

VIRGINIA:

IN THE CIRCUIT COURT FOR MADISON COUNTY

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL,

Plaintiff,

v.

SERVICE DOGS BY
WARREN RETRIEVERS, INC.
f/k/a GUARDIAN ANGEL SERVICE DOGS, INC.)

Case No. _____

SERVE:

John B. Russell, Registered Agent
2621 Promenade Pkwy, Suite 102
Midlothian, VA 23113

and

CHARLES D. WARREN, JR.,
an individual,

SERVE:

Charles D. Warren, Jr.
1543 Beahm Town Rd
Culpeper, VA 22701

Defendants.

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by, through and at the relation of the Attorney General of Virginia, Mark R. Herring (the "Plaintiff" or the "Commonwealth") petitions this Court to declare that the activities in which the Defendants, Service Dogs by Warren Retrievers, Inc. f/k/a Guardian Angel Service Dogs, Inc. ("SDWR") and Charles D. Warren, Jr. ("Warren") have engaged, and are engaging, constitute violations of the Virginia Consumer Protection Act ("VCPA"), Va. Code §§ 59.1-198 through 59.1-207, and the Virginia Solicitation of

Contributions (“VSOC”) law, Virginia Code §§ 57-48 through 57-69; to enjoin these violations; to restore to consumers the sums acquired from them in violation of the VCPA; to award civil penalties, expenses, and attorney’s fees to the Commonwealth pursuant to the VCPA and the VSOC law; and to grant such other relief requested in this Complaint.

SDWR represents itself as a nonprofit organization devoted to raising, training, and placing service dogs with individuals who have “invisible disabilities,” such as diabetes. It offers hope for diabetics and their families that a Diabetic Alert Dog (“DAD”) will save their or their family members’ lives by identifying and alerting them to blood sugar fluctuations that could become life threatening. These individuals and families are told that, if they just raise \$25,000 for SDWR, they will receive a trained DAD that can detect high and low blood sugar, get help, or even dial 911. In reality, in many instances these hopeful and vulnerable consumers receive poorly trained, ill-behaved dogs that are not equipped to help them manage a life-threatening disability and are little more than very expensive pets.

Among other conduct alleged in this Complaint, SDWR and Warren have violated the VCPA and the VSOC law by misrepresenting to consumers, or deceiving consumers, about the DADs’ testing, training, skills and abilities, and efficacy; what goods or services would be included in the cost of the dogs; how the dogs could be paid for; how long consumers would have to pay their balances due for their DADs; and whether consumers could receive refunds. Finally, the Defendants made specific misrepresentations about Warren’s military service and background, and that the organization was endorsed by or partnered with JDRF.¹

The Plaintiff prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

¹ As explained further below, JDRF (formerly the Juvenile Diabetes Research Foundation) is a charitable organization dedicated to funding type 1 diabetes research.

JURISDICTION AND VENUE

1. The Commonwealth brings this action pursuant to the authority set forth in § 59.1-203 of the VCPA and § 57-59 of the VSOC law, which provide, among other things, that the Attorney General may bring an action to enjoin any violations of these statutes.
2. The Circuit Court for Madison County has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620; 17.1-513; 59.1-203, 59.1-205 and 59.1-206; and 57-59.
3. Venue is permissible in this Court pursuant to § 8.01-262(1), (3) and (4) because Defendant Warren resides in Madison County; both Defendants regularly conduct substantial business activity in Madison County; and portions of the causes of action arose in Madison County. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c) because some or all of the acts to be enjoined are, or were, being done in Madison County.
4. In accordance with Virginia Code § 59.1-203(B), prior to commencement of this action, the Commonwealth certifies that it gave the Defendants written notice that these proceedings were contemplated and a reasonable opportunity to appear before the Office of the Attorney General to demonstrate that no violations of the VCPA or the VSOC law had occurred, or in the alternative, to execute an appropriate Assurance of Voluntary Compliance (“AVC”) that is acceptable to the Commonwealth. The Defendants did not show that no violations had occurred and did not execute an appropriate AVC.

PARTIES

5. The Plaintiff is the Commonwealth of Virginia, by, through and at the relation of Mark R. Herring, Attorney General of Virginia.
6. Defendant SDWR is a corporation organized under the laws of Virginia, with its

principal business address listed as P.O. Box 647, Madison, Virginia 22727.

7. SDWR was incorporated on October 15, 2010, as Guardian Angel Service Dogs, Inc. SDWR changed its name to Service Dogs by Warren Retrievers, Inc. by corporate amendment effective September 19, 2012.²

8. Defendant Warren is a resident of Madison County, Virginia.

9. During all relevant times, Warren has served as President, Chief Executive Officer, and Chief Financial Officer of SDWR, and was a Director on its Board of Directors.

