

IN THE ORPHANS' COURT DIVISION OF THE COURT OF COMMON PLEAS
OF CENTRE COUNTY, PENNSYLVANIA

IN RE: THE SECOND MILE

ORPHANS' COURT NO. 14-12-0255

PROPERTY A PARTITION
COURT OF COMMON PLEAS
CENTRE COUNTY, PA

2013 MAR 26 PM 12:56

FILED FOR RECORD

pa.

**PETITIONER'S RESPONSE TO NEW MATTER OF
JOHN DOE B TO PETITION FOR
SALE OF ATHERTON STREET PROPERTY**

The Board of Directors of The Second Mile ("Petitioner"), by its attorneys, hereby files this Response to the New Matter filed on behalf of John Doe B to the Petition for Approval of Sale of Atherton Street Property and, in support thereof, states as follows:

1.-24. Petitioners incorporate by reference the averments set forth in Paragraphs 1 through 24 of the Petition for Expedited Approval of Sale of Atherton Street Property. By way of further averment, Petitioner notes that John Doe B "does not oppose the sale of the property" (see Response, ¶¶ 10-24). Moreover, John Doe B does not suggest that the price established for the property is not fair and, in fact, the price to be obtained for the property exceeds the appraised value by \$90,000. There are no other pending offers to purchase the property. In addition, the continuing cost of maintaining the property would reduce the value of any later purchase if this sale is not approved. As stated in Paragraph 22 of the Petition and in the proposed Order, a copy of which has been forwarded to counsel for John Doe B, all proceeds from the sale will be held by The Second Mile pursuant to this Court's Order dated September 4, 2012. To date, notwithstanding the oversight by the Office of the Attorney General of all charitable institutions, including The Second Mile, and this Court's involvement, there have been no questions raised concerning any expenditure by The Second Mile. All monies maintained by

The Second Mile will be used for expenses necessary for the maintenance of any ongoing programs, subject to the Petition for Limited Transfer of Assets, and related activities in the ordinary course of business, as well as, inter alia, victims' claims, legal fees and insurance. Following the resolution of all claims, by settlement or litigation, The Second Mile will present a separate Petition to this Court regarding the distribution of those remaining funds consistent with the applicable law and the intent of the donors.

REPLY TO NEW MATTER

25. Petitioner does not question the interest of John Doe B in these proceedings. It is submitted that the sale of the Atherton Street Property is in the best interest of all interested parties as it will convert the maintenance of an unnecessary facility, and the related costs attendant to that facility, into cash at the highest and best price available. As noted, all monies held by The Second Mile will be maintained pursuant to this Court's prior Order.

26. The allegations of this Paragraph constitute conclusions of law to which no response is required. Issues related to liability will be determined in separate proceedings and are not properly addressed in this proceeding concerning the sale and conversion to cash of a single asset.

27. All assets of The Second Mile only may be utilized pursuant to state law regarding charitable organizations and consistent with the intent of the donors. The Second Mile recognizes that various victims of abuse by Jerry Sandusky have filed formal and informal claims against The Second Mile which must be resolved before the final disposition of any remaining assets is determined. It also is asserted that the endowment funds, separate and apart from the general funds of The Second Mile, are not subject to claims by victims or for any use except as set forth in the endowment documents. Once all claims have been resolved, any

remaining assets will be distributed consistent with the law related to charitable organizations, the intent of the donors and the overall oversight of The Attorney General.

28. For the reasons set forth in the proceeding Paragraphs of this Response and the Petition, and the exhibits presented to the Court, the price of the property is more than fair and reasonable under all circumstances, as the Office of Attorney General, which has supervisory power over The Second Mile and all charitable organizations, has determined. A true and correct copy of the letter confirming that the Office of Attorney General has no objection to this Petition is attached as Exhibit "A." Moreover, the proposed Order with respect to this Petition was provided to counsel for John Doe B on March 15, 2013, as reflected by the e-mail attached to this Response as Exhibit "B." Counsel for John Doe B advised that the Order was appropriate, as reflected by his e-mail dated March 15, 2013, a copy of which is attached to this Response as Exhibit "C."

29. As reflected by the proposed Order, and the request for relief set forth in the Petition, The Second Mile has agreed that the proceeds from the sale of the property shall be held pursuant to this Court's Order dated September 4, 2012, subject to regular and necessary business expenses. There should be no other restrictions on the use of those funds, especially in light of the lack of any pending objections to the ongoing operations of The Second Mile and the continuing supervision of The Second Mile and all charitable organizations by the Office of Attorney General. As no objections have been filed to Petitioner's knowledge, pursuant to the Order dated March 8, 2013, Petitioner requests that its Petition be approved pursuant to the proposed Order.

WHEREFORE, Petitioner requests that the Petition for Expedited Approval of Sale of Atherton Street Property be granted, that the Sale of the Atherton Street property be approved

and the sale proceed pursuant to the terms of the Agreement of Sale dated January 18, 2013.

