

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Other Civil

State of Minnesota, by its Attorney General,
Lori Swanson,

Court File No. _____

Judge: _____

Plaintiff,

vs.

COMPLAINT

Reaching Arms International Incorporated, a
Minnesota nonprofit corporation,

Defendant.

The State of Minnesota, by its Attorney General, Lori Swanson, alleges as follows:

INTRODUCTION

1. Reaching Arms International Incorporated (“Reaching Arms”) is a Minnesota nonprofit corporation that is a child-placing agency (also referred to as a child caring-placing agency) licensed by the Minnesota Department of Human Services (“DHS”) to provide adoption services.

2. This action is brought pursuant to Minn. Stat. § 259.45, subd. 1 (2006), and seeks a financial audit of Reaching Arms because the State has good cause to believe that it has violated Minn. Stat. § 259.37, subd. 1 (2006).

PARTIES

3. Lori Swanson is the duly elected Attorney General for the State of Minnesota. Under Minn. Stat. § 259.45, subd. 1, the Attorney General has the authority to seek a court order requiring a financial audit of a child-placing agency.

4. Reaching Arms is organized as a Minnesota nonprofit corporation. It has been granted tax-exempt status as a Section 501(c)(3) charitable organization by the Internal Revenue Service. It is licensed by DHS to provide adoption services as a Child Caring-Placing Agency. *See* Minn. Stat. § 259.21, subd. 6 (2006) (an “agency” is “any ... organization, association or society licensed or certified by the commissioner of human services to place children for adoption”).

JURISDICTION

5. This Court has jurisdiction over the subject matter of this action pursuant to Minn. Stat. §§ 259.45, subd. 1 and 484.01 (2006).

VENUE

6. Venue in Hennepin County District Court is proper pursuant to Minn. Stat. § 542.09 (2006) because Reaching Arms’ registered office and principal place of business is located at 3701 Winnetka Avenue North, New Hope, Hennepin County, Minnesota.

FACTUAL BACKGROUND

7. Reaching Arms was founded by Nila Hilton (f/k/a Nila Neumiller) in October of 1992. In 1995, it filed for tax-exempt status with the IRS under Internal Revenue Code Section 501(c)(3) as a licensed child-placement agency that placed orphaned children primarily from the Ukraine in homes, and that provided humanitarian aid such as medicine and training to sick and needy children. It now claims to place children from Russia, Ukraine, Guatemala, Poland, Armenia and the United States with families in the United States.

8. Reaching Arms’ website (<http://reachingarms.org/index.cfm/pageid/87>), as of January 25, 2007, makes a variety of representations regarding what it provides:

- Communicating directly with orphanage directors and government officials and having representatives in several countries to stay abreast of current laws and cut through “red tape;”
- Having professional social workers, interpreters, country representatives and lawyers among its staff;
- Organizing the entire adoption process in America and in the foreign country;
- Being committed to doing everything possible to make the adoption a positive, fruitful experience; and
- Organizing and arranging everything from foreign travel dossier preparation to court hearings and U.S. Embassy appointments.

9. With respect to the time-frame for the adoption process, Reaching Arms’ website also provides that while “[t]he time frame varies from nation to nation. Internationally, the range is typically six to twelve months from pre-application to placement.” *Id.*

10. In 2006, Reaching Arms sent out at least one mailing stating that the organization needed donations because it was “facing a financial crunch that has brought [it] to the brink of ruin.” Reaching Arms has continued to advertise its adoption services and seek more adoption clients since it sent out this mailing.

11. For at least the past two years, numerous prospective parents have experienced a variety of problems in the adoption process with Reaching Arms. These problems include, but are not limited to: changes in fees from Reaching Arms’ initial disclosure; the addition of counseling and other fees when the prospective parents questioned Reaching Arms or its process; Reaching Arms’ refusal to account for or provide receipts for fees (including cash) paid by the prospective parents in foreign countries; threats from Reaching Arms regarding stopping the adoption process if the parents had questions or complaints; refusing to refund money when prospective parents became concerned about the status of their adoption or had to use another agency to finish the process; and misrepresentations to prospective parents regarding the status of their adoptions. These problems are further enumerated below.

A. The Lairs

12. Joshua and Angela Lair live in Glenville, Minnesota. They are in their late 20s.

13. In April of 2006, they became very interested in adopting a baby. They investigated and considered several adoption agencies before eventually selecting Reaching Arms.

14. Before they signed an agreement with Reaching Arms, Angela Lair spoke with a representative of Reaching Arms named Cyndi Garner. Cyndi Garner told Angela Lair that she was Reaching Arms' Guatemalan representative. Cyndi Garner stated that she reported to Nila Hilton.

15. The Lairs signed an adoption agency fee schedule with Reaching Arms on or about April 20, 2006. The schedule indicated that they were obligated to pay for the following services: application fee (\$350); total foreign fee (\$19,000) (one-half of the foreign fee or \$9,500 was due and payable when they accepted the referral); agency fee (\$5,000) (the agency fee was due with the one-half foreign fee payment); document processing fee (\$1,000); and shipping fee (\$250).

16. On April 24, 2006, Reaching Arms staff showed them a photograph of their prospective baby at the same time they were notified of the referral for the baby's adoption.

17. On April 27, 2006, the Lairs paid Reaching Arms \$15,750. The representative of Reaching Arms, Cyndi Garner, assured the Lairs that the agency could complete the adoption process in three and one-half to six and one-half months.

