

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 SOS 01775

BRIDGEWAY ASSOCIATES NP
CHANEL N. HARRIS,

Petitioner,

v.

NORTH CAROLINA DEPARTMENT
OF THE SECRETARY OF STATE,

Respondent.

FINAL DECISION

This contested case came on for hearing before the undersigned Administrative Law Judge on June 27, 2016, in Courtroom A of the Office of Administrative Hearings, 1711 New Hope Church Rd., Raleigh, NC 27609.

APPEARANCES

Petitioner: Chanel Harris, *pro se*
for Bridgeway Associates, NP and
the Marie Foundation
623 Carolina Ave.
Raleigh, NC 27606-1605

Respondent: Jeremy D. Lindsley
Assistant Attorney General
for Respondent
NC Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001

ISSUE

Did the NC Department of the Secretary of State, Charitable Solicitation Licensing Division, properly deny Petitioner's applications for an individual solicitor's license and for a charitable organization solicitor's license?

Based on the testimony of the witnesses, exhibits submitted by the parties, argument of counsel and upon a preponderance of the admissible evidence, the undersigned makes the following:

FINDINGS OF FACT

1. Petitioner is a citizen and resident of Raleigh, Wake County, North Carolina.
2. Respondent is the state agency in North Carolina responsible for administering and enforcing laws that govern licensure of entities and individuals engaged in the solicitation of charitable contributions pursuant to N.C.G.S. § 131F-1 et seq.
3. On February 9, 2016, Respondent's Charitable Solicitation Licensing Division ("CSL Division") received Petitioner's application on behalf of Bridgeway Associates, NP for a Solicitation License. The requirements for licensure are set forth in N.C.G.S. § 131F-16.
4. On February 11, 2016, Respondent's CSL Division received Petitioner's application on behalf of the Marie Foundation for a Charitable Organization Solicitation License. The requirements for licensure are set forth in N.C.G.S. § 131F-6.
5. N.C.G.S. §§ 131F-16 and 131F-6 require that applicants for licensure submit certain information to the Division as part of the application together with payment of the appropriate fee at the time of the application.
6. Upon review of the Petitioner's application on behalf of Bridgeway Associates, the CSL Division determined that the application was deficient in that Petitioner failed to include information, documentation and fees required by N.C.G.S. § 131F-6 as follows:
 - a. the names and addresses of all officers, director's, and owners;
 - b. whether any of the owners, directors, officers, or employees of the applicant are related as parent, spouse, child, or sibling to any other directors, officers, owners, or employees of the applicant;
 - c. whether the application fee will cover partners, members, officers, directors, agents, and employees and, if so, the names and street addresses of all of the officers, employees and agents of the solicitor and all other persons with whom the solicitor has contracted to work under that solicitor's direction;
 - d. file and have approved by the Department a bond with a surety authorized to do business in this State and to which the solicitor is the principal obligor.
 - e. a fee of \$200.00.

7. Upon review of the Petitioner's application on behalf of the Marie Foundation, the CSL Division determined that the application was deficient in that Petitioner failed to include information and/or documentation required by N.C.G.S. § 131F-16 as follows:

- a. the street address and telephone numbers of all of its locations in North Carolina if it is a parent organization filing a consolidated registration statement on behalf of its chapters, branches or affiliates;
- b. The names and street addresses of its officers, directors and trustees;
- c. the date upon which the entity's fiscal year ends;
- d. a budget showing both projected revenues and expenses for the current fiscal year if applicant is a newly formed organization with no financial history;
- e. a statement indicating whether the applicant has had its authority denied, suspended or revoked by any government agency and, if so, an explanation thereof;
- f. whether the applicant has voluntarily entered into an assurance of voluntary compliance or agreement similar to that set forth in G.S. 131F-24(c) and a copy of said agreement;
- g. copies of North Carolina Fundraising Disclosure Forms for each contractual relationship the applicant has with a fundraising consultant, solicitor or co-venturer;

9. Due to the deficiencies of both applications, the CSL Division denied the licenses.

10. On February 12, 2016, Respondent sent two letters to the Petitioner that informed the Petitioner of the denials and identified and described with particularity the deficiencies of each application.

11. Thereafter, Respondent's CSL Division personnel communicated with Petitioner and attempted to assist her in understanding the identified deficiencies and how to remedy those deficiencies. Respondent's personnel attempted several times to explain to Petitioner with particularity what deficiencies existed and what needed to be provided in order to correct those deficiencies.

12. Respondent allowed Petitioner additional time through March 14, 2016 to remedy the deficiencies.

13. The Petitioner did not remedy the deficiencies identified in the two February 12, 2016 letters before the March 14, 2016 extended deadline and Respondent closed its files.

14. Petitioner did in fact provided substantial information to Respondent CSL Division, but very little if any of the information satisfied the deficiencies in the application. The deficiencies still existed even up to the date of the hearing.

15. Petitioner never paid the mandatory filing fees associated with each of her applications.

16. Petitioner filed her Petition for a Contested Case on February 19, 2016.

17. The filing requirements of N.C.G.S. §§ 131F-16 and 131F-6 are mandatory and cannot be waived by the Respondent.

18. Respondent is not authorized to issue any license unless the filing requirements of N.C.G.S. §§ 131F-16 and 131F-6 are satisfied.

19. Respondent has not ordered Petitioner to pay any fine or civil penalty.

20. There is no evidence that Respondent failed to follow proper procedures with respect to its denial of Petitioner's applications.

BASED UPON the foregoing Findings of Fact, the undersigned makes the following:

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction of the subject matter and of the parties herein pursuant to Article 3 of Chapter 150B and Chapter 10B of the North Carolina General Statutes.

2. Petitioner failed to submit all fees, documents and information required by N.C.G.S. § 131F-16 with her application on behalf of Bridgeway Associates NP for a Solicitor's License.

3. Petitioner failed to submit all documents and information required by N.C.G.S. § 131F-6 with her application on behalf of the Marie Foundation for a Charitable Organization Solicitation License.

4. Respondent correctly denied Petitioner's application on behalf of Bridgeway Associates, NP for a Solicitor's License.

5. Respondent correctly denied Petitioner's application on behalf of the Marie Foundation for a Charitable Organization Solicitation License.

FINAL DECISION

Based upon the foregoing Findings of Fact and Conclusions of Law, Respondent's denials of Petitioner's applications should be and are hereby **AFFIRMED**. This contested case is **DISMISSED** with prejudice.

NOTICE

This is a Final Decision issued under the authority of N.C. Gen. Stat. § 150B-34.

Under the provisions of N.C.G.S. § 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, the county where the contested case which resulted in the final decision was filed. **The appealing party must file the Petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.**

In conformity with the Office of Administrative Hearings' rules, 26, N.C.A.C. 03.0102, and the Rules of Civil Procedure, N.C.G.S. §1A-1, **this Final Decision was served upon the parties the date it was placed in the mail as indicated by the date on the certificate of service attached to this Final Decision.** N.C.G.S. § 150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C.G.S. § 150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to endure the timely filing of the record.

This the 14th day of September, 2016.

Donald W. Overby
Administrative Law Judge