10. Whenever any reference is made in this Complaint to any act of the “Defendants” or to the acts of any one of them, such allegations shall be deemed to include SDWR and Warren, acting jointly and severally, as if the act of any one of them were the act of the other, whether as principal, under an express or implied agency, or with actual or apparent authority to perform the acts alleged.

FACTS

Service Dogs by Warren Retrievers, Inc.

11. SDWR holds itself out as a nonprofit organization that places service dogs with individuals with various diseases or disorders, including diabetes, autism, post-traumatic stress disorder, and seizure disorders, which it characterizes as “invisible disabilities.”

12. According to its website, SDWR “helps families find local resources to help offset the costs associated with the purchase and training of a service dog” and “gives those with an invisible illness a chance at their own service dog.”

13. For individuals with diabetes or their families, SDWR offers the opportunity to obtain a Diabetic Alert Dog (“DAD”).

² For the purposes of this Complaint, all references to “SDWR” shall include the organization under its former name.

The SDWR DAD Program

14. SDWR began promoting its DAD program in 2011.
15. As part of its DAD program, SDWR purports to offer dogs with “proven scent ability” that it places with consumers suffering from diabetes, to aid in the detection of high and/or low blood sugar levels.
16. SDWR has used the following or similar language about the skills, abilities, efficacy, testing or training of its service dogs, or its DADs specifically, on its website:
 - a. “All Warren Retriever litters are temperament tested when the puppies are seven weeks of age. This assessment ensures that the right dog is matched with the right family. It is vital that the puppy selected for service dog work not only have the ‘right nose’ but the right temperament.”
 - b. “From the best in the litter, our trainers choose a pup for each DAD client based on that individual’s unique needs.”
 - c. “We are so certain that our DAD scent training works that we offer a money-back guarantee on that portion of the program.”
 - d. “When selecting puppies, a proven scent ability is our top priority in determining a puppy’s potential as a service dog. The temperament of our dogs is also a crucial factor in our selection.”
 - e. “The SDWR assessment individually evaluates each and every Labrador Retriever so that they are perfectly matched with his or her ideal family.”
 - f. “SDWR tests for pups that are able to achieve maximum alert and response ability . . . that have a reliable, even temperament and ample service characteristics.”

- g. "We Train Our Diabetic Alert Dogs To Help With The Following:
- High & Low Blood Sugar Alerts
 - Early High/Low Detection
 - Retrieve Third Party Support
 - Retrieve Food & Medication Such as Glucagon, Glucose Tabs, Insulin, Juice, Meters, etc.
 - Dial 911 on a Special Device
 - Public Access Training, Testing, Certifications"
- h. "Our Service Dogs are Backed by Science."
- i. "[O]ur dogs are temperament and scent tested to ensure their capabilities as highly effective service dogs."
- j. "We provide a Performance Guarantee . . . on every dog placed."
- k. "We listen to what you tell us and we create a program that targets your primary concerns."
- l. "All Service Dogs by Warren Retriever dogs are constantly evaluated for the right temperament"
- m. "We provide dogs . . . with countless hours of training so that all we have to focus in on is acclimation, integration, and customization."
- n. "Our dogs are trained to alert to the scent produced by diabetic lows and highs. The dog is taught the difference between those two scents and other scents around them so that their alerts are accurate and on time. The dogs are able to alert in whatever way we train them meaning they can be taught to paw, jump, nose or many other motions when they sense a high or low."
- o. "When a dog is placed, the foundations have been trained into it with obedience, public access, and general training. Then when we start working with the family, we begin to train in the customization around your lifestyle."

17. SDWR solicits donations, or accepts donations solicited on its behalf, using fundraising letters or other promotional materials. SDWR has used the following or similar language about the skills, abilities, efficacy, testing or training of its service dogs, or its DADs specifically, in fundraising or other promotional materials (including third-party sites):

- a. “Diabetic Alert Dogs are 100% accurate and often alert as much as 20-45 minutes before a meter shows there’s even a problem.”
- b. “Implanted glucose monitoring systems are often 20-30 minutes behind a fully-trained alert dog. These electronic systems measure parts per million. In studies, dogs have been shown to scent parts per *trillion*.”
- c. “All Warren Retriever puppies are temperament tested and come with the best health guarantees in the business.”
- d. “Your service dogs will be hand picked from a litter of Warren Retriever labs based on *your* specific needs.”
- e. “These dogs can be trained to notice small changes in the scent of a type 1 diabetic’s skin and/or breath and alert the individual – or a family member – that their blood sugar is going dangerously low or high.”
- f. “SDWR provides focused training and screening for the dogs prior to home placement.”
- g. “Following the initial training program, the dogs are matched in a home based on their behavior and personality, family culture and environment, individual medical needs and alert methods.”
- h. “Our dogs are trained to purposefully arouse or awaken owners in a medical crisis, retrieve diabetic life essentials such as glucose, glucagon, testing meters

and juice. They also can be trained to dial 911 on an emergency k9 phone.”

