

**IN THE COURT OF COMMON PLEAS OF
DELAWARE COUNTY, PENNSYLVANIA**

Commonwealth of Pennsylvania,
By Attorney General Michelle Henry,

Petitioner,

v.

Deaf-Hearing Communication Centre, Inc.,

Respondent.

CIVIL ACTION – EQUITY

Case No. _____

ASSURANCE OF VOLUNTARY COMPLIANCE

AND NOW, comes the Commonwealth of Pennsylvania, acting by Attorney General Michelle Henry, through the Civil Rights Enforcement Section (hereinafter “Commonwealth” and/or “Petitioner”), which investigated the practices of the Deaf-Hearing Communication Centre, Inc. (hereinafter “DHCC” and/or “Respondent”) pursuant to the provisions of the Americans with Disabilities Act, 42 U.S.C. §12182 *et seq.* (ADA), the Pennsylvania Human Relations Act, 43 P.S. § 951, *et seq.* (PHRA), and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* (Consumer Protection Law), and states the following:

PARTIES

WHEREAS, Petitioner is the Commonwealth of Pennsylvania, by Attorney General Michelle Henry, through the Civil Rights Enforcement Section, with offices throughout the Commonwealth, including Strawberry Square, 14th Floor, Harrisburg, Pennsylvania 17120.

WHEREAS, DHCC operates as a non-profit Pennsylvania corporation, which at all relevant times maintained an address at 630 Fairview Rd # 100, Swarthmore, PA 19081.

BACKGROUND

WHEREAS, Respondent has engaged in trade and commerce within Pennsylvania by offering and providing sign language interpreting or transliterating services to clients, including regularly to healthcare and other services providers.

WHEREAS, the Pennsylvania Sign Language Interpreter and Transliterators State Registration Act (Act 57) requires sign language interpreters, subject to various exceptions, to register with the Pennsylvania Office of Deaf and Hard of Hearing (ODHH). 63 P.S. § 1725.4(a). Registration with ODHH, for those who are required to register, includes providing proof that the sign language interpreter has passed a knowledge and proficiency exam. The law articulates several exceptions to the registration requirement, one of which is if the unregistered interpreter informs the deaf individual that they are not registered and obtains a written confirmation acknowledging that the interpreter is not registered and that the client desires the interpreter's services. 63 P.S. § 1725.4(b)(5); 34 Pa. Code § 501.5(e).

WHEREAS, the Commonwealth investigated a complaint from a man who was deaf and communicated through American Sign Language (ASL) with the assistance of an ASL interpreter. On or about September 30, 2021, the complainant arrived for an appointment at a local hospital in Philadelphia, PA, which contracts with DHCC for the provision of ASL interpreters. Per the hospital's request, DHCC provided an ASL interpreter so that the complainant could receive ASL interpretation services during his appointment. During the appointment, the complainant felt that the interpretation services he received were not adequate and he was not able to communicate effectively with his doctor. The complainant's husband had to step in and take over ASL interpreting during the visit. The complainant later determined that assigned interpreter was not registered according to Act 57.

WHEREAS, the Commonwealth acknowledges that the subject incident involving the complainant identified above occurred during the COVID-19 pandemic, during which period there existed a widespread concern regarding the spread of COVID-19 in hospital or other medical settings. The Commonwealth acknowledges that COVID-19, and the fear of becoming ill as a result thereof, created certain shortages in the medical field, including not only medical supplies, but personnel to service the medical field.

WHEREAS, during the course of its investigation, the Commonwealth learned that DHCC attempted to provide the complainant with a registered interpreter, but due to concerns relating to the spread of COVID-19, DHCC had difficulty finding any registered interpreter to appear within a hospital setting. An unregistered interpreter, who had provided interpreter services subject to the exceptions Act, agreed to appear at the complainant's medical appointment. The interpreter did not report to the complainant that he was unregistered.

WHEREAS, the Commonwealth and DHCC enter into this AVC solely for the purpose of avoiding continued investigation and potential contested litigation.

