

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
ATTORNEY FOR PLAINTIFF  
RICHARD J. HUGHES JUSTICE COMPLEX  
25 MARKET STREET  
P.O. BOX 117  
TRENTON, NEW JERSEY 08625-0117

BY: WILLIAM E. VAUGHAN  
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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - ESSEX COUNTY  
DOCKET NO. ESX-L-6937-22

JUSTIN ZIMMERMAN<sup>1</sup>, ACTING )  
COMMISSIONER OF THE )  
NEW JERSEY DEPARTMENT OF )  
BANKING AND INSURANCE, )  
 )  
PLAINTIFF, )  
 )  
V. )  
 )  
FOUNDATION FOR FAMILY )  
GUIDANCE AND CHRISTIAN )  
COUNSELING CENTER; NANCY )  
GEARHART; MICHAEL CLAY; and )  
RONALD A. MITCHELL, )  
 )  
Defendants. )  
 )

CIVIL ACTION  
**STIPULATION OF SETTLEMENT**

WHEREAS Plaintiff Justin Zimmerman, Acting Commissioner of the New Jersey Department of Banking and Insurance ("Plaintiff" or "Commissioner"), and Defendants Foundation for Family Guidance

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<sup>1</sup> Pursuant to R. 4:34-4, the caption has been revised to reflect the current Acting Commissioner of the Department.

and Christian Counseling Center, Nancy Gearhart, Michael Clay, and Ronald A. Mitchell (collectively, "Defendants") have reached an amicable agreement resolving the issues in controversy, and consented to the entry of the within Stipulation of Settlement ("Settlement").

WHEREAS the Commissioner and Defendants (collectively, "Parties") have determined and hereby agree that settlement is in each of their best interests, and for good cause shown.

NOW THEREFORE, the Parties agree fully and finally to settle this matter pursuant to the terms and conditions below.

1. Defendants Foundation for Family Guidance and Christian Counseling Center, Ronald Mitchell, Nancy Gearhart, and Michael Clay represent that they believed each was complying with the NJIFPA, N.J.S.A. 17:33A-1 to -30 when submitting bills for counseling services rendered, but now accept that those counseling services should not have been billed under Dr. Mitchell's name.

2. Defendants shall pay a total judgment of \$149,000.00 to the Commissioner ("Settlement Amount"). This Settlement Amount consists of \$90,000.00 in civil penalties pursuant to N.J.S.A. 17:33A-5(b); \$6,154.98 in attorneys' fees pursuant to N.J.S.A. 17:33A-5(b); a \$13,500.00 statutory surcharge pursuant to N.J.S.A. 17:33A-5.1; and restitution of \$5,070.50 to Independence Blue Cross

Blue Shield, \$22,227.40 to Horizon Blue Cross Blue Shield, and \$13,047.12 to Aetna pursuant to N.J.S.A. 17:33A-26.

3. Defendants shall satisfy the judgment upon the following terms and conditions:

Immediately upon execution of this Stipulation of Settlement by Defendants, Defendants shall remit to the attorney for the Commissioner a payment in the amount of \$149,000.00 by certified check, official bank check, or money order made payable to the "Commissioner, New Jersey Department of Banking and Insurance" and sent to:

William E. Vaughan  
Deputy Attorney General  
Banking and Insurance Section  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 117  
Trenton, New Jersey 08625

4. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Settlement has been made to or relied upon by Defendants in agreeing to this Settlement. Defendants represent that this Settlement is freely and voluntarily entered into without any degree of duress or compulsion.

5. The Parties agree that each Party shall bear its own legal and other costs incurred in connection with this matter, and no additional attorneys' fees or costs shall be due, except

Defendants agree to pay Plaintiff's attorneys' fees pursuant to N.J.S.A. 17:33A-5(b) (in the amount stated in Paragraph 2) plus all reasonable costs of collection and enforcement of this Settlement, including attorneys' fees and expenses.

6. For purposes of construction, this Settlement shall be deemed drafted by all Parties to this Settlement and therefore shall not be construed against any Party for that reason in any subsequent dispute.

7. The undersigned counsel and any other signatories represent and warrant that they are fully authorized to execute this Settlement on behalf of the persons indicated below.

8. All communications from any party concerning the subject matter of this Settlement shall be addressed as follows:

If to the Commissioner: William E. Vaughan  
Deputy Attorney General  
Banking and Insurance Section  
R.J. Hughes Justice Complex  
25 Market Street  
P.O. Box 117  
Trenton, New Jersey 08625

If to Defendants: Brendan P. Burke, Esq.  
Goshen Executive Center  
1450 E. Boot Road, Building 400 D  
West Chester, PA 19380  
Attorney for Ronald A. Mitchell

David M. Blackwell, Esq.  
Donnelly, Minter & Kelly, LLC  
163 Madison Avenue  
Morristown, NJ 07960  
Attorney for Foundation for Family

Guidance and Christian Counseling Center  
and Michael Clay

John E. Shields, Jr., Esq.  
Helmer, Conley & Kasselmann, P.A.  
600 Beverly-Rancocas Road  
Willingboro, NJ 08046  
Attorney for Nancy Gearhart

9. This Settlement may be executed in counterparts, each of which constitutes an original and all of which constitutes one and the same agreement.

10. Pursuant to N.J.S.A. 17:33A-10(c), a copy of this Stipulation of Settlement shall be provided to any appropriate licensing authority.


11. The penalties of this Settlement are imposed pursuant to the police powers of the State of New Jersey for the enforcement of the law and protection of the public health, safety, and welfare, and are not intended to constitute debts which may be limited or discharged in a bankruptcy proceeding.

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CONSENTED AS TO FORM, CONTENT, AND ENTRY:

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiff

Dated: 4/2/24

By:   
William E. Vaughan  
Deputy Attorney General


Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Ronald Mitchell  
Defendant


Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Brendan P. Burke, Esq.  
Attorney for Ronald Mitchell

Dated: 3/01/24

By:   
Nancy Gearhart  
Defendant

Dated: 3/1/24

By:   
John E. Shields, Esq.  
Attorney for Nancy Gearhart

CONSENTED AS TO FORM, CONTENT, AND ENTRY:

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiff

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
William E. Vaughan  
Deputy Attorney General

Dated: 3/7/24 By: Ronald A. Mitchell  
Ronald Mitchell  
Defendant

Dated: 3/7/24 By: Brendan P. Burke  
Brendan P. Burke, Esq.  
Attorney for Ronald Mitchell

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Nancy Gearhart  
Defendant

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
John E. Shields, Esq.  
Attorney for Nancy Gearhart

Dated: 3/5/24

By: Michael Clay  
Michael Clay  
Defendant

Dated: 3/5/24

By: Michael Clay  
Michael Clay  
On behalf of Foundation for Family  
Guidance and Christian Counseling  
Center  
Defendant

Dated: \_\_\_\_\_

By: /s/ David M. Blackwell  
David M. Blackwell, Esq.  
Attorney for Foundation for Family  
Guidance and Christian Counseling  
Center and Michael Clay