

STATE OF COLORADO ATTORNEY GENERAL'S OFFICE CONSUMER PROTECTION SECTION	
In re: ADOPT A MIRACLE, a Colorado Nonprofit Corporation, and VINOLA HUMPHREY, individually and as president thereof	
JOHN W. SUTHERS, Attorney General JAY B. SIMONSON, First Assistant Attorney General OLIVIA C. DEBLASIO, Assistant Attorney General 1525 Sherman Street, 7 th Floor Denver, CO 80203 (303) 866-5079 Fax: (303) 866-4916 Email: libby.deblasio@state.co.us	
ASSURANCE OF VOLUNTARY COMPLIANCE AND DISCONTINUANCE	

This Assurance of Voluntary Compliance and Discontinuance (“Assurance”) is entered into between the State of Colorado, ex rel. John W. Suthers Attorney General (“The State”), and Adopt a Miracle (“AAM”) and Vinola Humphrey in her capacity as president of AAM and as an individual (AAM and Ms. Humphrey hereinafter referred to as “Respondents”). This Assurance is entered into pursuant to the Attorney General’s powers under § 6-1-110(2), C.R.S. (2008), and is being agreed to by the parties in lieu of the Attorney General filing a complaint against Respondents for the conduct described below.

I. PARTIES

1. John W. Suthers is the duly elected Attorney General for the State of Colorado and has express jurisdiction to investigate and to prosecute violations of the Colorado Consumer Protection Act (“CCPA”), § 6-1-101, *et seq.*, C.R.S. (2008).

2. Respondent Adopt a Miracle is a Child Placement Agency licensed by the Colorado Department of Human Services to provide international adoption services and, for

Colorado residents, home study and post-placement services. AAM has been licensed since June 20, 2005. AAM is also a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

3. AAM represents that it has provided services to adoptive families inside and outside of the United States to adopt from Haiti, Guatemala, Kyrgyzstan, Kazakhstan, Ukraine, and Russia. AAM also operated between 2005 and 2007 an international child hosting program for children living in Ukraine. AAM has contracted with social workers, program coordinators and facilitators in the U.S. and in the adoption countries, and individuals to implement the hosting program outside of Colorado.

4. Vinola Humphrey started AAM and is the president and registered agent. Ms. Humphrey controls all aspects of AAM, including drafting and approving hosting and adoption contracts between AAM and adoptive families, ensuring that AAM complies with local and international laws, ensuring that adoptive families are provided complete and accurate information in the AAM contract, and updating AAM's web site (www.adoptamiracle.com). Ms. Humphrey speaks English and Russian and deals directly with AAM's contracted adoption facilitators in many of the Russian-speaking adoption countries, including Ukraine. Ms. Humphrey directed the Ukrainian hosting program through the individual who served as AAM's Executive Director and Placement Supervisor.

5. Ms. Humphrey has operated AAM out of an office located at 2700 Youngfield Street, Suite 200-210, Lakewood, CO 80215 and out of her home located at 2957 Sun Creek Ridge, Evergreen, CO 80439.

6. Respondents understand and agree that this Assurance shall apply to AAM and Ms. Humphrey, as president of AAM and as an individual, and any future persons that AAM and Ms. Humphrey may employ, as well as any principals, officers, directors, agents,

employees, representatives, successors, affiliates, subsidiaries, assigns, contractors and any person acting on behalf of Respondents.

II. FACTUAL ALLEGATIONS

7. Colorado Attorney General John W. Suthers has conducted an investigation pursuant to the CCPA into the business practices of Respondents.

8. Based on the State's investigation, Respondents used photo listing of children on the Internet and operated a hosting program for Ukrainian children to reach potential adoptive parents. "Photo listing" refers to adoption agencies' practice of displaying photographs of children on the Internet to recruit adoptive parents. The State contends that AAM used photo listing to advertise its Ukrainian hosting program and adoption services. The State further contends that although photo listing is not illegal, AAM's use of photo listing misled hosting and adoptive parents to believe that the listed Ukrainian children were available not only for hosting but also for international adoption, when in fact that was sometimes not the case.

9. Respondents claim that AAM provided all available information to clients and never intentionally misled anybody. However, in some cases AAM clients experienced delays and changes in the child's legal status as a result of the instability in the Ukrainian adoption process.

10. All AAM clients signed Agreements, which state:

Hosting Agreement:

"I am fully aware that approval for adoption of a hosted child by a family rests with the child's legal guardian, agency, or government. We also understand that there are no guarantees that the child we are referred will meet all of these requirements.

