wounds all over and lost alot (sic) of blood."

6. Mr. Bartholomew's written and oral statements state:

    a. FCAS' CET was not available at the time and it would have taken between forty-five and sixty minutes before a CET could have left his assigned task and returned to FCAS;

    b. Mr. Bartholomew was not aware on July 25, 2013, that gunshot could not lawfully be used in a registered animal welfare shelter facility to euthanize an animal.

7. Mr. Bartholomew's written statement omits
    a. any mention of efforts to summon a certified euthanasia technician or veterinarian to treat the dog to reduce its pain and suffering until such time as a CET or veterinarian could arrive and properly euthanize it, or
    b. any mention of attempts to consult with FCAS' CET or
    c. any mention of any attempt to consult with an inspector or the director of

the NCAWS to determine whether he could lawfully euthanize the animal by gunshot.

d. During his interview with NCAWS' inspector:

   i. he stated that there were no CETs available at FCAS on July 25, 2013, and how many CETs were staff employees of FCAS.
   ii. he stated that he had been scheduled to attend a school to become certified as a euthanasia technician but had not been able to attend that school;
   iii. he stated that he had signed up for a CET class in the fall;
   iv. he did not provide any documents to corroborate these statements;
   v. he answered the questions posed by the inspector;

e. The only medications available to FCAS capable of relieving pain or suffering on July 25, 2013, were the drugs the CETs use to euthanize animals.
f. On July 25, 2013, the euthanasia drugs were secured under lock and key on the premises of FCAS. FCAS' CETS had access to the euthanasia drugs. Mr. Bartholomew had supervisory control over the euthanasia drugs. Mr. Bartholomew did not know how to use the euthanasia drugs and lacked the legal authority to use them.
g. FCAS does not employ a veterinarian on the premises.
h. FCAS has a "staff" veterinarian who practices in Warren County.
i. FCAS lacks the financial means to treat and save an animal that was in the condition Mr. Bartholomew found the basset hound was in on July 25, 2013.
j. Under these circumstances Mr. Bartholomew made the decision that it was inhumane to allow the basset hound to continue to suffer.

8. The Department assessed the results of its investigation, including but not limited to Mr. Bartholomew's written statement, his answers to its inspector's questions, and FCAS's licensing file and inspection records and determined that:

   a. FCAS acted in willful disregard of the applicable laws and rules for euthanization of animals in registered animal shelters;
   b. Mr. Bartholomew acted within the scope of his employment as FCAS Manager in willful disregard of applicable laws and rules for euthanization of animals in registered animal shelters, in violation of N.C. Gen. Stat. § 19A-24 and North Carolina Administrative Code 52J .0402.
   c. That grounds existed for the Department to:
      i. suspend FCAS' animal shelter registration and
      ii. assess FCAS and Mr. Bartholomew each civil penalties of five thousand dollars ($5000.00).

9. That FCAS and Mr. Bartholomew contend that their violations were not willful but were mere negligence in that Mr. Bartholomew, acting within the scope of his employment as shelter manager, knew the North Carolina law and rules but misinterpreted the rule permitting euthanasia by gunshot under extraordinary circumstances in this situation.

WHEREAS the parties desire to resolve this matter without further litigation.

NOW THEREFORE, the parties agree as follows:

1. Mr. Bartholomew and FCAS agree that, upon signing this negotiated Settlement Agreement, they thereby waive their rights to appeal the Department's decision to suspend FCAS' animal shelter registration and to impose civil penalties of five thousand dollars ($5000.00) upon each of them for the acts and omissions set forth above, to the North Carolina Office of Administrative Hearings and/or any court or tribunal having jurisdiction over them, the Department and the Department's exercise of its lawful authority.

2. The Department shall stay the suspension of FCAS' animal shelter registration, conditioned upon FCAS' compliance with this Settlement Agreement, as set forth below. Further, the Department shall stay imposition of four thousand dollars of the five thousand dollar civil penalty imposed upon Mr. Bartholomew and stay imposition of four thousand dollars of the five thousand dollar civil penalty imposed upon FCAS;

3. The parties further agree that, if FCAS and Mr. Bartholomew fully and faithfully satisfy the requirements of this Settlement Agreement and the Department finds no new violations of the North Carolina Animal Welfare Act or the rules promulgated thereunder for a period of nine months after this Settlement Agreement is signed by the Department's authorized representative, then the suspension of FCAS' registration shall be dissolved and cancelled;

