

IN THE CIRCUIT COURT FOR ALACHUA COUNTY, FLORIDA

STATE OF FLORIDA,
DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES,

Petitioner,

vs.

CASE NO.

REEFSAVERS.ORG., INC.,
a Florida non-profit corporation

Respondent.

**PETITION FOR ENFORCEMENT AND
COMPLAINT FOR CIVIL PENALTIES AND INJUNCTION**

STATE OF FLORIDA, DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (Department), brings this action against REEFSAVERS.ORG., INC., a Florida non-profit corporation (Respondent), and alleges:

GENERAL ALLEGATIONS

1. This Court has jurisdiction over this action pursuant to Section 120.69, Florida Statutes, authorizing an agency to seek enforcement of its action by filing a petition for enforcement in the circuit court where the subject matter of the enforcement is located, and Chapter 496, Florida Statutes.
2. The Department is an agency under Chapter 120, Florida Statutes.
3. The Department is an enforcing authority of the Solicitation of Contributions Act, Sections 496.401-496.424, Florida Statutes (the Act).
4. The Respondent is a non-profit Florida corporation with its principal address listed with the Department of State as: 2611 NW 48th Place, Gainesville, Florida 32605.

5. The Act requires charitable organizations soliciting contributions in or from Florida to file a registration statement and an annual renewal statement with the Department.

6. The Respondent was a registered charitable organization but allowed its registration to lapse and failed to renew its registration with the Department in accordance with the Act. The Respondent continues to act as a charitable organization soliciting contributions in or from Florida without being registered with the Department.

COUNT I

Paragraphs 1 through 6 are realleged and incorporated by reference.

7. This is an action under Section 120.69, Florida Statutes, for enforcement of a Final Order.

8. The Final Order, attached as Exhibit "A" and fully incorporated herein, was rendered on January 5, 2018, imposing an administrative fine of \$500.00. The Final Order also ordered Respondent to cease and desist from operating as a charitable organization soliciting contributions in violation of the Act. A copy of the Final Order was sent to the Respondent on January 11, 2018. The Respondent did not appeal the Final Order, as provided in section 120.68 Florida Statutes.

9. As of the date of this Petition, Respondent has not registered with the Department or satisfied the administrative fine.

10. The Department is entitled to an award of attorneys' fees and costs pursuant to Section 120.69(7), Florida Statutes.

COUNT II

Paragraphs 1 through 10 are realleged and incorporated by reference.

11. Section 496.420, Florida Statutes, provides in pertinent part, that:

Upon a finding that any person has violated any of these sections, a court may make any necessary order or enter a judgment including, but not limited to, a temporary or permanent injunction, a declaratory judgment, the appointment of a special master or receiver, the sequestration of assets, the reimbursement of persons from whom contributions have been unlawfully solicited, the distribution of contributions in accordance with the charitable or sponsor purpose expressed in the registration statement or in accordance with the representations made to the person solicited, the reimbursement of the department for investigative costs, attorney's fees and costs, and any other equitable relief the court finds appropriate. Upon a finding that any person violated any provision of ss. 496.401 - 496.424 or s. 496.426 with actual knowledge or knowledge fairly implied on the basis of objective circumstances, a court may enter an order imposing a civil penalty in an amount not to exceed \$10,000 per violation.

12. The Respondent's acts and practices, as set forth herein, constitute a violation of the Act. Respondent continues to operate with actual knowledge or knowledge fairly implied that it is in violation of, or has failed to comply with, the Act.

13. Absent injunctive relief and/or the imposition of appropriate penalties by this Court, the Respondent is likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

14. The Department is entitled to an award of attorneys' fees and costs pursuant to Section 496.420, Florida Statutes.

WHEREFORE, the Department respectfully requests that the Court:

- A. Enter judgment for the administrative fine of \$500.00;
- B. Assess a civil penalty in an amount not to exceed \$10,000.00 per violation;

C. Enjoin the Respondent from operating as a charitable organization soliciting contributions in violation of the Act until the Respondent is registered, all fines and penalties have been paid, and the Respondent is otherwise in full and complete compliance with the Act; and

D. Award the Department its reasonable attorneys' fees and costs, and grant such other relief as this Court deems appropriate.

**ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE**

/s/ Blair N. Bodenmiller
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**FLORIDA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES**

**DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

Petitioner,

vs.

Case No. 1710-41923

Agency Clerk No: B06997

REEFSAVERS.ORG, INC.,

Respondent.