WHEREAS, pursuant to Section 201-5 of the Consumer Protection Law, the DHCC agreement to enter into this AVC shall not be considered an admission of violation of law for any purpose. *See* 73 P.S. § 201-5. Moreover, the parties' agreement to enter into this AVC shall not be considered an admission of any kind for the purposes of any criminal, civil or administrative manner.

SETTLEMENT TERMS

NOW THEREFORE, having conducted trade and commerce within the Commonwealth, Respondent for itself, its officers, and employees, agrees to the following terms, voluntarily entered to resolve this matter:

I. Conduct Provisions

1. *Assignment of Qualified Interpreters for Effective Communication with Consumers Who are Deaf or Hard-of-Hearing:* When DHCC assigns interpreters to provide sign-language interpreting services to deaf or hard-of-hearing consumers, it shall only assign interpreters who are qualified, meaning, at minimum, they are able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary vocabulary. In addition, with respect to interpreters who are assigned to events within the confines of the Commonwealth of Pennsylvania, DHCC will use interpreters registered with ODHH pursuant to Act 57 to the fullest extent required by law, when required by statute to do so, and subject to those explicit exceptions in Act 57.

2. *Policy and Procedure:* Within 30 days of executing this AVC, Respondent will change its policy and procedure with respect to those instances where Act 57 requires the use of a registered interpreter, as follows:

a. When a client entity contacts DHCC to request ASL interpreting services, DHCC will first attempt to identify an available DHCC interpreter who is registered with ODHH.

b. If DHCC cannot identify an ODHH-registered interpreter, DHCC will identify and conditionally assign the most experienced and qualified non-registered ASL interpreter available who volunteers for the assignment.

c. DHCC's agreement with each non-registered interpreter will require the non-registered interpreter to notify the individual needing ASL interpreting services, as far in advance of the date of the appointment as is practicable, that he or she is the only interpreter available and is not registered with ODHH. The interpreter shall provide the individual a summary description of the interpreter's experience and qualifications, and secure the individual's

agreement to those services. This will give the individual needing ASL interpreting services a fair opportunity to decide whether to accept the non-registered ASL interpreter's services, reschedule the appointment for which interpreting services are needed, arrange to bring an ASL support person of their choosing, or use a different method of communication.

d. DHCC's agreement with each non-registered ASL interpreter will provide that, upon arrival at the site, that ASL interpreter shall request that the individual needing ASL interpreting services sign the ODHHS "Sign Language Interpreter & Transliterators State Registration Act – Request to Use Non-Registered Interpreter/Transliterators" in accordance with Act 57.

3. *Donation:* Within 30 days, DHCC will contribute five thousand dollars (\$5,000) to the Pennsylvania Society for the Advancement of the Deaf, to be specifically attributed to the complainant's memorial fund for deaf youth.

II. Miscellaneous Terms

A. This Court shall maintain jurisdiction over the subject matter of this Assurance of Voluntary Compliance and over Respondent for the purpose of enforcing its terms.

B. Nothing in this Assurance of Voluntary Compliance shall be constructed to waive any individual right of action by a consumer, or a local, state, federal, or other governmental entity.

C. Nothing in this Assurance of Voluntary Compliance shall be constructed to waive any defense of DHCC to any cause or right of action pursued by any individual, consumer, state, federal or other governmental entity.

D. This Assurance of Voluntary Compliance is inadmissible in any cause of action pursued by any individual or entity (governmental or otherwise) aside from any action specifically

pursued by the Attorney General's Office to enforce its terms, if necessary.

E. Time shall be of the essence with regards to the obligations of Respondent.

F. Respondent has produced a new policy and procedures to the Office of Attorney General in compliance with the above provisions along with the new draft interpreter contract which includes the provision identified above.

G. Neil McDevitt is the Executive Director of Deaf Hearing Communications Centre, Inc. and hereby states that he is authorized to enter into and execute this Assurance of Voluntary Compliance on its behalf; and, further agrees to execute and deliver any additional authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Assurance of Voluntary Compliance. Nothing in this agreement precludes Respondent from challenging the scope, subject matter, and time frame of the documents sought.