"...Adopt a Miracle has no control over the actions of governments or governmental agencies. I therefore will not hold Adopt a Miracle accountable for unforeseen

governmental actions or decrees that could affect the Summer Hosting Program or the adoption process.”

Adoption Agreement:

“Adoptive Family fully understands and agrees that Adopt a Miracle has no legal rights to promise, hold or give a referral for a particular child.”

“Adoptive Family fully understands and agrees to the fact that Adopt a Miracle is not legally responsible for any interruption, suspension, change or delay of the adoption process in the U.S. or in the country of adoption resulting from any amendment of current adoption laws and regulations, or from bureaucratic mistakes or delays in the country of adoption and/or in the U.S. The timeframe for completion of the adoption is only an estimate and is not guaranteed due to the complexities and uncertainties related to international adoptions.”

11. Respondents admit that nearly all of the parents who signed up to host Ukrainian children did so with the intent to adopt. Although Respondents stated in letters to the Colorado Department of Human Services that their hosting program’s purpose was to provide children with cultural, recreational, and educational experiences designed for self-enrichment, the State contends that Respondents used the hosting program to market AAM’s adoption services.

12. The State contends that Respondents represented to potential adoptive parents and hosting parents verbally and via email that all of the Ukrainian children listed for hosting were available for international adoption. In several cases one or more of the following conditions had not been met 1) the biological parents’ rights had not been terminated, 2) the child’s paperwork had not even begun to be processed through the Ukraine system, or 3) the child was not listed on the Ukraine government’s database for one year. All three conditions are required for a Ukraine child to be available for international adoption. Each of the three conditions may take years to complete.

13. Respondents claim that AAM informed their clients of all information received from the Ukrainian Coordinators concerning the children's' availability status and that such information was not always reliable and could change any time.

14. Consumers complain that they believed the children listed on Respondents' website were available immediately when in fact the children were only "potentially" available.

15. Respondents claim that clients were informed about the childrens' available status as communicated by Ukrainian coordinators and orphanage workers. AAM shared the information received in good faith and always provided the caveat that information from Ukraine could be unreliable because it is gathered casually and is not reported through any official channels.

16. The State contends that Respondents' Ukrainian children hosting agreements furthered the misperception that the children were available. In 2005, Respondents' hosting program was offered to adoptive parents for free if they had an adoption agreement with AAM. Adoptive parents signed Respondents' Host Family Agreement that stated "it is in the best interest of the children involved in this [hosting] program that they find permanent, loving adoptive families within the timeframe of the [hosting] program." The hosting programs typically lasted a few weeks. The Agreement further required hosting parents to agree to make a final decision about adopting their hosted child no later than "five days after the child(ren) arrives in [their home]" and that the adoption of the hosted child or any other child associated with the hosting program must be done through Respondents.

17. Respondents claim that only hard to place older children participated in AAM's Hosting program. It was AAM's goal to find forever families for these children. A statement in the 2006 Hosting agreement 2006 about making a final decision about adopting their

hosted child no later than “five days after the child(ren) arrives in [their home]” was included to inform AAM about host family adoption decision.

18. The State contends that although Respondents stated in paragraph 18 of 19 of the 2006 Hosting Agreement that approval for adoption rests with the child’s legal guardian, agency or government and that there are “no guarantees that the child [] referred will meet all of these requirements,” Respondents did not adequately disclose that the hosted child was not currently available for international adoption.

19. Respondents claim that AAM provided all available information to their clients available from Ukraine.

20. Respondents claim that any inaccurate information about children’s adoptability came in the form of “casual” information from sources such as orphanage directors and facilitators in Ukraine whom Respondents had trusted. Respondents further claim that if and when they learned that a source was no longer trustworthy, they discontinued working with that source.

21. Respondents claim that in 2006 they started to make changes to the hosting and adoption contracts to address consumer complaints. Although Respondents no longer required hosting parents to go through Respondents for adoption of the hosted child and to make an adoption decision within five days after the child arrives, the Hosting Agreement still did not disclose that the hosted child was not currently available for adoption or affirmatively state the child was only “potentially” available for adoption.

22. Respondents claim that Hosting agreements cannot fully disclose information about a child’s available or unavailable status, because this status can be changed any time.

23. Respondents’ “Intercountry Adoption Service Agreement” included at relevant times a section near the top of the first page where adoptive parents may list the name, age

and an identification number of the child they wished to adopt. Potential adoptive parents who hosted a child or saw a child via Respondents' online photo listings would write the hosted child's or photo listed child's name on the Adoption Agreement because they believed that there was a good possibility of adopting the particular child when that was sometimes not the case.

