Filed
File Date: 9/2/2021 11:30 AM
Rockingham Superior Court
E-Filed Document

THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, SS. SUPERIOR COURT

218-2021-CV-00942

Attorney General,
Director of Charitable Trusts

v.

The Fab Family Fund, Inc., Shanna Pinet a/k/a Dr. Fabianna Marie, David Pinet, and Michelle Tolson

COMPLAINT FOR PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF, RESTITUTION, AND CIVIL PENALTIES

NOW COMES the New Hampshire Attorney General, Director of Charitable Trusts ("Director"), and complains against The Fab Family Fund, Inc., Shanna Pinet a/k/a Dr. Fabianna Marie, David Pinet, and Michelle Tolson, as follows:

INTRODUCTION

1. The Fab Family Fund, Inc. ("Fab Family Fund"), a New Hampshire voluntary corporation, purports to be a charitable organization that has been engaged in various fundraising activities since at least February 2020. Fab Family Fund has failed to comply with its obligation under New Hampshire law to register with the Charitable Trusts Unit of the New Hampshire Attorney General's office despite numerous reminders to Fab Family Fund and its founder and chief executive officer, Shanna Pinet a/k/a Dr. Fabianna Marie, to do so. Moreover, the individual defendants, all of whom are members of the board of directors of Fab Family Fund, ignored requests for information and administrative subpoenas issued by the Director pursuant to state law. The protection of the public and the preservation of the integrity of the nonprofit sector require that Fab Family Fund and the members of its board of directors immediate cease fundraising activities and be held accountable for their knowing violations of New Hampshire

charitable trusts law and the rules and procedures of the Charitable Trusts Unit of the New Hampshire Attorney General's office.

PARTIES

2. The Director of Charitable Trusts, 33 Capitol St., Concord, NH 03301, exercises all statutory and common law rights of the Attorney General in connection with the supervision, administration, and enforcement of charitable trusts and has the duty to see that the rights of the public in a charitable trust are protected and properly executed. *See, e.g.,* RSA 7:19-7:32-l; *In re Trust of Mary Baker Eddy,* 172 N.H. 266, 273, 212 A.3d 414, 420 (2019) ("the attorney general (or the [Director of Charitable Trusts], as his representative) has the statutory power and duty to represent the public in the enforcement and supervision of charitable trusts"); *Attorney Gen. v. Rochester Trust C*o., 115 N.H. 74, 76, 333 A.2d 718 (1975) (the attorney general has the duty to protect the rights of the public in charitable trusts); *Souhegan National Bank v. Kenison*, 92 N.H. 117, 122 (1942) (the duty of the attorney general with respect to charitable trusts "admits of no question").

3. Fab Family Fund is a voluntary corporation with its principal place of business at 12 Fox Hollow Road, Atkinson, NH 03811, the residential address of defendants Shanna Pinet and David Pinet.

4. Shanna Pinet (also known as "Dr. Fabianna Marie"), is the chief executive officer, founder, and director of Fab Family Fund. Her residential address is 12 Fox Hollow Road, Atkinson, NH 03811.

5. David Pinet, Shanna Pinet's husband, is the co-founder and treasurer of Fab Family Fund. His residential address is 12 Fox Hollow Road, Atkinson, NH 03811.

6. Michelle Tolson is the president of Fab Family Fund. Her residential address is 190 East 21st Street, Unit 2B, Brooklyn, NY 11226-3970.

JURISDICTION AND VENUE

7. This Court has general jurisdiction over matters involving the supervision, administration, and enforcement of charitable trusts, including actions brought by the Attorney General pursuant to RSA 7:19 through 32-*l*. RSA 491:7; 498:1.

8. Venue lies with this Court because this is a transitory action, and defendants Shanna Pinet and David Pinet reside in Rockingham County. RSA 507:9.

ALLEGATIONS COMMON TO ALL COUNTS

9. Fab Family Fund was established as a voluntary corporation on September 14, 2020, when it filed its articles of agreement with the New Hampshire Secretary of State. The incorporators included defendants Michelle Tolson, David Pinet, and Shanna Pinet. According to its registration with the New Hampshire Secretary of State, Fab Family Fund's principal office address is 12 Fox Hollow Road, Atkinson, New Hampshire.

10. Prior to incorporating, Fab Family Fund began soliciting donations through its Facebook page and its website: www.fabfamilyfund.org, which states as follows:

> The Fab Family Fund is an established 501(c)3 non-profit organization. We exist to educate, facilitate and grant Breast Cancer Thrivers and their families an all expense paid trip for solace and healing. Our community is strong because of the love and respect we share. Our donors are the backbone of our Organization. Every amount donated helps our cause and brings awareness to the community.