18. After the Lairs signed the fee schedule agreement and accepted the referral, they initially heard from the agency on a regular basis. Later, when Cyndi Garner refused to return Angela Lair's calls, she began speaking with Nila Hilton for status updates.

19. Between April and June 2006, the Lairs called Nila Hilton on a regular basis to determine the status of their case. They requested proof that the case was in family court in Guatemala as they had been told. Nila Hilton said that it was not part of Reaching Arms' protocol to provide this type of information.

20. Subsequently, the Lairs requested that Reaching Arms give them a receipt for the \$15,750 that they had given to Reaching Arms on April 27, 2006. Nila Hilton first said that she would give Angela Lair a receipt. Next, she provided excuses, such as stating that the bookkeeper was not in. She then stated that Reaching Arms was unable to provide this information since it was banking information.

21. On June 15, 2006, the Lairs sent Reaching Arms \$704.25, which was given by relatives who held a fundraiser on their behalf. The total amount of \$704.25 was comprised of several checks which had been donated and made payable to Reaching Arms. The contributors were told to put the Lairs' name in the memo section of the check and that they would be given credit for the contributions. Later, Nila Hilton claimed that Reaching Arms never received the checks. However, the Lairs received copies of the cancelled checks that were cashed by Reaching Arms.

22. Reaching Arms had in its possession the Lairs' parents' credit card number from one of their initial payments. On at least one occasion Reaching Arms charged the parents' credit card account, utilizing the credit card information from the initial transaction, without authorization.

23. Reaching Arms gave the Lairs updated photographs of their prospective baby each month. In June or July 2006, they noticed that the photographs were of different babies. Nila Hilton, however, claimed that it was the same baby, and said that babies change a lot. They

were later told by a physician who evaluated the photographs that the photos were not of the same child.

24. During August or early September of 2006, the Lairs hired Adoption Services Agency in Guatemala to verify the adoption information. Adoption Services Agency located the attorney listed on the Power of Attorney the Lairs had executed and given to Reaching Arms. The attorney said he did not know anything about this transaction. Adoption Services Agency also learned that the "birth certificate" given to them by Reaching Arms for their prospective baby was merely a birth report.

25. Nila Hilton threatened to "black-mark" the Lairs' adoption, claiming all they did was ask questions.

26. On November 7, 2006, the Lairs sent a letter to Reaching Arms requesting a refund of their money because of the false birth report, the various photos not being of the same child, and the medical updates being provided which did not match the weight of the children in the pictures.

27. The Lairs are still interested in adopting children, but based upon past experience with Reaching Arms, they would not do business with them. To date, they have not been provided with a child nor have they received a refund of their money.

B. The Kantors

28. Brad and Beth Kantor live in Plymouth, Minnesota. They contacted Reaching Arms in the summer of 2005 about adopting a child from Guatemala. They had their first meeting with Cyndi Garner, Reaching Arms' Guatemalan coordinator, on July 29, 2005. They were provided with Reaching Arms' adoption forms and a fee schedule. The fee schedule required, among other things: \$18,000 foreign fee, \$6,000 agency fee and \$3,000 home study

fee. Nila Hilton also attended part of this meeting to provide the Kantors with a referral for a Guatemalan boy and asked if they wanted to accept the referral. At that point, the Kantors had not yet gone through any of the paperwork provided, signed any forms or had a home study conducted.

29. Several days later, on August 3, 2005, the Kantors accepted Reaching Arms' referral to adopt the boy, brought Reaching Arms the completed forms and paid Reaching Arms a \$9,000 foreign fee (half of the \$18,000 foreign fee due upon receiving a referral), the \$6,000 agency fee, and a \$300 application processing fee.

30. The next step for the Kantors was to have a home study conducted and then submit their materials to the family court in Guatemala. They had a number of questions for Reaching Arms about their child, including medical questions and questions about the process in general. They left several telephone messages and emails for Cyndi Garner over the next three weeks without any response. When Beth Kantor finally reached Cyndi Garner by telephone in early September and asked if she had been on vacation, Cyndi Garner became very angry and threatened to pull their adoption. She told Beth Kantor that "if you want this child, then stay in line."

31. Between September and October 2005, the Kantors called Reaching Arms once a week seeking information about their process and for answers to their medical questions. They were afraid to contact Reaching Arms more frequently based on Cyndi Garner's reaction to Beth Kantor's previous telephone call with her. They never received answers to any of their questions and were instead accused of having "anger issues."

32. In September of 2005, Beth Kantor had a meeting with Tom Hilton, a board member of Reaching Arms and Nila Hilton's husband, to discuss the communication problems

they had been experiencing with Reaching Arms. Instead of resolving the communication issues, Tom Hilton told Beth Kantor that she and her husband needed spiritual counseling because the devil had a hold of them, which is why they could not have their own children. Tom Hilton did not know that the Kantors already had two biological children at that time and were not adopting because they could not have children.

33. In late October or early November, the Kantors left a message for Nila Hilton, requesting a meeting. They received a call back from Tom Hilton, who told Beth Kantor that the Kantors needed to undergo “mandatory spiritual counseling” with him, which would also incur an additional cost. He did not tell Beth Kantor how much extra this counseling would cost and it was not part of their original fee agreement. When asked if they could see their own minister or counselor for this counseling, Tom Hilton told the Kantors that Reaching Arms had the power to put their adoption on hold indefinitely if Reaching Arms had any “concerns” about their compliance.