18. Diabetics or, more frequently, individuals with a diabetic family member (such as a child) would reach out to SDWR to learn about their program.

19. Many consumers’ first significant contact with SDWR to discuss the DAD program was with Defendant Warren, who explained the benefits of a DAD and the details of the program to them.

20. Warren promised them a dog that would save their or their family members’ lives by identifying and alerting them to blood sugar fluctuations that could become life-threatening.

21. Warren generally represented that his DADs would be able to detect these fluctuations from long distances, overnight, or from even small amounts of blood. On at least one occasion, Warren represented to a consumer that a DAD could detect “a teaspoon of sugar added to an Olympic-sized swimming pool.”

22. Warren repeatedly represented that his DADs were “100% effective” and “backed by science.”

23. Warren had no independent evidence to support any of these claims.

24. In support of his statement that SDWR dogs were “backed by science,” Warren (and others with SDWR who repeated the claim) relied on a 2013 study conducted with the University of Virginia.

25. This study, published in the *Diabetes Care Journal* and touted initially on SDWR’s website with the language “Scientific research *proves* that SDWR Diabetic Alert Dogs *have a proven ability...*” (emphasis added), was done through an online self-reporting study of select SDWR customers.

26. Warren represented to consumers that SDWR dogs would receive extensive scent

testing and training, and that only a few dogs would “make the cut.”

27. In fact, very few if any dogs failed SDWR’s initial scent and temperament testing.

28. Early on in the DAD program, a potential recipient of a DAD would pay a deposit and be placed on an “active list.”

29. Once a SDWR puppy was “ready” to be placed with a family on this list, it would be brought to their home by one of SDWR’s trainers, usually around 12-14 weeks of age.

30. In initial conversations with consumers, Warren regularly represented to them that they would receive DADs that were housebroken and had undergone obedience training and some scent training.

31. In practice, consumers received DADs that were puppies, and were not housebroken or obedience trained, or were difficult to train, such that trainers had to spend a great deal of time in follow-up training sessions on basic obedience issues, including:

- a. Walking on a leash, with or without a prong collar;³
- b. Inappropriate chewing or destruction; or
- c. Responding to their name.

32. In addition, the DADs that consumers received demonstrated behavior inconsistent with a service temperament, such as:

- a. Frequent barking or whining;
- b. Jumping on people (both children and adults) or other dogs;
- c. Straining against the leash; or
- d. Significant fear at loud noises such as storms, fireworks, or cars

backfiring.

³ A prong collar, also called a pinch collar, is a series of metal links that fit together by connecting through blunt prongs that point inward toward the dog's neck. The collar is designed to prevent the dog from pulling by applying pressure at each point against the dog's neck.

33. Many consumers were led to believe by Warren that their dogs would be able to detect high and low blood sugars and “alert” immediately upon arrival, and that they, the consumers, would only have to continue or reinforce the training in their own homes.

34. However, the DADs were not trained prior to their arrival at the consumers’ homes, and the consumers were expected to recognize and reward “natural alerts” to start the scent training themselves.⁴

35. Numerous consumers had difficulty getting the DADs to “alert” with any consistency, or at the appropriate time.

36. Specifically, DADs placed by SDWR would, despite consumers efforts:

- a. Fail to alert to a dangerous high or low blood sugar;
- b. Alert when the diabetic’s blood sugar was not out of range; or
- c. Display so-called “natural alert” behaviors, but fail to display any “trained alerts.”

37. Consumers also received DADs that did not seem to be uniquely suited to their environment or circumstances: e.g., sedate dogs were placed with owners with active lifestyles; dogs that had never been around cats placed in homes with multiple existing cats.

38. In approximately 2015, SDWR started its “puppy raiser” program.

39. The stated purpose of this program was to place SDWR puppies in the homes of volunteers, who would begin training and socialization for the dogs who would ultimately become DADs.