24. Adoptive parents complain and the State contends that Respondents pressured hosting and potential adoptive parents to enter into Adoption Agreements and pay initial fees of \$2,500.00 or more in order to "hold" the photo listed or hosted child when, as Respondents are well aware, an adoption agency has no ability to "hold" a child. Respondents claim that they never told potential adoptive parents that they could "hold" a child.

25. The State contends that Respondents knew or should have known that potential adoptive parents would quickly bond with their hosted child and would rely upon Respondents' statements and omissions in concluding that the hosted child could become theirs through adoption. Contractual language such as "(AAM) will do everything in its power to ensure that the referred child is available for adoption," although intended as a disclaimer, did not adequately warn prospective parents that adoption of the hosted child was not assured.

26. Consumers complain that upon learning that a child was not in fact available for international adoption or might not be available for a year, their request for a refund was denied by Respondents. Respondents denied refunds citing contractual language to the effect that there are no guarantees and that the contract was for adoptive services only and not for a child.

27. Although Respondents state that they sell services not children, the State contends that the hosting program and the photo listing of Ukrainian children coupled with Respondents' misrepresentations and omissions regarding the availability of the child, misled prospective adoptive parents to the contrary.

28. Respondents claim that they suspended the hosting program in 2008 and have not taken any new potential adoptive parents as clients in 6 months. Respondents claim that they already follow the injunctive terms described herein.

29. The Respondents expressly deny the State's allegations and contentions stated herein. Respondents are entering into this Assurance for the purpose of compromising and resolving disputed claims and to avoid the expense of litigation. Respondents' execution of this Assurance is not and shall not be considered an admission by the Respondents.

III. DEFINITIONS

30. A child "referral" or "referred" child as used herein shall mean when an adoption agency matches what they know about potential adoptive parents with what they have learned about a child from an orphanage and the caregivers.

31. "Clear and Conspicuous" as used herein shall mean that the information must be disclosed with equal prominence and in close proximity to the name of a photo listed child or, if there is no name listed, to the identifying information related to the photo listed child.

IV. ASSURANCES BY RESPONDENTS

32. Respondents agree to discontinue any and all use of photo listing of children including the displaying and publishing of photos of children related to any hosting program or any adoption program, except under the following circumstances:

- a) Photos of children may be made available, via a password protected and secure web site or email or hard paper copy, to potential adoptive parents (and their immediate families) upon their request;
- b) Descriptions of children available through Respondents may be displayed on Respondents' or any other adoption-related web site;
- c) Respondents may use only descriptions or photos of children who are officially eligible for referral according to the laws of the children's countries of origin and not according to casual, unofficial information. Written correspondence from the country of origin may serve as proof thereof;
- d) Respondents must include a clear and conspicuous disclosure next to each photo that the child is available for "referral" rather than "adoption," and that potential adoptive parents can not promise or "hold" a child for potential adoptive parents.

33. Respondents agree that any hosting program they operate in the future must 1) be separate and apart from any adoption program that Respondents operate, 2) be operated by a person/entity with no financial interest in Respondents' adoption program, and 3) use a written agreement that does not require host parents to sign up with Respondents' adoption program(s) or otherwise require the host parents to apply to adopt the hosted child.

34. Respondents agree to inform hosting and potential adoptive parents both verbally and in writing and before any hosting and adoption agreements are signed that children participating in the program(s) are not available for adoption but rather available for "referral," or not available for adoption or referral at all, whichever the case may be, and that the adoptability of a child is according to the law of the child's country of origin and to fully explain the country of origin's relevant requirements. Disclosures provided in writing must

be included within the first half of any correspondence to hosting and potential adoptive parents.

35. Respondents agree that they shall not represent to hosting and potential adoptive parents that payment to Respondents will guarantee or “hold” a child for adoption.

36. In all other respects, Respondents agree to abide by the *Hague Convention of May 29, 1993 on Protection of Children and Co-Operation in Respect of Intercountry Adoption* and *The Implementation and Operation of the 1993 Intercountry Adoption Convention: Guide to Good Practice*, published in April 2008, and all subsequent versions thereof.

V. MONETARY PROVISION

37. Respondents agree to voluntarily pay in the amount of twenty-eight thousand dollars and five hundred dollars (\$28,500.00) which will be used first to reimburse any person (consumers) harmed by the violations of Respondents’ discussed herein. Second, any remainder will be used by the Colorado Attorney General’s Office for reimbursement of Colorado’s actual costs and attorney fees and, third, to be held along with any interest thereon, in trust by the Attorney General for future consumer education, consumer fraud or antitrust enforcement efforts. § 6-1-110, C.R.S. (2008).