34. Beth Kantor had another meeting with Tom Hilton about a week later. Tom Hilton was trying to “seek information” from her in that meeting, but she told him that she was not comfortable with him and would not be able to open up to him in a “counseling” session. On information and belief, Tom Hilton does not have any training in counseling. The counseling with him was not brought up again until the Kantors eventually decided to terminate their contract with Reaching Arms in March 2006.

35. During the Kantor’s dealings with Reaching Arms, the organization forged Brad Kantor’s signature on power of attorney documents. In early September 2005, when the Kantors were at Reaching Arms’ office, Brad Kantor signed one power of attorney form for their Guatemalan attorney. He did not sign the form in front of a notary, but the document was later

notarized. Thereafter, on information and belief, Brad Kantor's name was forged on other power of attorney documents and a secretary at Reaching Arms notarized them. When the Kantors asked Cyndi Garner how Brad Kantor's signature appeared on documents he did not sign, she told the Kantors that Reaching Arms had signed documents for clients and copied signatures before and that the Kantors should not worry about such petty things. Cyndi Garner then showed the Kantors how she could trace a signature by window tracing a document over another document that had actually been signed.

36. On information and belief, Reaching Arms made a number of misrepresentations to the Kantors throughout their adoption process. Cyndi Garner represented to the Kantors that their application was in family court in Guatemala in late January 2006, but they later learned that their application was not in family court until the beginning of March. Cyndi Garner represented to the Kantors that necessary DNA testing for the adoption was done when it had not been completed. In addition, the required social worker meetings with the birth mother were supposed to be completed by early November 2005 and Reaching Arms represented to the Kantors they were completed by November 2005. In fact, these meetings did not occur until late January 2006.

37. In early March 2006, Reaching Arms staff represented to the Kantors that their adoption application was filed with the PGN (Procuraduria General de la Nacion), which must review and recommend the adoption in order for the Guatemalan government to approve it. In fact, their adoption application had been withdrawn from the PGN. The Kantors also discovered that Reaching Arms had been withholding from them medical information about their child that was being sent to Reaching Arms from its intermediary. The medical information indicated that their child had some hearing issues and there was a possibility that he could be deaf. The PGN

withdrew the Kantor's case because there was no representation from them that they were willing to accept a child with this condition. Reaching Arms continued to represent that the application was pending with PGN. The Kantors could not have made such a representation because they were not aware of the hearing issue.

38. The Kantors learned the truth about Reaching Arms' misrepresentations from Reaching Arms' intermediary, Mary Bonn, who lives in Florida and travels to Guatemala every five to six weeks to see the children and facilitate the referrals. Mary Bonn helped the Kantors get back into PGN and get through the process.

39. In March 2006, the Kantors informed Reaching Arms that they wished to file a grievance pursuant to its grievance policy. Nila Hilton told them that their grievance would be reviewed by her. She further stated that if they filed a grievance, they would never see their little boy again, which the Kantors felt was contrary to Reaching Arms' written grievance policy that clearly states a grievance may be filed without retribution. In addition, Nila Hilton told the Kantors that if they complained to DHS or the U.S. Citizenship and Immigration Services, they would never get their child.

40. The Kantors retained an attorney and terminated their contract with Reaching Arms in March 2006. Reaching Arms responded that they were not allowed to terminate their contract and made a number of demands on them if they wanted their child. Reaching Arms told the Kantors that if they wanted to be taken back by Reaching Arms, they would have to submit to psychological testing, mandatory family counseling, and anger management counseling, all with Reaching Arms. They refused to agree to the counseling. Reaching Arms then sent a letter to DHS claiming that the Kantors had refused to attend meetings.

41. Reaching Arms refused to provide the Kantors with any of their records, including their records with DHS or the U.S. Citizenship and Immigration Services. Reaching Arms also withheld their home study, and as a result, they were required to pay for another one. Reaching Arms did not return any of the fees the Kantors paid.

42. Mary Bonn took their referral to another agency in June or July 2006 and the Kantors were eventually able to successfully adopt their son, Alex, through this agency.

C. Rick Spaulding and Christine Moulder

43. Rick Spaulding and his wife Christine “Tinia” Moulder (“the Spauldings”) live in Minneapolis, Minnesota. Rick is 46 years old and Tinia is 45 years old.

44. In November of 2005, they decided to adopt a child from Guatemala. Tinia Moulder researched adoption agencies and when they received information about Reaching Arms, they felt that it was a good fit for their needs. Reaching Arms stated that, because it was smaller than other agencies, it could provide them with the individual attention they were looking for. Reaching Arms also represented that the adoption process would take six or eight months.

45. When the Spauldings signed up with Reaching Arms, they were provided with a fee schedule, which outlined the fees they were required to pay throughout the adoption process. As early as November 2005, the Spauldings received a referral to adopt a child in Guatemala. Since the Spauldings had just signed up with Reaching Arms, and Reaching Arms had no information about the Spauldings, the Spauldings felt nervous about the referral and declined.

46. As early as January 2006, they received a second referral to adopt a child in Guatemala. Again, the Spauldings were pleasantly surprised at such an early referral, since it occurred before their home study was completed. The Spauldings accepted this referral because

the home study, although not completed, was at least underway. As part of the fee schedule agreement, once a referral is made, families are required to pay Reaching Arms \$15,250.

