

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

<p>DISTRICT OF COLUMBIA,</p> <p style="text-align:center">Plaintiff,</p> <p style="text-align:center">v.</p> <p>WASHINGTON HEBREW CONGREGATION, INC.</p> <p style="text-align:center">Defendant.</p>	<p>Case No.: 2020 CA 004429 B</p> <p>Judge Alfred S. Irving, Jr.</p>
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CONSENT ORDER AND JUDGMENT

Plaintiff District of Columbia (the “District”), by and through its Office of the Attorney General (“OAG”), filed its First Amended Complaint in this matter on April 14, 2021, under the District of Columbia Consumer Protection Procedures Act, D.C. Code § 28-3901, *et seq.* (“CPPA”) and the District’s Nonprofit Corporation Act, D.C. Code § 29-401.01, *et seq.* (“NCA”) against Defendant Washington Hebrew Congregation (“WHC”). The District and Defendant WHC (collectively, the “Parties”) stipulate to the entry of this Consent Order and Judgment (“Consent Order”) to resolve all matters in dispute in this action between them.

THE PARTIES

1. Plaintiff District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General has authority to enforce the District’s consumer protection laws, including the CPPA, pursuant to D.C. Code §

28-3909, and the NCA, pursuant to D.C. Code § 29-412.20(a)(1), and the common law to ensure that District nonprofits comply with governance requirements and adhere to their public purposes.

2. Defendant Washington Hebrew Congregation is a District of Columbia 501(c)(3) nonprofit corporation with a principal place of business at 3935 Macomb Street N.W., Washington, D.C. 20016, that does business in the District of Columbia. Since at least January 1, 2016, WHC has operated a Child Development Facility under the name “Edlavitch-Tyser Early Childhood Center” (“E-T ECC”) and provides summer childcare services through a program known as “Camp Keetov.”

DEFINITIONS

3. “**Effective Date**” shall be the date on which this Consent Order is entered by this Court.

4. “**Camp Keetov**” means the summer childcare program provided by WHC between June and August of 2016, 2017, and 2018.

RECITALS

5. This Court has jurisdiction over this matter.

6. The District’s First Amended Complaint alleges that WHC engaged in unlawful trade practices in violation of the CPPA, D.C. Code § 28-3904, between at least January 1, 2016 through December 31, 2019 by operating the E-T ECC out of compliance with District childcare licensing regulations, 5-A DCMR § 100 *et seq.* The First Amended Complaint also alleges that WHC engaged in unlawful trade practices under the CPPA in violation of D.C. Code § 28-3904(a), (b), (e), and (f). In particular, the First Amended Complaint alleges that WHC (1) made misrepresentations to parent-consumers that its childcare services were provided in compliance with District of Columbia law, and failed to disclose that its childcare services were not provided

in compliance with District of Columbia law; (2) made misrepresentations that it had the appropriate licenses to operate the E-T ECC and Camp Keetov, and failed to disclose that WHC was not licensed to provide childcare services during the summer in 2016, 2017, and 2018; and (3) made misrepresentations that its staff were qualified and failed to disclose that WHC hired unqualified teachers and assistant teachers. The First Amended Complaint further alleges that WHC violated the NCA, D.C. Code § 29-412.20(a)(1)(B), and the common law by operating the E-T ECC in violation of District laws and regulations. Nothing contained in this Consent Order is or may be construed as an admission by the District that its claims are not well-founded.

7. WHC denies all of the District's allegations and claims, including that it has violated any consumer protection laws, including the CPPA. WHC contends that any prior licensing violations have been corrected and that it has been licensed since 2019 to provide childcare services year-round. Nothing contained in this Consent Order is or may be construed as an admission by WHC of any violation of law or regulation, of any other matter of fact or law, or of any liability or wrongdoing, in the District of Columbia or in any other jurisdiction.

8. On September 13, 2022, the Court granted partial summary judgment in favor of both parties. In doing so, the Court found WHC liable for the following licensing violations: (i) operating an unlicensed summer childcare program; (ii) failing to notify the Office of the State Superintendent of Education ("OSSE") of incidents that may adversely affect the health, safety, or welfare of an enrolled child and that resulted in the termination of employees of the E-T ECC; (iii) hiring certain teachers and assistant teachers who did not meet certain qualification requirements set by OSSE; and (iv) failing to maintain in the school's files certain required personnel paperwork reflecting staff qualifications. The Court found that "since the alleged violations, WHC has implemented OSSE's Corrective Action Plan, OSSE issued a license in May 2019 for WHC to

operate a year-round facility, and OSSE inspection reports in 2020 and 2021 indicate that WHC has complied with OSSE regulations.” The Court also dismissed the District’s claims under the NCA and common law.

INJUNCTION

9. In operating the E-T ECC and Camp Keetov, WHC shall not engage in any act or practice that violates the CPPA, including by making any misrepresentations or material omissions to District consumers.