H. Any failure of the Commonwealth to exercise any of its rights under this Assurance of Voluntary Compliance shall not constitute a waiver of its rights hereunder.

I. This Assurance of Voluntary Compliance may be executed in any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts of this Assurance of Voluntary Compliance may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

J. This Assurance of Voluntary Compliance sets forth all of the promises, covenants, agreements, conditions, and understandings between the parties, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied. There are no representations, arrangements or understandings, oral or written, between

the parties relating to the subject matter of this Assurance of Voluntary Compliance that are not expressed herein or attached hereto. Each party specifically warrants that this Assurance of Voluntary Compliance is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein.

K. Respondent understands and agrees that if any false statement in or related to this Assurance of Voluntary Compliance has been made on its behalf, such statement is made pursuant to and under penalty of 18 Pa.C.S. § 4904 relating to unsworn falsifications to authorities.

L. Respondent agrees by the signing of this Assurance of Voluntary Compliance that they shall abide by each of the aforementioned provisions and that the breach of any one of these terms shall be sufficient warrant for the Commonwealth of Pennsylvania to petition this Court, or any court of competent jurisdiction, to assess the penalties provided for under Section 201-8(a) of the Consumer Protection Law, 73 P.S. §201-8(a), and to order any other equitable relief which the Court deems necessary or proper, including but not limited to ordering the dissolution, suspension or forfeiture of the franchise or right of Respondent to do business in the Commonwealth of Pennsylvania. Respondent does not waive any defenses to any actions that may be brought by the Commonwealth pursuant to, or in response to any alleged violation of, this Assurance of Voluntary Compliance.

M. If any clause, provision or section of this Assurance of Voluntary Compliance shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Assurance of Voluntary Compliance and the Assurance of Voluntary Compliance shall be construed and

enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein

N. Respondent shall not represent or imply that the Commonwealth acquiesces in, or approves of, Respondent's past or current business practices, efforts to improve their practices, or any future practices that Respondent may adopt or consider adopting.

O. If any federal, state or local government or agency passes, issues or promulgates any law, rule, regulation, standard or interpretation, including standards and interpretations of existing law, or any court of competent jurisdiction renders any decision or issues any other pronouncement, at any time while this Assurance of Voluntary Compliance is in effect, which prohibits, restricts, limits or in any way substantially changes the laws and regulations referenced herein, or which otherwise significantly affects either party's rights or obligations hereunder, or which results in this Assurance of Voluntary Compliance or a provision(s) herein as being construed as violative of applicable law, then either party may give the other notice of intent to amend this Assurance of Voluntary Compliance to the satisfaction of both parties, to address such prohibition, restriction, limitation or change.

SIGNATURES ON SEPARATE PAGES

WHEREFORE, intending to be legally bound, the signatories have hereto set their hands and seals.

For the Petitioner:

Commonwealth of Pennsylvania

Michelle Henry
Attorney General

James A. Donahue, III
First Deputy Attorney General

Mark Pacella
Executive Deputy Attorney General
Public Protection Division

Date: 11/21/23

By: 

Corbett L. Anderson
Chief Deputy Attorney General
Civil Rights Enforcement Section
PA Attorney I.D. No. 77027

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Harrisburg, PA 17120
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For the Respondent:
Deaf Hearing Communications Centre, Inc.

Date: November 17, 2023

By: 
Neil McDevitt
Executive Director

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: 11/21/23

By: 

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Harrisburg, PA 17120
Telephone: (717) 705-6840
Fax: (717) 787-1190
Email: canderson@attorneygeneral.gov


CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this Assurance of Voluntary Compliance upon all other parties or their attorney of record by:

- _____ Regular First Class Mail
- _____ Certified Mail
- _____ Electronically Filed
- _____ Other

The response date: N/A

Corbett L. Anderson
Name (typed)



Signature

Dated: 4/21/23