47. During the second week in February 2006, the Spauldings went to Guatemala to meet the little girl they were going to adopt. The Spauldings noticed that documents that should have been filed with the Guatemalan government weeks before their visit had not been filed until only days before the visit. Their DNA approval, which should have been submitted by March 2006 and approved by April 2006, was not accepted until September 2006.

48. On September 22, 2006, several days prior to another planned visit to Guatemala, Rick Spaulding called Nila Hilton to make arrangements for meeting their daughter. Rick Spaulding knew that they should be provided with an interpreter and a contact person to facilitate their meeting with their daughter once they arrived in Guatemala. When Rick Spaulding spoke with Nila Hilton to inquire about this, she got very defensive and stated that there would be no contact person and no translator for the Spauldings. When Rick Spaulding told Nila Hilton that she did not appear to have a thorough understanding of the Guatemalan adoption process, Nila Hilton hung up on him.

49. About ten minutes later, Nila Hilton called Rick Spaulding back and accused him of having "anger issues." She stated that she was through listening to him and threatened to "hold up" their home study and call the U.S. Immigration and Naturalization Service to halt their adoption. Rick Spaulding responded that she did not have the right to do such things. She warned him that she had every right to halt the adoption process so he needed to be careful of what he said. Nila Hilton stated that, as a licensed adoption agency, Reaching Arms could do whatever it wanted to interrupt their adoption process if she thought necessary.

50. Later that day, at about 5:45 p.m., Rick Spaulding received a call from Tom Hilton. Tom Hilton was very irate. Tom Hilton warned Rick Spaulding that he could stop their adoption by calling for an “assessment” and that he should be very careful. Rick Spaulding did not want to talk to Tom Hilton any further so he told Tom Hilton that he could discuss matters with Rick Spaulding’s wife, Tinia Moulder, if he wanted, but that Rick Spaulding had nothing further to say.

51. At about 6:04 p.m., Tom Hilton called the Spaulding’s home and spoke with Tinia Moulder. Again, he threatened that he would halt their adoption process unless they meet with him. Tinia Moulder set up a meeting with him.

52. Later in the evening, at about 9:00 p.m., Tom Hilton called them at home again and told them that he talked to their “foreign representative” and cancelled their trip to Guatemala. Tom Hilton would not tell them who the “foreign representative” was. Later in the conversation, Tom Hilton changed his story and stated that the “foreign representative” called him to cancel the trip. Tom Hilton also continued to state that Rick Spaulding had anger issues and that Tom Hilton was going to call for “an assessment” to stop the adoption.

53. Since the Spauldings were so far in the adoption process and had already met their daughter, they wanted to make the adoption work. They tried to calm Tom Hilton down. Tom Hilton said in order to get past this, Rick Spaulding needed to apologize to Nila Hilton and meet with Tom Hilton for a series of counseling sessions. Tom Hilton also stated that these “meetings” would cost Rick \$40 a meeting and was required in order for their adoption to proceed.

54. This “counseling” fee was never disclosed to the Spauldings prior to this conversation, and they were not aware that this may be required of them. Further, Tom Hilton

was not listed on Reaching Arms' list of counselors, and Rick Spaulding did not feel he was qualified to give any counseling. Rick Spaulding told him that these "required meetings" sounded like extortion to him. Rick Spaulding nonetheless agreed to the meetings so that they could proceed with adopting their little girl. Once Rick Spaulding agreed, Tom Hilton told him that the "trip was back on."

55. After some thought, Rick Spaulding realized that if counseling was required of him to continue with the adoption process, he should seek counseling from one of the counselors listed on Reaching Arms' referral list. Rick Spaulding informed Tom Hilton that he would only seek counseling from someone on Reaching Arms' referral list, rather than pay Tom Hilton for counseling. Tom Hilton never mentioned that counseling was required again.

56. During the whole conversation, the Spauldings felt as if they were talking to someone who was holding them at gunpoint. They felt their adoption--their baby--was being held over their heads unless they gave in to Tom Hilton's demands immediately. The Spauldings felt that if they questioned the Hiltons or complained, they risked losing their daughter.

57. The Spauldings no longer verbally communicate with Reaching Arms in fear that anything they say could be used against them as "anger management issues" and threaten the adoption process. They communicate with Reaching Arms only in writing.

58. It has been 14 months since the Spaulding's adoption process began and the Spauldings are still waiting for their daughter. They have paid Reaching Arms over \$15,000, but feel they are forced to continue to work with Reaching Arms in order to adopt their child.

D. The Goras

59. David and Kathleen Gora live in Cottage Grove, Minnesota. In the fall of 2005, they were looking at adoption agencies that facilitated international adoptions and became interested in Reaching Arms because it facilitated adoptions from Guatemala.

60. They paid a \$350 application fee to Reaching Arms in November of 2005 and received a packet of materials to complete. Before they had completed any forms or even started on their home study, Reaching Arms sent them a referral for a Guatemalan girl. They were surprised to receive the referral since Reaching Arms did not have any information yet on their eligibility or ability to adopt. They ultimately decided to reject the referral since they knew that it would take them at least a month to complete the application materials and they did not want a child waiting for a home while they did so.

61. At the time they decided to use Reaching Arms, the Goras had no idea that the agency was experiencing financial difficulties. In February 2006, they received a letter from Reaching Arms stating that it was on the “brink” of financial disaster. They then received an email from Cyndi Garner, Reaching Arms’ Guatemala Program Director, on February 20, 2006, which acknowledged that the tone of the letter may have caused concern among families in the adoption process. She confirmed, however, that Reaching Arms’ financial condition was serious.