11. According to the website of Fab Family Fund, www.fabfamilyfund.org, the mission of the organization is to:

> **Provide** and fund vacations to Breast Cancer Fighters currently in active treatment, or have been through treatment within the last six months.
> **Provide** seminars that focus on multiple healing modalities and women's empowerment.

> **Provide** education to the community to teach about early detection, identifying your potential risk factors, and available resources.
> **Highlight** the ongoing Metastatic Breast Cancer (MBC) research crisis. Support and help fund current and new MBC research initiatives by partnering with medical organizations.

20. While Fab Family Fund claims on its Facebook page and website that it is a "501(c)(3) nonprofit," it has not received such recognition from the Internal Revenue Service.

21. On October 13, 2020, Fab Family Fund held a fundraiser called, "Fab Fight Day." The fundraiser included virtual presentations throughout the day and a silent auction.

22. According to its Facebook page, in November 2020, Fab Family Fund raised money to benefit the "Boston Rescue Mission for Thanksgiving."

23. In December 2020, Fab Family Fund issued a newsletter and posted a notice on its Facebook page, encouraging donations on "Giving Tuesday" through Venmo ("@thefabfamily-fund") and PayPal ("the Fab Family Fund") with the following statement:

> The Fab Family Fund is an established 501(c)3 non-profit organization. We exist to educate, facilitate, and grant Breast Cancer Thrivers and their families on an all expense paid trip for solace and healing. Join us during Giving Tuesday to help us continue providing these critical resources to our community.

24. The December 2020 newsletter also refers to a $3,000 donation by one of its board members, David Bushman, and advertises "Dr. Fabianna's ZenVedaWellness Products."

25. Fab Family Fund conducted additional fundraisers and charitable sales promotions in the ensuing months, including virtual self-care workshops, greeting card sales, flower sales, and photo shoots.

26. In February 2021, Fab Family Fund advertised on its Facebook page a "zoom chat" with "Dr. Fab, the Naturopathic Doctor," on "Demystifying Breast Cancer," including "[b]lending conventional and natural medical approaches to enhance survival and quality of life." The cost of the program was $30, $10 of which was to be donated to the Fab Family Fund.

27. Shanna Pinet ("Dr. Fab") is not licensed as a naturopathic doctor in New Hampshire or elsewhere in the United States.

28. On April 2, 2021, the Charitable Trusts Unit of the New Hampshire Attorney General's office ("CTU") received an anonymous written complaint that Shanna Pinet and David Pinet were operating a sham charity called "The Fab Family Fund."

29. On April 2, 2021, the CTU sent a letter to Shanna Pinet and Fab Family Fund, reminding them of their obligation to register Fab Family Fund with the CTU in accordance with RSA 7:28 and including instructions on how to register. The letter was mailed to Ms. Pinet's residence and Fab Family Fund's principal place of business, 12 Fox Hollow Road, Atkinson, NH 03811. Neither Ms. Pinet nor any other representative of Fab Family Fund responded to the letter, and Fab Family Fund failed to register.

30. On May 4, 2021, the CTU sent a second letter to Ms. Pinet and Fab Family Fund, requiring that they register Fab Family Fund in accordance with state law within 30 days. The letter included information on how to register as well as information about the fiduciary duties of board members to ensure that the organization is in compliance with state and federal laws and regulations. The letter was sent to Ms. Pinet and Fab Family Fund by regular mail and email to thefabfamilyfund@gmail.com, the email address on Fab Family Fund's Facebook page. Neither Ms. Pinet nor any other representative of Fab Family Fund responded to the May 4, 2021 letter, and to date, Fab Family Fund has failed to register with the CTU.

31. On June 7, 2021, pursuant to his authority under RSA 7:24 and RSA 7:25, the Director issued to the members of the Fab Family Fund board of directors a Notice to Attend Investigation, requiring that all officers and directors attend an administrative hearing on June 30, 2021, at the Department of Justice, 33 Capitol Street, Concord, NH. The CTU sent the Notice

to Attend Investigation by certified mail to Fab Family Fund at its principal office address as well as to the residential addresses of board members Shanna Pinet, David Pinet, Michelle Tolson, and Kim Molleur. The notice included the following statement: "Neglect to attend or to remain in attendance so long as may be necessary for the purposes for which this notice is issued or to produce such records as may be required, shall cause you to be liable under the penalties prescribed by law." The United States Post Office returned the letters to the CTU and noted that the letters were "unclaimed" by the recipients. The letters to Fab Family Fund, Shanna Pinet, and David Pinet were returned to the CTU after two notifications by the post office on June 14 and June 24. None of the board members either contacted the CTU or appeared at the June 30, 2021 hearing.