OF COUNSEL:

ARCHER & GREINER, P.C.
One Liberty Place
Thirty-Second Floor
1650 Market Street
Philadelphia, PA 19103-7393
Telephone: (215) 963-3300
Facsimile: (215) 963-9999



HOWARD A. ROSENTHAL
FRANCES A. McELHILL
GARY D. FRY

Attorneys for Petitioner, The Second Mile

9507853v1

**IN THE ORPHANS' COURT DIVISION OF THE COURT OF COMMON PLEAS
OF CENTRE COUNTY, PENNSYLVANIA**

IN RE: THE SECOND MILE

ORPHANS' COURT NO. 14-12-0255

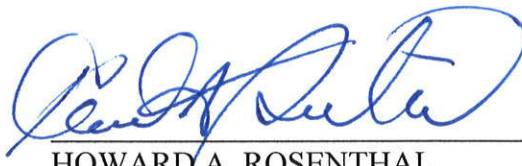
CERTIFICATE OF SERVICE

The undersigned counsel for Petitioner certify that a true and correct copy of the foregoing Response was served on the Attorney General of Pennsylvania on March 25, 2013, in the manner noted and addressed as follows:

VIA E-MAIL AND OVERNIGHT DELIVERY SERVICE

Mark A. Pacella, Esquire
Chief Deputy Attorney General
Charitable Trusts & Organizations Section
Office of Attorney General
16th Floor
Strawberry Square
Harrisburg, PA 17120

Copies of this Response are also being served on all interested parties whose names appear on the Service List attached as Exhibit "A," by Overnight Delivery Service.



HOWARD A. ROSENTHAL
FRANCES A. McELHILL
GARY D. FRY
Attorneys for Petitioner

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9568522v1

FILED FOR RECORD
2013 MAR 26 P 1:04
KIMBERLY A. BARTON
REGISTER OF WILLS &
CLERK OF ORPHANS COURT
CENTRE COUNTY PA

EXHIBIT "A"

Service List

H. Amos Goodall, Jr., LL.M., Esquire
Goodall & Yurchak, P.C.
328 South Atherton Street
State College, PA 16801

Benjamin D. Andreozzi, Esquire
Andreozzi & Associates, P.C.
215 Pine Street, Suite 200
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Soloff & Zervanos, P.C.
1525 Locust Street
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Philadelphia, PA 19102

Terry S. Hyman, Esquire
Schmidt Kramer, PC
209 State Street
Harrisburg, PA 17101

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State College, PA 16801

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333 South Allen Street
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Clifford A. Rieders, Esquire
Rieders, Travis, Humphrey, Harris,
Waters & Waffenschmidt
161 West Third Street
PO Box 215
Williamsport, PA 17701

Howard Alan Janet, Esquire
Janet Jenner & Suggs LLC
1829 Reistertown Road
Suite 320
Baltimore, MD 21208



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

March 13, 2013

KATHLEEN G. KANE
ATTORNEY GENERAL

Charitable Trusts and
Organizations Section
14th Fl., Strawberry Sq.
Harrisburg, PA 17120
Phone: (717) 783-2853
Facsimile: (717) 787-1190

Howard A. Rosenthal, Esquire
ARCHER & GREINER, P.C.
One Liberty Place -- 32nd Floor
1650 Market Street
Philadelphia, PA 19103-7393

Re: In Re: The Second Mile/ No. 14-12-0255; Centre County

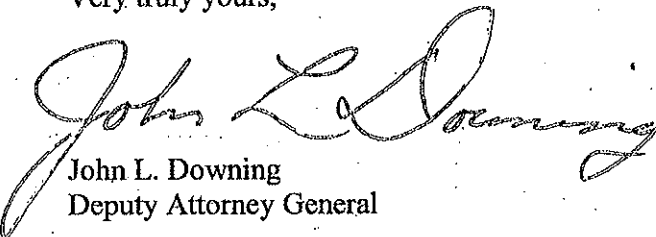
Dear Mr. Rosenthal:

This will acknowledge receipt of your Petition for Expedited Approval of Sale of Atherton Street Property relating to the above-referenced matter.

I have reviewed **your Petition for Expedited Approval of Sale of Atherton Street Property** and have no objections. At your earliest convenience, kindly provide me with a copy of the decree.

Please be advised that the above review was made pursuant to the parens patriae function of this office and has no bearing on any matter unrelated thereto. Be further advised that this no objection is based on the information submitted to the Office of Attorney General and therefore is conditioned upon its accuracy submissions or omissions.

Very truly yours,


John L. Downing
Deputy Attorney General

JLD/srh

EXHIBIT "A"

Rosenthal, Howard A.