62. In August of 2006, Kathleen Gora learned that Reaching Arms was “downsizing” and that its building was for sale. She checked the real estate listings online and saw that Reaching Arms’ building was in fact listed for sale.

63. Because of these financial concerns, on August 22, 2006, she spoke with Cyndi Garner, who confirmed that Reaching Arms was downsizing and selling its building.

When she asked Cyndi Garner why they were not told about Reaching Arms' situation, Cyndi Garner said that it was the responsibility of Nila Hilton, Reaching Arms' director. In addition, Cyndi Garner said that she had moved to Mankato and was only in the office a couple times per week. Kathleen Gora was upset that all of this information had not been disclosed to them. Cyndi Garner told her that she would need to speak to Nila Hilton about her concerns regarding Reaching Arms' lack of disclosure.

64. On August 25, 2006, Kathleen Gora spoke with Nila Hilton and attempted to convey her frustration with Reaching Arms and its adoption process. Kathleen Gora told Nila Hilton that Reaching Arms' downsizing, building sale, and relocation and unavailability of Cyndi Garner had all adversely affected their adoption process and that Reaching Arms had a duty to keep them informed about matters that could impact the adoption process of their child. Nila Hilton responded that she did not have a duty to disclose this information to Kathleen Gora, who was the client.

65. Reaching Arms' financial condition caused Kathleen Gora to be concerned about cost increases that occurred during their adoption process. When the Goras signed the Client Fee Schedule and Disclosure on November 21, 2005, the Guatemala program fee range was from \$17,000 to 18,000. When they accepted a referral for their daughter on December 30, 2006, they were then told that the Guatemala program fee was \$19,000. When Kathleen Gora asked about this increase in cost, she was told that the attorney they were using was more expensive.

66. Besides the concerns about Reaching Arms' financial condition, which added to the stress of the adoption process, the Goras had other problems with Reaching Arms. For example, at the time of their referral, they were given two different birth dates for their daughter.

In addition, they were never told when the home study of the birth mother was completed or when Reaching Arms would complete the family court process in Guatemala.

67. On August 29, 2006, the Goras contacted Cyndi Garner and indicated that, given their concerns about Reaching Arms' solvency and the communication problems, they wanted documentation from Reaching Arms that the adoption process was proceeding as Reaching Arms had represented to them. Reaching Arms did not provide the Goras with documentation, and the Goras had to continue to make multiple demands for information. On September 22, 2006, after not receiving any further information from Reaching Arms, the Goras sent the agency a letter by registered mail, which gave notice that they considered it in breach of contract and that they would actively pursue all legal remedies. As a result, on September 25, Nila Hilton told the Goras that their case was now through PGN so they should reconsider such legal action. She also said that the second half of their foreign fees were now due. The Goras were also told to pay \$200 for translation costs and \$100 in medical costs, which were not listed on their Client Fee Schedule. Nila Hilton refused to provide them with receipts for paying the balance of the foreign fee and the fees for the extra translation and medical costs.

68. The Goras went to Guatemala in early November 2006 to adopt their daughter and incurred more problems during this trip. First, when they met with the foster family in Guatemala, the Guatemalan attorney required them to pay an additional \$250. They paid the fee but questioned Reaching Arms about the unexpected charge. Cyndi Garner, the Reaching Arms' coordinator, said she would find out the cause of the fee and report back to them. She failed to do so. Second, and more importantly to them, the Goras did not receive an amended birth certificate for their daughter. The Guatemalan attorney claimed that it had been completed but that she could not get it to the Goras before they had to leave the country. Mary Bonn, Reaching

Arms' intermediary in Guatemala, was then supposed to retrieve and send the amended birth certificate to the Goras.

69. The Goras still have not received their daughter's amended birth certificate, which they need in order to get her a social security number and to apply for citizenship. They sent a demand letter to Reaching Arms asking that it provide this document to them. They never received it.

E. The Andersons

70. Brenda and Glenn Anderson live in Redwood Falls, Minnesota. Brenda is 45 years old and her husband Glenn Anderson is 47 years old.

71. The Andersons have wanted to adopt a child for a while. At first they tried to adopt domestically through the Lutheran Social Services. After many close attempts at being matched with a child, they were unsuccessful with a domestic adoption.

72. The Andersons decided to try for an international adoption and, after some research, decided to retain Reaching Arms.

73. The Andersons were interested in adopting from Russia, but they were also concerned about fetal alcohol syndrome and attachment issues. Brenda Anderson expressed this concern with Reaching Arms and was told about a program called Bridge of Love. The program was perfect for them because it allowed adoptive families to live with a child for several weeks before finalizing the adoption. The Bridge of Love program was one of the principal reasons the Andersons retained the agency.

74. In January 2006, the Andersons signed an agreement with Reaching Arms as their adoption agency. In April of 2006, they were matched with a nine-year-old child name Yulia (they called her Julia). As part of the fee arrangement, they were required to pay \$7,000. The

Andersons were informed that payment of this fee was required in order to “secure” Julia. The Andersons were told that, without paying the fee and signing an adoption agreement, Julia could possibly be adopted by someone else.

75. After the Andersons accepted the referral and paid the required \$7,000, Reaching Arms informed them that the Bridge of Love program was no longer available. They were disappointed, but willing to proceed with the adoption process since Reaching Arms promised that they would be provided with any social or medical information it obtained.