40. To become a puppy raiser, a potential volunteer would fill out an online

⁴ When a trainer arrived with a DAD, they explained these “natural alert” behaviors to the consumer(s). So-called “natural alert” behaviors included an extensive list of routine dog behavior, such as: whining; yawning; “acting like a crazy dog”; scratching; chewing on themselves, objects, or bones; dripping nose; barking; jumping on the diabetic or a family member; restlessness; licking; hiccups; snorting; drooling; pacing; and staring.

application, which had no stated requirements for acceptance.

41. Very few if any individuals seeking to be puppy raisers were turned down.
42. Puppy raisers received minimal instruction or guidance on training the dogs for placement as a service animal or a DAD specifically.
43. Puppy raisers are tasked with training the dogs on public access, manners, and basic commands.
44. After the puppy raiser program was instituted, DADs placed in the homes of consumers were older—one to two years of age.
45. Despite the age difference in the dogs, consumers still received DADs with obedience and temperament problems.
46. In addition, DADs from the puppy raiser program were not trained to “alert” on high or low blood sugar immediately upon arrival.
47. Consumers who received a DAD that had completed the puppy raiser program still needed to train the dogs themselves on how to “alert” to their blood sugar fluctuations.

Training with SDWR

48. SDWR represented that, after the DAD is brought to the home of the diabetic or their family, the individual or family will continue their “scent training protocol” over the next eighteen months to two years.
49. After an initial multiple-day visit with a trainer, the DAD would be left with the consumer, who would be instructed to maintain a weekly log of the dog’s alert patterns and successes/failures.
50. Trainers with SDWR were then supposed to return to the home approximately every 90 days to continue the ongoing “training protocol.”

51. SDWR and Warren represented that consumers with DADs would have regular access to trainers via phone, e-mail, and text message, and could expect “weekly contact with a trainer” and continued support.

52. In practice, consumers would go months beyond the 90-day time frame without a training visit.

53. Moreover, when trainers did come to a consumer’s home for a scheduled visit, a significant amount of time was spent on ongoing obedience issues (e.g., leash training, behavior in public) rather than updating or refining the DAD’s “alert” training.

54. Consumers also routinely could not get a response from their trainers, including by e-mail, phone, or message, when they had an issue with their DAD.

55. Though consumers were encouraged to request weekly contact with a trainer if they had ongoing concerns, trainers for SDWR would regularly fail to respond to those requests.

56. As a result, consumers were left to fend for themselves and attempt to resolve the problems with the DADs on their own, rather than with the “continued support” of SDWR.

Lifetime Performance Guarantee

57. SDWR states that its DADs have a “Lifetime Performance Guarantee,” so that individuals considering obtaining a DAD through SDWR can “have a peace of mind knowing that SDWR stands behind their training standards.”

58. Warren also represented to consumers that SDWR’s DADs were “guaranteed” or “100% guaranteed.”

59. However, SDWR has an extensive list of requirements that must be met before a consumer can invoke the “performance guarantee.”

60. First and foremost, a consumer must have reached “full completion of the SDWR

training program.”

61. As such, a consumer cannot invoke the guarantee until they have had the dog for eighteen months to two years.

62. Additionally, other conditions that must be met for the performance guarantee to be applicable have included:

- a. “Allow training visitations to occur as scheduled with the organization”;
- b. “No actions contrary to the SDWR organization and staff members”;
- c. “Comply completely with [SDWR’s] terms as outlined in [SDWR’s] contract”;
- d. “Do not allow your pledge agreement to become delinquent.”⁵

63. The practical effect of these onerous terms—including those that have no bearing on whether the DADs training is effective—is that consumers are prevented from invoking the performance guarantee when their DADs do not live up to expectations.

Paying For/Fundraising For a DAD

64. Over the years, SDWR has charged consumers anywhere from \$18,000 to \$27,000 for its DADs. The current cost is usually \$25,000.

65. Representatives of SDWR, including Defendant Warren, have told consumers that they can fundraise the entire amount of the “cost” of their dog, and SDWR will help them in that effort.

66. Specifically, SDWR’s website and welcome materials have used the following or similar language regarding fundraising:

- a. “Service Dogs by Warren Retrievers, Inc. helps families find local

⁵ As explained further below, the “pledge agreement” was the contract for payment for a DAD. On at least one occasion, SDWR failed to send a trainer to a consumer because of a failure to keep their payments current. This term is no longer listed as required for the guarantee because all DADs must now be paid for in full before delivery.

resources to help offset the costs associated with the purchase and training of a service dog.”

b. “SDWR will assist you with fundraising ideas. . . . These ideas will usually bring in much, if not all of the money needed to fulfill your fundraising requirement.”

c. “SDWR will NOT quit working with you as long as you are making the efforts needed.”

d. “No family should ever have to pay to receive a service dog. While it’s financially daunting to do our work, our motto is that families enroll as volunteer ambassadors.”