32. On July 8, 2021, pursuant to his authority under RSA 7:24 and RSA 7:25, the Director issued to the members of the Fab Family Fund board of directors a second Notice to Attend Investigation, requiring that all officers and directors attend an administrative hearing on August 11, 2021, at the Department of Justice, 33 Capitol Street, Concord, NH. The notice was sent by regular mail to Fab Family Fund, Shanna Pinet, David Pinet, Michelle Tolson, and Kim Molleur. In addition, the Notice to Attend Investigation was sent via email to board members Shanna Pinet, David Pinet, Kim Molleur, and Claire Johnson Allen.

33. On July 23, 2021, Fred Lulka, a New Hampshire Department of Justice investigator, contacted Shanna Pinet by telephone by using her mobile phone number. During the conversation, Mr. Lulka mentioned that the CTU had been trying to reach Ms. Pinet and instructed her to contact the CTU within 24 hours. She failed to contact the CTU.

34. On July 28, 2021, Kelly Walter, a CTU investigative paralegal, called Ms. Pinet's mobile phone number, but Ms. Pinet did not respond. Ms. Pinet's voice mail message identified

herself as "Dr. Fabianna Marie, Naturopathic Doctor," and stated that she likely was "with patients." Ms. Walter left a voice mail message asking that Ms. Pinet return the call within 24 hours to confirm that the board of directors of Fab Family Fund would attend the August 11, 2021 administrative hearing in accordance with the Notice to Attend Investigation sent to her home address. Ms. Pinet failed to return the call.

35. None of the board members of Fab Family Fund either contacted the CTU or appeared for the August 11, 2021 administrative hearing.

CAUSES OF ACTION

Count I (Violation of RSA 7:28 – Failure to Register)

36. The Director repeats and realleges the preceding paragraphs as if fully set forth herein.

37. Fab Family Fund is a charitable organization under New Hampshire law because it is holds itself out to be established, in whole or in part, for a benevolent, educational, public health, or other charitable purpose. *See* RSA 7:21, II (b).

38. The defendants are all "trustees" within the meaning of RSA 7:21 in that they are either "[a]ny individual, group of individuals, corporation or other legal entity holding property in trust pursuant to any...charitable purpose." RSA 7:21, VIII (a).

39. Under RSA 7:28, I, "[e]very trustee subject to this chapter who has received property for charitable purposes shall file with the attorney general, within 6 months after any part of the income or principal is authorized or required to be expended for a charitable purpose, a copy of the instrument providing for the title, powers or duties of the trustee." The statute also requires that trustees file periodic reports with the attorney general, detailing, *inter alia,* the

nature of the assets held for charitable purposes along with receipts and expenditures in connection with those assets. RSA 7:28, II.

40. Under RSA 7:28-f, I (a), a charitable trust's or trustee's operation "in violation of, or failing to comply with, any of the requirements of RSA 7:19-32-a" is explicitly made unlawful.

41. Defendants failed to register Fab Family Fund with the Director of Charitable Trusts as required by New Hampshire law even after the CTU repeatedly reminded Fab Family Fund and its trustees of the obligation to register. Moreover, defendants failed to submit to the CTU the annual reports as required by statute. These failures amount to violations of RSA 7:28, I and II and are thus violations of RSA 7:28-f.

42. In accordance with RSA 7-28-f, II, Fab Family Fund and the members of its board of trustees, Shanna Pinet, David Pinet, and Michelle Tolson, should be subject to an injunction prohibiting them from operating a charitable organization or soliciting funds for charitable purposes. In addition, they should be held liable for restitution, civil penalties, attorneys' fees, and the costs of CTU's investigation and litigation. RSA 7:28-f, II.

Count II (Violation of RSA 7:28-f, I - Deceptive Fundraising)

43. The Director repeats and realleges the preceding paragraphs as if fully set forth herein.

44. RSA 7:28-f, I (b) makes it unlawful for any charitable organization to utilize any "unfair or deceptive acts or practices." In determining whether an act or practice is "unfair or deceptive," the definitions, standards, and interpretations under the New Hampshire Consumer Protection Act, RSA 358-A, apply. *See* RSA 7:28-f, I (b).

45. Fab Family Fund and the members of its board of directors engaged in unfair or deceptive acts by misrepresenting that it is an "established 501(c)(3) non-profit organization," when it has not been recognized by the Internal Revenue Service as exempt from federal income taxes under section 501 (c) (3) of the Internal Revenue Code.

46. In accordance with RSA 7-28-f, II, Fab Family Fund, Shanna Pinet, David Pinet, and Michelle Tolson, should be subject to an injunction prohibiting them from soliciting funds for charitable purposes. In addition, they should be held liable for restitution, civil penalties, attorneys' fees, and the costs of CTU's investigation and litigation. RSA 7:28-f, II.