76. The Andersons waited all summer to get more information on when they could meet Julia. The Andersons were provided pictures, which they showed to all their family and friends so that everyone could “meet” their daughter.

77. In September 2006, the Andersons finally received news that “it would be mere weeks” before they could make the first of two required trips to Russia to meet Julia. Prior to the planned trip, they were required to pay an additional \$300 for “document update fees.” This was in addition to the fees listed on the fee schedule.

78. Prior to their trip, the Andersons were given the name and telephone number of an individual named Galina who was represented by Reaching Arms to be the adoption facilitator in Russia. Since the Andersons had not received the promised medical and social records on Julia, they were anxious to contact Galina with the hope that she would be able to provide additional information about their little girl.

79. When Brenda Anderson spoke with Galina, she informed Brenda Anderson that Julia was no longer available for adoption. She told Brenda Anderson that Julia had been adopted by another couple who had priority over them. Brenda Anderson was shocked to hear

that Julia was adopted by another couple. The Andersons thought that Julia was “secured” with the \$7,000 paid to Reaching Arms.

80. Brenda Anderson called Nila Hilton to get confirmation that Julia was no longer available. Nila Hilton verified that Julia was no longer available. The Andersons were extremely disappointed by this information, but since they sincerely wanted to adopt a child, and were previously told that the \$7,000 fee they paid was for a successful referral, they asked for another referral.

81. In October of 2006, the Andersons were sent pictures of several children. They were interested in a 9 year-old girl named Katya. The Andersons requested more information on Katya, but were only given a picture and information on her height and weight. Galina pressured the Andersons into accepting Katya and told them they had to decide quickly.

82. Since the Andersons were concerned about fetal alcohol syndrome, they contacted Dr. Dana Johnson at the University of Minnesota International Adoption Clinic, a specialist on adopted children. The Andersons provided Dr. Johnson the little information they had about Katya. Based on this information, Dr. Johnson stated that Katya was at a high risk of having fetal alcohol syndrome. A few days later, when Galina called the Andersons to inquire about whether they made a decision about Katya, Brenda Anderson informed Galina of Dr. Johnson’s opinion. Galina disputed Dr. Johnson’s opinion and stated that she would provide the Andersons with additional medical information on Katya. The Andersons never heard from Reaching Arms or Galina again.

83. On December 30, 2006, Brenda Anderson sent Tom Hilton of Reaching Arms a grievance letter as allowed under its grievance policy. The grievance policy requires that

Reaching Arms respond to grievances within 10 days. The Andersons still have not received a response.

84. At this point, the Andersons have lost faith in Reaching Arms. The Andersons would still like to adopt a child, but they do not know whether they can proceed. The Andersons have paid Reaching Arms over \$8,000 during this process. In return, it has been a year and they have no prospects of being matched with a child.

F. The Struemkes

85. Brad and April Struemke live in Osceola, Wisconsin and are in their mid to late 30s.

86. The Struemkes contacted Reaching Arms in late 2003 or early 2004 to express interest in participating in a host-to-adopt program that was to take place in the summer of 2004. They informed Reaching Arms that they wished to adopt a five to eight-year-old girl. They were shown pictures of a girl named Oksana and were told she was available for adoption. They began corresponding with Oksana, sending her gifts and pictures of their family.

87. In March 2004, the Struemkes signed a contract with Reaching Arms. They were given fee schedules and a timeline indicating when various fees were to be paid. They paid Reaching Arms \$2,150 to be eligible to participate in the host-to-adopt program. Reaching Arms told them that the adoption would be complete two or three months after they completed the host program.

88. In June 2004, one week before Oksana was to come to America for the host-to-adopt program, Reaching Arms told the Struemkes that it had just learned that they would not be able to adopt Oksana at that time because her birth father still had parental rights. Since they had already established contact with Oksana and Oksana was already in transit in Russia to come to

America, they chose to still host her even though they knew it would be some time until they could adopt her, if at all.

89. In the fall of 2005, the Struemkes learned from Reaching Arms' liaison in Russia, Inna Kezikova, that when the Struemkes initially retained Reaching Arms the agency knew that Oksana's birth father still had parental rights and she was not adoptable at that time. They felt they had been misled. They were upset that Reaching Arms had entered into the contract with them--and accepted fees from them--without informing them of the problem with the parental rights. The Struemkes were also upset that Reaching Arms did not disclose the problem to them until June 2004, and only as a result of an inquiry they had made to an agency representative.

90. When the Struemkes expressed their dismay to Nila Hilton of Reaching Arms, she refused to discuss the issue and essentially told them that Reaching Arms had the authority to drop their adoption without the risk of any liability to the agency if they were going to "continually express [their] anger." They viewed Nila Hilton's comments as a threat, as this telephone communication was the first time the Struemkes expressed concern about the process.

91. At times, Reaching Arms asked the Struemkes to pay higher fees for various services than what was listed in their original contract. For example, a fee for adoption finalization was originally listed as \$6,000, but when it came time to pay the fee, Reaching Arms demanded \$8,000. They paid the higher fee, believing they had no choice but to do so. The contract they signed with Reaching Arms did contain a statement to the effect that fees could change at any time.