10. WHC shall ensure that it maintains all required District of Columbia childcare licenses and that it maintains compliance with District of Columbia childcare licensing regulations as set forth in 5-A DCMR § 100 *et seq.*

MONETARY TERMS

11. **Total Settlement Amount.** WHC shall pay a total of \$950,000.00, comprised of payments to certain consumers (\$300,000), a mutually acceptable District charity (\$100,000), and the District (\$400,000 in civil penalties, \$150,000 in costs and expenses) to resolve this litigation. The Total Settlement Amount shall be paid out in the following manner:

12. **Payments to Certain Consumers.** WHC shall make a payment of \$300,000.00 in restitution to be distributed to certain consumers as follows:

- a. **Consumer Payment Distribution.** Restitution will be apportioned on a pro rata basis to families who paid tuition for Camp Keetov for the summers of 2016, 2017, and 2018 (“Eligible Families”), with no consumer receiving more in restitution than the consumer paid in camp tuition. WHC shall directly administer and distribute the restitution amounts to Eligible Families within ninety (90) days of the Effective Date by first-class mail, mailed to the family’s last known address in WHC’s records. WHC shall include in this mailing a letter jointly approved by OAG and WHC notifying Eligible Families that the restitution program is based on Camp Keetov not having been licensed by the Office of the State Superintendent of Education prior to 2019, and indicating that the check needs to be cashed within forty-five (45) days.

- b. **Consumer Payments – Unclaimed.** Within one hundred thirty-five (135) days after the Effective Date, WHC will review whether any payments made to Eligible Families remain uncashed or were unable to be distributed due to lack of contact information (the total amount of such payments is referred to as the “Uncashed Amount”). Upon this review, WHC will void all uncashed payments and issue a single check for the Uncashed Amount made payable to “D.C. Treasurer” no later than one hundred fifty (150) days after the Effective Date. This payment shall be made by wire payment or check payable to “D.C. Treasurer” and delivered to the Office of the Attorney General consistent with instructions from OAG.

13. **Payment to District charity.** To resolve the District’s NCA claims, WHC shall make a payment of \$100,000.00 to a charitable organization approved by both WHC and the District. WHC shall make this payment within sixty (60) days of the Effective Date and provide confirmation to OAG within ten (10) days of making this payment.

14. **Payments to the District.** WHC shall pay the District a total of \$550,000.00, to reflect \$400,000.00 in civil penalties and \$150,000.00 in costs and expenses the District has incurred investigating and litigating this matter or that may be incurred by the District in administering the terms of this Consent Order. WHC shall make this payment within sixty (60) days of the Effective Date. Payment shall be made by wire payment or check payable to “D.C. Treasurer” and delivered to the Office of the Attorney General consistent with instructions from OAG.

RELEASES

15. This Consent Order finally disposes of all claims and issues by the parties that have been raised, or could have been raised, by either party based on the conduct and time period alleged in the First Amended Complaint in this lawsuit.

16. The District shall release WHC from all claims that the Attorney General asserted or could have asserted against it under D.C. law, including the D.C. Consumer Protection

Procedures Act, D.C. Code §§ 28-3901 *et seq.*, the D.C. Nonprofit Corporation Act, D.C Code §§ 29-401.01 *et seq.*, and the common law based on or relating in any way to the facts that were alleged or could have been alleged in the First Amended Complaint. The District specifically does not release claims or enforcement actions against WHC alleging violations under federal laws, under criminal laws, or under the District's tax laws.

17. WHC shall release the District from all claims that WHC raised, or could have raised, against it in this lawsuit.

GENERAL PROVISIONS

18. Absent a contrary order by the Court, this Consent Order shall remain in effect until December 31, 2025, at which time it shall automatically expire. The Parties may apply to the Court to modify this Consent Order by agreement at any time. Any party may apply to the Court, without the other party's agreement, to modify this Consent Order for good cause shown based on a substantial change in law or fact occurring after the date this Consent Order is entered.

19. The District reserves the right to take any legal action to enforce the terms of this Consent Order.

20. This Consent Order represents the full and complete terms of the settlement entered by the Parties. In any action undertaken by the Parties, neither prior versions of this Consent Order nor prior versions of any of its terms that were not entered by the Court in this Consent Order may be introduced for any purpose whatsoever.

21. In entering into this Consent Order, the parties are neither extinguishing any rights otherwise available to consumers, nor creating any right not otherwise available under the laws of the District of Columbia.

22. This Court retains jurisdiction of this Consent Order and the Parties for the purpose

of enforcing this Consent Order and for the purpose of granting such additional relief as may be necessary and appropriate. The Parties may agree in writing, through their counsel, to an extension of any time period in this Consent Order without a court order.

23. This Consent Order may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

24. All notices sent pursuant to this Consent Order shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

For the Plaintiff District of Columbia:

Adam Teitelbaum, Director
Office of Consumer Protection
DC Office of the Attorney General
400 6th Street, NW
Washington, DC 20001

For the Defendant WHC:

J. Andrew Keyes
Williams & Connolly LLP
680 Maine Avenue, SW
Washington, DC 20024

and

Andrew D. Lazerow
Covington & Burling
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956

25. Any failure by any party to this Consent Order to insist upon the strict performance by any other party of any of the provisions of this Consent Order shall not be deemed a waiver of any of the provisions of this Consent Order, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Consent Order.

26. If any clause, provision or section of this Consent Order shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Consent Order and this Consent Order shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

27. Nothing in this Consent Order shall be construed as relieving WHC of the obligation to comply with all state and federal laws, regulations, or rules, nor shall any of the provisions of this Consent Order be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

28. WHC shall ensure that all current and future personnel having final decision-making authority with respect to the subject matter of this Consent Order are informed of the requirements set forth in this Consent Order.

29. WHC shall not participate, directly or indirectly, in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Consent Order or for any other purpose that would otherwise circumvent any part of this Consent Order or the spirit or purposes of this Consent Order.