From: Rosenthal, Howard A.
Sent: Friday, March 15, 2013 9:47 AM
To: Clifford A. Rieders (crieders@riederstravis.com)
Subject: The Second Mile - Proposed Orders - Arrow Transfer and Sale of Atherton Street Property
Attachments: (9532126 - 1) - Order - Arrow Transfer-c.pdf; (9507234 - 1) - Order - Sale of Atherton Street Property-c.pdf

Tracking:	Recipient	Delivery
	Clifford A. Rieders (crieders@riederstravis.com)	
	'Dave Woodle'	
	Fry, Gary D.	Delivered: 3/15/2013 9:47 AM
	Mark A. Pacella (mpacella@attorneygeneral.gov)	
	Downing, John L.	

Cliff – Attached are copies of the proposed Orders in connection with the filed Petition regarding the sale of the property and the proposed Petition regarding the limited fund transfer. If there are changes that you can propose in an effort to avoid objections, please let me know and we will try to resolve them and then submit revised Orders to the Court. We also understand that, after you review the draft Answers and New Matter, you will forward them to us so that we can determine if there is a basis to resolve any disagreement regarding the relief sought by The Second Mile.

Thanks,

Howard

EXHIBIT "B"

Page 1 of 3

IN THE COURT OF COMMON PLEAS
OF THE 49th JUDICIAL DISTRICT OF PENNSYLVANIA
CENTRE COUNTY
CIVIL DIVISION – ORPHANS’ COURT

IN RE: THE SECOND MILE

Petition for Expedited Sale of
Atherton Street Property

No. 14-12-0255 of 2011

ORDER

AND NOW, this _____ day of _____, 2013, upon consideration of the
Petition for Expedited Approval of Sale of Atherton Street Property filed by The Second Mile,
noting that no objections have been filed to the Petition despite notice, it is hereby ORDERED
that the Petition is GRANTED and that the sale of The Second Mile’s Atherton Street Property is
approved and the sale may proceed pursuant to the terms of the Agreement of Sale dated January
18, 2013, between The Second Mile and A.G.L. 2 Limited Partnership.

It is FURTHER ORDERED that the proceeds from the Sale of the Atherton Street
Property be held by The Second Mile pursuant to this Court’s Order dated September 4, 2012.

BY THE COURT:

WILLIAM F. MORGAN, S.J.
SPECIALLY PRESIDING

9507234v1

IN THE COURT OF COMMON PLEAS
OF THE 49th JUDICIAL DISTRICT OF PENNSYLVANIA
CENTRE COUNTY
CIVIL DIVISION – ORPHANS’ COURT

IN RE: THE SECOND MILE
Petition for Limited
Distribution of Assets

No. 14-12-0255 of 2011

ORDER

AND NOW, this _____ day of _____, 2013, upon consideration of the Motion to Lift Stay and Amended Petition for Limited Distribution of Assets filed by The Second Mile, and any and all responses thereto, it is hereby ORDERED that the Petition is GRANTED as follows:

- a. The Court’s September 4, 2012 stay of proceedings is lifted to the extent required by the Order;
- b. The Second Mile’s Plan for the transfer of intellectual property and the sum of \$200,000 to Arrow and Arrow-PA is approved.
- c. All remaining assets of The Second Mile shall be retained by The Second Mile, subject to regular and necessary business expenses as more fully set forth in this Amended Petition, pending final disposition of all litigation, claims or related matters and further Order of this Court.

BY THE COURT:

WILLIAM F. MORGAN, S.J.
SPECIALLY PRESIDING

Rosenthal, Howard A.

From: Cliff Rieders [crieders@riederstravis.com]
Sent: Friday, March 15, 2013 11:50 AM
To: Rosenthal, Howard A.
Cc: Corey Mowrey; Linda Berguson
Subject: Re: The Second Mile - Proposed Orders - Arrow Transfer and Sale of Atherton Street Property

They look appropriate to me.

Sent from my iPad

On Mar 15, 2013, at 9:45 AM, "Rosenthal, Howard A." <hrosenthal@archerlaw.com> wrote:

Cliff – Attached are copies of the proposed Orders in connection with the filed Petition regarding the sale of the property and the proposed Petition regarding the limited fund transfer. If there are changes that you can propose in an effort to avoid objections, please let me know and we will try to resolve them and then submit revised Orders to the Court. We also understand that, after you review the draft Answers and New Matter, you will forward them to us so that we can determine if there is a basis to resolve any disagreement regarding the relief sought by The Second Mile.

Thanks,

Howard

Howard A. Rosenthal, Esq.

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<[aglogo.jpg](#)>

EXHIBIT "C"

- Page 1 of 2

IRS Circular 230 Disclaimer: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) voiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

INFORMATION CONTAINED IN THIS E-MAIL TRANSMISSION IS PRIVILEGED AND CONFIDENTIAL. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS EMAIL, DO NOT READ, DISTRIBUTE OR REPRODUCE THIS TRANSMISSION (INCLUDING ANY ATTACHMENTS). IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY TELEPHONE OR EMAIL REPLY.

<(9532126 - 1) - Order - Arrow Transfer-c.pdf>