92. The Struemkes were required to make two trips to Russia to adopt Oksana. Their first trip occurred in December 2005; the second in April 2006. During those trips, they paid approximately \$8,000 in cash to Reaching Arms' liaison in Russia, Inna Kezikova. Reaching

Arms had disclosed on a fee schedule a list of services that were included in the overseas expenses, but it did not indicate a specific cost for each item, and the fee schedule did not include a payment to the Frank Foundation.

93. The Struemkes did not know what the specific costs for the “overseas expenses” were until they asked Inna Kezikova. She then told them that the expenses included a payment to the Russian office of Frank Foundation, an agency used by Reaching Arms to facilitate Russian adoptions. Reaching Arms had disclosed to them on a fee schedule that fees would be paid to the Frank Foundation office in the United States, but it did not disclose that part of the overseas expense money went to the Frank Foundation office in Russia.

94. Neither Inna Kezikova nor Reaching Arms would provide the Struemkes with a receipt for the approximate \$8,000 cash they gave to Inna Kezikova in Russia.

95. On February 15, 2006, Reaching Arms sent a letter to the Struemkes indicating that the agency was on the brink of financial ruin and was seeking donations. They did not donate any money in response to the letter.

96. The Struemkes adoption of Oksana was finalized in April 2006.

G. The Nelsons

97. Randall and Laura Nelson live in Big Lake, Minnesota. Randy is 40 years old and Laura is 36 years old.

98. In late 2004, the Nelsons became very interested in adopting a child. In January 2005, they contacted Reaching Arms and identified two boys from Russia whom they wished to adopt.

99. The Nelsons entered into a contract with Reaching Arms on April 22, 2005. They were given fee schedules and a timeline indicating when each fee was to be paid.

100. In August 2005, Reaching Arms required the Nelsons to sign a new contract with a new fee schedule. The new contract contained higher fees than those listed in the original contract. For example, the home study fee increased from \$2,400 to \$2,800 and the post adoption fee increased from \$650 to \$750. The Nelsons refused to pay the increased fees. They paid \$500 for the post adoption fee because that was the fee listed on a fee schedule handout from Reaching Arms that they received at the time of their initial contract.

101. In the summer of 2005, the Nelsons hosted the two boys they wished to adopt at their home for one month as part of the Bridge of Love host-to-adopt program. They bonded with the boys. Reaching Arms' staff told the Nelsons that their hosting of the boys counted as fulfillment of one of the two required trips that prospective adoptive parents are required to make to Russia. In August of 2005, at the completion of the host program, the boys returned to Russia. At that time, Reaching Arms staff told the Nelsons that they should be able to go to Russia and finish the adoption by September or October, 2005 at the latest. Instead of being able to complete the adoption process in a few months, it took about nine months, in part because the hosting of the boys did not count towards fulfillment of the two trip requirement as Reaching Arms had originally told them.

102. When they started asking questions of Reaching Arms regarding timelines and communications, Nila Hilton sent them an email stating she was concerned about any reaction by any family to these issues. She said that if anger surfaced during the home study process it could jeopardize their adoption. The Nelsons viewed this communication as a threat to their pending adoption.

103. Reaching Arms instructed the Nelsons to bring a total of \$9,500 in cash with them when they made their two trips to Russia to cover the "overseas expenses" listed in a fee

schedule. The fee schedule provided a list of the services that were included in the overseas expenses, but it did not indicate a specific cost for each item. Items included in the overseas expenses were medical expenses, interpreter fees, transportation, and passports for the children. Although the Nelsons gave \$9,500 cash to Reaching Arms' liaison in Russia, Inna Kezikova, to cover these overseas expenses, they ended up paying additional money for medical expenses, interpreter fees, transportation and passports while in Russia.

104. The Nelsons later learned from Inna Kezikova that part of the \$9,500 was payment for her services, part of it was for bribing Russian officials, some of it went to Reaching Arms, and \$1,000 per child went to the Frank Foundation employees in Russia. The Nelsons state that Reaching Arms uses the Frank Foundation to facilitate Russian adoptions because Frank Foundation is accredited in Russia, while Reaching Arms is not. Reaching Arms had disclosed to the Nelsons on the fee schedule that a \$1,000 fee per child would be paid to the Frank Foundation office in the United States, but it did not disclose on the fee schedule that part of the overseas expense money went to the Frank Foundation office in Russia.

105. Neither Inna Kezikova nor Reaching Arms would give the Nelsons a receipt for the \$9,500 cash payment they made in Russia for "overseas expenses."

106. To verify where his fees were going, Randall Nelson sent the Frank Foundation an email asking for verification that Reaching Arms was working with them in Russia. He subsequently received an email from Craig Cook of Reaching Arms on October 20, 2005, in which Craig stated that if Randall Nelson upset the Frank Foundation, the Frank Foundation could decide to charge the Nelsons a full fee of \$30,000 rather than the \$2,000 it was charging. Randall Nelson found this email to be a threat of significantly increased fees if he continued to ask questions.

107. On February 15, 2006, Reaching Arms sent a letter to the Nelsons indicating that the agency was on the brink of financial ruin and was seeking donations. They took the letter to mean that if they did not give a donation, Reaching Arms would fall into financial ruin and it would not be able to complete their adoption. They did not make a donation because by then they no longer trusted Reaching Arms.

108. Ultimately, the Nelsons adopted the boys in Russia on June 7, 2006. The boys came to the United States on June 24, 2006.

H. The Spurbecks

109. The Spurbecks, Andrew, age 43, and Ann, age 46, live in Waconia, Minnesota. In February of 2005, they became very interested in adopting a baby and investigated and considered several adoption agencies before eventually selecting Reaching Arms.