4. If the Department receives information that FCAS or Mr. Bartholomew, while acting in his capacity as Director of FCAS, has committed another violation of the North Carolina Animal Welfare Act or the rules promulgated thereunder, whether relating to animal euthanasia or any other aspect of the laws or rules applicable to animal shelters under the North Carolina Animal Welfare Act, or information that FCAS or Mr. Bartholomew has otherwise failed to comply with this settlement agreement, the Department may, as a matter within its sound discretion, lift the stay of the suspension of FCAS's animal shelter registration and/or lift the stays and impose the remaining portions of their civil penalties, together or separately. The Department shall have this prerogative for a period of nine months running from the date this Settlement Agreement is signed by the Department's authorized representative. After the expiration of that period, the Department shall not deem any new violation of the NCAWA or its rules committed by FCAS or Mr. Bartholomew as grounds to impose a sanction under this agreement but the Department remains free to impose any disciplinary action and/or civil penalty as may be authorized under the NCAWA;

5. That Mr. Bartholomew shall not euthanize any animal held at FCAS or any registered animal shelter, pet shop or boarding kennel (hereinafter, "facilities") in North Carolina for any reason until certified as a euthanasia technician. Mr. Bartholomew may euthanize animals outside of any facilities in North Carolina using gunshot or other extreme method of euthanasia approved in the American Veterinary Medical Association, Humane Society of the United States or American Humane Association Guidelines as authorized under 02 NCAC 52J .0701 et seq., if:

a) the animal poses an immediate risk to animal, human or public health and in

which no alternative, less extreme measure of euthanasia is feasible or in circumstances or;

b) it would be inhumane to transport an animal to another location to perform euthanasia.

If Mr. Bartholomew remains employed in any capacity at FCAS, he shall enroll in, attend and successfully complete a training course required and approved for certification as a certified euthanasia technician pursuant to 02 NCAC 52J .0406 et seq., within nine months of the date he executes this Settlement Agreement. If Mr. Bartholomew notifies the Department before the expiration of said nine month period to request additional time in which to attend said course, informing the Department of the circumstances that shall prevent him from doing so by his deadline, the Department shall inform Mr. Bartholomew of the date and location of the next available approved CET training course to be held no farther than 200 miles from his place of residence and that his successful completion of said course is required for his continued compliance with this Settlement Agreement. If Mr. Bartholomew fails to comply with said requirement or any other obligation established by this Settlement Agreement or any subsequent amendment to it, the Department may, as a matter within its sound discretion, lift the stay of the suspension of FCAS's animal shelter registration and/or lift the stays and impose the remaining portions of their civil penalties, together or separately;

6. The FCAS and Mr. Bartholomew acknowledge that, upon acceptance and execution of this settlement agreement by the Department, the settlement agreement shall become a public record within the meaning of Chapter 132 of the North Carolina General Statutes and shall be subject to public inspection and dissemination pursuant to the provisions thereof;

7. The parties agree to act in good faith in the implementation of this agreement;

8. The parties may discuss this settlement, provide any pertinent documents and the final executed written Settlement Agreement to the press and the public, in accordance with N.C. Gen. Stat. Chapter 132. Further, the parties agree to bear their own attorneys' fees and costs;

9. It is understood between the parties that this settlement agreement contains the entire agreement between the parties hereto regarding the matters set forth, and it supersedes all previous negotiations, discussions and understandings regarding such matters. Terms of this Agreement are contractual and not a mere recital, and may be modified only in a writing executed by all signatories hereto;

10. The effective date of this settlement agreement will be the date on which it has been executed by all parties as shown on the signature lines below;

11. North Carolina law shall govern the interpretation and enforcement of this Agreement.

IN TESTIMONY WHEREOF, the parties have set their hands and seals on the dates indicated below:

Date: 10/31/13

TAYLOR BARTHOLOMEW, Individually

Date: 10/31/13

As authorized agent for Franklin County Animal Shelter

FOR THE DEPARTMENT:

Date: 11/18/2013

Barry H. Bloch
Assistant Attorney General
N.C. Department of Justice
ATTORNEY FOR THE DEPARTMENT

Date: 11/18/2013

Dr. David T. Marshall, State Veterinarian
North Carolina Department of Agriculture & Consumers Services

This instrument has been pre-audited in the manner requested by the Local Government Budget & Fiscal Control Act

Franklin County Finance Director