FINAL ORDER

THIS CAUSE, arising under the Florida Solicitation of Contributions Act (the Act), Sections 496.401-496.424, Florida Statutes, came before the Commissioner of Agriculture of the State of Florida for consideration and final agency action. The record in this matter is in accordance with Chapter 120, Florida Statutes.

I. FINDINGS OF FACT

1. Reefsaver.Org, Inc. (Respondent), is an organization recognized under 26 U.S.C., s. 501(c)(3), which was registered with the Department as a charitable organization soliciting contributions in or from Florida effective September 7, 2016, with registration number CH49261
2. The Respondent was due to renew its registration with the Department on or before September 7, 2017.
3. It was determined by internet search on October 26, 2017, that the Respondent was actively soliciting charitable contributions in Florida without being properly registered with the Department. The Respondent's website included an active link requesting donations via PayPal services.

4. On October 30, 2017, by UPS Ground, the Department issued to the Respondent an Administrative Complaint and Settlement Agreement for failure to comply with either Section 496.405(1), F.S., or Section 496.406(2), F.S., which included a Notice of Rights pursuant to Chapter 120, F.S. The allegations of fact set forth in the Administrative Complaint are adopted and incorporated herein by reference as findings of fact by the Department.

5. Delivery of the Administrative Complaint and Settlement Agreement to the Respondent was confirmed by signature on October 31, 2017.

6. The Respondent has not complied with the terms of the Administrative Complaint and Settlement Agreement, contested the matter, or filed a request for hearing within the 21 day period following delivery of the Administrative Complaint and Settlement Agreement.

II. CONCLUSIONS OF LAW

7. The Department has jurisdiction over this matter and the Respondent pursuant to Chapters 120 and 496, F.S.

8. Pursuant to Section 120.54(5), F.S. and Rule 28-106.111, Florida Administrative Code (F.A.C.), the failure to timely respond to the Administrative Complaint constitutes a waiver by the Respondent of the right to an administrative hearing.

9. Pursuant to Section 496.405(1), F.S., each charitable organization or sponsor, unless exempted pursuant to Section 496.406, F.S., which intends to solicit contributions in or from this state by any means, must, before engaging in any of these activities, file an initial registration statement and a renewal statement annually thereafter, with the Department.

10. Pursuant to Section 496.406(2), F.S., before soliciting contributions, each charitable organization or sponsor claiming to be exempt from the registration requirements of Section 496.405, F.S., under Section 496.406(1)(d), F.S., must submit a Small Charitable

Organizations/Sponsors Application annually to the Department.

11. The Respondent solicited contributions in or from the State of Florida without having complied with the requirements of either Section 496.405(1), F.S., or Section 496.406(2), F.S.

12. Sections 496.419(4) and (5), F.S., grant the Department the authority to order the Respondent to cease and desist fundraising activities and to impose an administrative fine not to exceed \$500 per violation for failure to register under Section 496.405 or file for an exemption under Section 496.406(2), F.S.

Upon consideration of the foregoing, a review of the record, and being otherwise fully advised in the premises, it is hereby **ORDERED AND ADJUDGED** that:

- A. The Respondent shall pay an administrative fine in the amount of \$500;
- B. The Respondent shall cease and desist from acting as a charitable organization soliciting contributions in or from the State of Florida until such time as the Respondent is in compliance with the Florida Solicitation of Contributions Act;

Done and Ordered this 5th day of January, 2017.

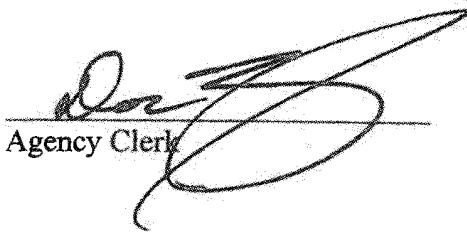
ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE


AMY TOROL
DIVISION DIRECTOR

NOTICE OF RIGHT TO JUDICIAL REVIEW

Any party to these proceedings adversely affected by this Final Order is entitled to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Judicial review proceedings must be instituted by filing a Notice of Appeal with the Department's Agency Clerk, 407 South Calhoun Street, Suite 509, Tallahassee, Florida, 32399-0800, within thirty (30) days of rendition of this order. A copy of the Notice of Appeal must be filed with the Clerk of the appropriate District Court of Appeal accompanied by any filing fees prescribed by law.

Rendered, this 5th day of January, 2017.



Agency Clerk

Copies by USPS to:

Reefsaver.Org, Inc.
Joe Glass, Registered Agent
2611 NW 48th Place
Gainesville, FL 32605