110. Before they signed an agreement with Reaching Arms, Ann Spurbeck reviewed the organization's brochures and program and met with representatives of Reaching Arms. The Spurbecks believed that Reaching Arms was well-suited for their needs because the agency specialized in international adoptions, and they were interested in adopting a child from another country.

111. The Spurbecks signed an adoption agency fee schedule for Reaching Arms on or about April 5, 2005. The schedule indicated that they were obligated to pay for certain services provided by Reaching Arms and that, as each step was completed, they would pay for the next step.

112. In April of 2005, a representative of Reaching Arms spent three hours interviewing the Spurbecks and their children at their house and obtaining names of references.

On May 16, 2005, they received a letter notifying them that they were eligible to adopt two children.

113. The Spurbecks were told that, after being approved for adoption by the country of origin, they would be able to travel to the country within three to six months to select their child. They were approved for travel by the country of adoption origin (Ukraine) in September 2005. They expected to travel to Ukraine by February 2006. However, the national adoption center was closed by the Ukrainian government and did not re-open until July 2006.

114. On November 21, 2006, they wrote a check to Reaching Arms for \$4,100. They were told that this was for an "in-country" fee, with \$3,310 for their facilitator in the Ukraine, \$650 for post-adoption reporting, \$100 for consulate registration and the rest as a wire transfer fee. The Spurbecks state that Nila Hilton told them she was wiring the money to their facilitator in the Ukraine immediately.

115. The Spurbecks were told by representatives of Reaching Arms that upon arrival to their appointment in the country of origin, they would have as much time as needed during that day to review photos and other information. Representatives of Reaching Arms also told them that it was not unusual to review photos and meet several children before a connection was established. Reaching Arms also told them that they should only choose a child with whom they had a bond and that it was their right to decline a referral if they did not have a bond with the child.

116. In December 2006, they traveled to Russia to select their child. On December 11, 2006, contrary to what they had been told by representatives of Reaching Arms, they were allowed a total of one hour to review photos and meet one child and were told that they had to

choose a child in that hour. They were unable to adopt a child from this trip and did not feel that they had a fair opportunity to choose a child.

117. During that trip, the Spurbecks learned from their Russian facilitator that he had not been paid the \$3,310 that they had already paid to Reaching Arms. In addition, Reaching Arms had not performed the additional services which were part of the \$4,100 payment the Spurbecks had made.

118. After returning to the United State, the Spurbecks did not hear from Reaching Arms for two weeks and they called Nila Hilton, who did not even know they had not adopted a child. On January 10, 2007, Nila Hilton advised Ann Spurbeck that Reaching Arms would send her a reimbursement for the “in-country” fee paid to Reaching Arms. The “in-country” fee paid to Reaching Arms was \$4,100.

119. On January 19, 2007, Nila Hilton sent Ann Spurbeck an email stating she would like Ann Spurbeck to come to the agency so she can give her the refund. This was despite Nila Hilton’s prior assurance that the reimbursement was going to be mailed and Ann Spurbeck’s notification to Reaching Arms that the Spurbecks were discontinuing communication until they received reimbursement for the “in country” fee. To date, an adoption has not been processed and the Spurbecks have not adopted a child.

COUNT I
AUDIT OF CHILD PLACING AGENCY
UNDER MINN. STAT. § 259.45, SUBD. 1 (2006)

120. The State re-alleges paragraphs 1 through 119 as if fully set forth herein.

121. Minn. Stat. § 259.45, subd. 1 (2006) states:

If the commissioner [of DHS] or attorney general has good cause to believe that a child-placing agency has violated section 259.37, subdivision 1, 259.55, 317A.907 or any other applicable law dealing with fees, payments, accounts or financial disclosure by a child-placing agency, the commissioner or the attorney general may seek a court order requiring a financial audit of the agency, at the agency's expense, by an auditor chosen by the commissioner or attorney general.

122. Minn. Stat. § 259.37, subd. 1 (2006) states:

An agency may only require payment of fees in stages as services are performed. An agency engaged in placement activities must provide a prospective adoptive parent with a schedule of fees and a timeline indicating when each fee or portion of the total fees for the agency services must be paid. The agency must also provide a fee schedule for prefinalization postplacement services.

123. Reaching Arms is a child-placing agency. See Minn. Stat. § 259.21, subd. 6 (2006).

124. The State has good cause to believe that Reaching Arms has violated Minn. Stat. § 259.37, subd. 1, by the actions described above.

125. Accordingly, the standard for seeking a court order for a financial audit under Minn. Stat. § 259.45, subd. 1 (2006) is met.

RELIEF

WHEREFORE, Plaintiff prays that the Court issue its order and judgment as follows:

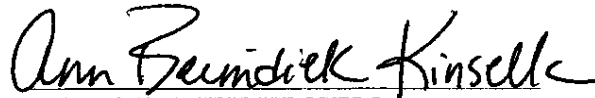
1. Ordering Reaching Arms International Incorporated to undergo a financial audit, at its expense, by an auditor chosen by the Attorney General; and

2. Granting such further and other relief as the Court deems just and proper.

Dated: Jan. 31, 2007

Respectfully submitted,

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ATTORNEYS FOR STATE OF MINNESOTA

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MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211 (2006).

Dated: Jan. 31, 2007

Respectfully submitted,

Ann Beimdrek Kinsella

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