

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 12-CV-80215-Dimitrouleas/Snow

CARON FOUNDATION OF FLORIDA, INC.,)
a Pennsylvania Corporation, d/b/a CARON)
RENAISSANCE,)
)
Plaintiff,)
)
v.)
)
CITY OF DELRAY BEACH, a Florida)
municipal corporation,)
)
Defendant.)
)

**MOTION TO AMEND SETTLEMENT AGREEMENT AND
CONSENT ORDER, AND INCORPORATED MEMORANDUM**

The Parties, Caron Foundation of Florida, Inc. (“Caron”), and City of Delray Beach (the “City”), through counsel, jointly move to amend paragraph 1 of the Settlement Agreement and Consent Order executed by the Parties on July 23, 2012, and approved by the Court on July 25, 2012. As grounds, the Parties state:

1. Paragraph 1 of the Settlement Agreement and Consent Order (DE 43 and 44) provides in pertinent part that Caron, a not-for-profit foundation, agreed to provide substance abuse training and education to organizations including, but not limited to, schools, churches, or other charitable institutions within the City with a value and in an amount equal to or greater than the annual school taxes set forth by the Palm Beach County Appraiser.

2. Due to a change in its corporate structure and the transfer of certain assets of the Hanley Center to another entity, Caron in Florida no longer has the staff to provide substance abuse training and education to schools, churches, or other charitable institutions within the City.

3. Accordingly, Caron has requested, and the City has agreed, to pay the City an amount equal to the value of those educational services on an annual basis.

4. On April 6, 2015, the City Commission approved the proposed change.

5. Federal Rule of Civil Procedure 60(B) allows parties to vacate parts of a consent decree as a motion for modification. *Rufo v. Inmates at Suffolk County Jail*, 502 U.S. 367 (1992). The corporate reorganization and inability to adequately staff the educational component of the consent decree constitutes a significant change in circumstances that warrants a revision of the decree. Based upon the above, the Parties jointly move to modify the Settlement Agreement and Consent Decree to allow Caron to pay the City, on an annual basis on or before March 31 of each year, an amount equal to the school taxes for the previous year as set forth by the Palm Beach County Property Appraiser to provide substance abuse training and education to schools, churches or other charitable institutions within the City.

WHEREFORE, the parties respectfully request an order from the Court granting this motion and modifying ¶1 of the Consent Decree as follows:

1. Caron will pay the City, on an annual basis on or before March 31 of each year, an amount equal to the real estate taxes for the previous year as set forth by the Palm Beach County Property Appraiser, less the amount of school taxes, neither of which it is obligated to pay, for the first and second Ocean Drive Program residences referred to in Caron's amended complaint ("first Ocean Drive Program residence" and "second Ocean Drive Program residence," respectively). Consistent with its mission as a not-for-profit foundation, Caron, on an annual basis, *will pay the City, on an annual basis on or before March 31 of each year, an amount equal to the school taxes for the previous year as set forth by the Palm Beach County Property Appraiser* to provide substance abuse training and education to organizations including, but not limited to, schools, churches or other charitable institutions within the City. These obligations and the reasonable accommodations as set forth in Paragraph 6 below as to each residence will cease if and when Caron sells, leases or no longer uses the residences for its patients in recovery.

Respectfully submitted,

/s/ James K. Green
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COUNSEL FOR CARON

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been filed on this 8th day of May, 2015, with the Court using the CM/ECF system which will send notice of electronic filing to parties and counsel of record.

s/James K. Green

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**ORDER ON MOTION TO AMEND SETTLEMENT AGREEMENT AND
CONSENT ORDER, AND INCORPORATED MEMORANDUM**

THIS CAUSE came before the Court on the parties' Motion to Amend Settlement Agreement and Consent Order, and Incorporated Memorandum, and the Court being otherwise fully advised in premises, it is hereby

ORDERED AND ADJUDGED that the Motion to Amend Settlement Agreement and Consent Order is hereby _____.

DONE AND ORDERED in West Palm Beach, Florida, this ___ day of May, 2015.

William P. Dimitrouleas
United States District Judge

ccs: James K. Green, Esq. (jameskgreen@bellsouth.net)
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