Count III (Violation of RSA 7:24 – Failure to Attend Hearings)

47. The Director repeats and realleges the preceding paragraphs as if fully set forth herein.

48. RSA 7:24 provides that the "attorney general may investigate at any time...charitable trusts for the purpose of determining and ascertaining whether they are administered in accordance with law." The statute further provides that for the purposes of investigation, the attorney general may require any "person, agent, trustee, fiduciary...administering a trust, charitable solicitation, or charitable sales promotion or having an interest therein, or knowledge thereof," to appear at such time and place the attorney general designates. RSA 7:24.

49. Fab Family Fund, Shanna Pinet, David Pinet, and Michelle Tolson repeatedly ignored the Director's requests for information and notices to attend an investigation in accordance with RSA 7:24 and RSA 7:25.

50. In accordance with RSA 7-28-f, II, Fab Family Fund, Shanna Pinet, David Pinet, and Michelle Tolson, should be subject to an injunction prohibiting them from operating a

charitable organization or soliciting funds for charitable purposes and requiring that they comply with the Director's requests for information in connection with his investigation. In addition, the defendants should be held liable for restitution, civil penalties, attorneys' fees, and the costs of CTU's investigation and litigation. RSA 7:28-f, II.

Count IV (Violation of RSA 7:28-e – Breach of Fiduciary Duties)

51. The Director repeats and realleges the preceding paragraphs as if fully set forth herein.

52. RSA 7:28-e provides that "[e]very person soliciting, collecting, or expending contributions for charitable purposes, and every officer, director, trustee, and employee of any such person concerned with the solicitation, collection, or expenditure of such contributions, shall be deemed to be a fiduciary and acting in a fiduciary capacity."

53. Defendants Shanna Pinet, David Pinet, and Michelle Tolson are fiduciaries in that they serve as officers and directors of Fab Family Fund.

54. As fiduciaries, defendants Shanna Pinet, David Pinet, and Michelle Tolson are obliged to ensure that Fab Family Fund complies with all applicable laws and regulations pertaining to charitable trusts. RSA 7:28-e.

55. Ms. Pinet, Mr. Pinet, and Ms. Tolson breached their fiduciary duties under RSA 7:28-e by failing to ensure that Fab Family Fund complied with New Hampshire law by registering with the Attorney General and complying with the Director's requests and cooperating with the Director's investigation under RSA 7:24 and RSA 7:25.

56. In accordance with RSA 7-28-f, II, Fab Family Fund, Shanna Pinet, David Pinet, and Michelle Tolson, should be subject to an injunction prohibiting them from operating a charitable organization or soliciting funds for charitable purposes and requiring that they comply

with the Director's requests for information in connection with his investigation. In addition, the defendants should be held liable for restitution, civil penalties, attorneys' fees, and the costs of CTU's investigation and litigation. RSA 7:28-f, II.

PRAYERS FOR RELIEF

WHEREFORE, the Attorney General, Director of Charitable Trusts, respectfully requests that this Honorable Court:

A. Schedule a hearing on the request for a preliminary injunction against Fab Family Fund, Shanna Pinet, David Pinet, and Michelle Tolson, enjoining them from operating a charitable organization and engaging in charitable solicitations on behalf of Fab Family Fund and requiring that they comply with the Director's requests for information in connection with his investigation;

B. After a final hearing, order that Fab Family Fund be dissolved as a New Hampshire voluntary corporation and any assets distributed to a suitable charitable organization;

C. After a final hearing, order that the Shanna Pinet, David Pinet, and Michelle Tolson be permanently enjoined from serving as an officer or director of any charitable organization in New Hampshire for a period of ten years;

D. Order that Shanna Pinet, David Pinet, and Michelle Tolson, individually pay restitution to the donors of Fab Family Fund in the amount of their donations;

E. Order that Shanna Pinet, David Pinet, and Michelle Tolson, individually, pay civil penalties of $10,000 for each violation of RSA 7:19-32-a and any rules adopted thereunder;

F. Order that Shanna Pinet, David Pinet, and Michelle Tolson, individually, reimburse the Attorney General, Director of Charitable Trusts for attorneys' fees and costs

associated with the investigation of and litigation involving Fab Family Fund and its board members; and

G. Grant such further relief as may be deemed just and proper.

Respectfully submitted,

ATTORNEY GENERAL
DIRECTOR OF CHARITABLE TRUSTS

By his attorneys:

JOHN A. FORMELLA, ATTORNEY GENERAL

Date: September 2, 2021

/s/ Diane Murphy Quinlan
Diane Murphy Quinlan, Bar #8213
Assistant Director of Charitable Trusts
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3591
diane.m.quinlan@doj.nh.gov