38. Of the agreed-upon total of \$28,500.00, sixteen thousand five hundred dollars (\$16,500.00) will be payable within 5 business days after execution of this AVC. The remaining twelve thousand (\$12,000.00) will be payable within 6 months after execution of this AVC. Respondents agree to make installment payments of two thousand (\$2,000.00) to the Colorado Department of Law every thirty (30) days after execution of this AVC until Respondents have paid the remaining \$12,000.00. Respondents shall make all payments to the “Department of Law.” Respondents shall direct payment to: Consumer Protection

Section, C/O Libby DeBlasio, Colorado Department of Law, 1525 Sherman St., Denver, CO 80203.

39. Failure to pay in full and on time as per the monetary terms of this AVC will constitute a material violation of the AVC. In the event of such non-payment, Respondents agree to pay the costs of any legal action instituted to carry out successful recovery of the agreed amounts, pursuant to § 6-1-113, C.R.S. (2008).

40. The Colorado Attorney General shall pay pro rata restitution to consumers in a manner that he, in his sole discretion, deems appropriate. The Colorado Attorney General may give preference to those consumers who have (to the point of excluding those consumers who have not) filed written complaints received by the Attorney General's Office on or before the date of the executed AVC. Any and all recipients of restitution pursuant to this AVC shall sign a release of their claims against Respondents.

VI. ENFORCEMENT

41. Violation of any of the terms of this Assurance shall constitute a prima facie violation of the CCPA in accordance with § 6-1-110(2), C.R.S. (2008). Upon any violation of this Assurance by Respondents, the Attorney General shall be entitled to file a civil action under the CCPA in any court of competent jurisdiction and to seek an injunction or other appropriate order from such court to enforce the provisions of this Assurance.

42. In addition to any remedies provided under the CCPA, the Attorney General will also be entitled to apply for and seek from a court of competent jurisdiction an order converting this Assurance into a permanent injunction against Respondents as if the parties had fully litigated all issues contained herein, upon a showing by the Attorney General's Office of a violation by Respondents of this Assurance. In such event, Respondents agree to

waive any and all defenses and counterclaims they may have had to such an action, except as to claims or defenses related to the alleged violation of this Assurance or as to the need for injunctive relief.

43. This Assurance shall not be construed to affect the rights of any private party to pursue remedies pursuant to § 6-1-113, C.R.S. (2008), or under any other statutes through claims or actions in common law.

44. Nothing in this Assurance shall be construed to release claims held by any other government authority.

45. Pursuant to § 6-1-110(2), C.R.S. (2008), this Assurance shall be a matter of public record.

46. The person who signs this Assurance in a representative capacity for Respondents warrants that he or she is duly authorized to do so. Respondents acknowledge that they have had a full opportunity to review this Assurance and consult with legal counsel regarding same. Respondents agree and represent that they have read and understand this Assurance, that they accept the legal consequences involved in signing it and that there are no other representations, agreements or understandings between Respondents and the State that are not stated in writing herein.

Dated: 2/11/09

RESPONDENT ADOPT A MIRACLE

By: *Humphrey*
(Signature)

Vinola Humphrey
(Please print name and title)

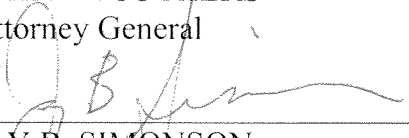
RESPONDENT VINOLA HUMPHREY

By: *Humphrey*
(Signature)

Vinola Humphrey
(Please print name)

Dated: 11 Feb 09

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February 11, 2009

M E M O R A N D U M

TO: 1st AAG Jay Simonson


FROM: Michael P. Sias
Intern
Consumer Protection Section

RE: Witnessing of Vinola Humphrey's Signing of the Assurance of Voluntary Compliance and Discontinuance

1. I am an intern in the Consumer Fraud Section of the Colorado Attorney General's office, where I have been interning since January 20, 2009.
2. On the afternoon of February 11, 2009, I accompanied 1st AAG Jay Simonson into Room 410 of the Consumer Protection Section of the Colorado Attorney General's office to witness Vinola Humphrey sign the Assurance of Voluntary Compliance and Discontinuance individually and in her capacity as president of Adopt a Miracle.
3. After examining the Assurance of Voluntary Compliance and Discontinuance, Vinola Humphrey signed said document individually and in her capacity as president of Adopt a Miracle, a Colorado Nonprofit Corporation.



INTERN MICHAEL SIAS



DATE