67. Consumers have been required to set up either their own website or webpage within the SDWR system, and encouraged to raise the funds through charitable contributions from corporate sponsors, employers, churches, and friends.

68. SDWR has told consumers to share their story with donors because “it is helpful to know a little about why you are getting a service dog . . . and to put a face to the donation.”

69. The purchase price of the SDWR DAD has been explained to families as an amount they may easily fundraise.

70. In fact, consumers had difficulty raising the funds, and did not receive the promised support from SDWR.

71. Moreover, Warren represented to consumers that they would have multiple years to pay the funds for the DADs.

72. Specifically, consumers were told they would have two or three years to raise the funds and, as long as they were making an effort to fundraise, that would be sufficient for

SDWR.

73. Many consumers did not learn they would be required to pay for the dogs themselves if they could not raise the funds until they were presented with the “Puppy Purchase and Training Agreement” and the “Installment Payment Plan.”

74. Previously, the consumers would not even be told about the existence of a written contract until after their DAD had been delivered and spent several days in their home with their family.

75. At that point, trainers would tell these consumers that, unless they signed the contract, the DAD would not be able to stay.

76. This practice of failing to disclose the existence of a written contract was intentional, because the consumers would feel obligated to sign the contract after they or their family members would become attached to the DAD.⁶

77. These agreements required quarterly, monthly, or annual payments—which, if missed, could result in interest being charged, or eventually seizure of the DAD.

78. SDWR and Warren filed lawsuits against several consumers who did not remain current with their regular payments—even if the two or three years had not elapsed.

79. In 2015, SDWR began requiring that consumers pay the entire \$25,000 “pledge” balance up front before becoming eligible to receive a DAD.

80. SDWR has maintained a strict “no refunds” policy on all donations made to the organization, including those made by “pledge in full,” non-fundraising consumers.

81. Representatives of SDWR, including Defendant Warren, have told consumers that SDWR actually *cannot* give refunds, because SDWR is a non-profit, and non-profits cannot give

⁶This practice was discontinued pursuant to a mediation settlement.

refunds without jeopardizing their non-profit status.⁷

Costs Associated with a DAD

82. In his initial conversations with consumers, Warren represented that the “pledge” for the cost of the dog would include all of the services and costs associated with the DAD.

83. In the SDWR Welcome Packet, it specifically listed that the “pledge” covers, among other items, “veterinary visits”; “all travel expenses associated with our staff delivering and the continued training you will receive over the next 2 years”; and the “Microchip program.”⁸

84. The contract the consumers later received stated that the consumers (not SDWR) would be responsible for vet costs and the microchip program, and that staff travel expenses would only be covered up to a certain amount (initially \$2,500, later revised to \$8,000).

Relationship to JDRF

85. JDRF (formerly the Juvenile Diabetes Research Foundation) is a charitable organization dedicated to funding type 1 diabetes research, informing the public about all aspects of type 1 diabetes, and advocating for more research funding from the federal government.

86. Defendant Warren was familiar with JDRF, as he and other representatives of SDWR would attend JDRF chapter meetings and events (such as walk-a-thons) to promote SDWR’s dogs.

87. In the course of initial conversations with consumers, Defendant Warren stated or implied that SDWR was working with JDRF, in partnership with JDRF, or endorsed by JDRF.

88. In fact, JDRF did not endorse SDWR, and had never partnered with or worked

⁷ The Commonwealth maintains that, notwithstanding SDWR’s tax-exempt status, any money paid to SDWR in connection with the placement of a specific DAD is not a charitable donation and can be returned.

⁸ The microchip program involves implanting a microchip beneath the skin of the DAD, and then registering that chip with the owner’s information.

with the organization.

89. In addition, representatives of SDWR, including Defendant Warren, told consumers that their DADs were “recently recognized by JDRF” in their quarterly newsletter.

90. In 2012, a representative of SDWR reached out to staff at JDRF to provide information about SDWR for inclusion in the quarterly outreach newsletter.

91. Upon information and belief, JDRF did not have any criteria for inclusion in their quarterly outreach newsletter, and no staff or volunteers at JDRF did any independent research into SDWR or its DAD program, nor did they make any substantive modifications to SDWR’s content before it was published in the newsletter.

92. After the newsletter containing this information was released, SDWR began displaying the JDRF logo on their website alongside a link to the newsletter.

93. SDWR did not have the written consent of JDRF to use its logo or imply its approval or endorsement of SDWR or its DAD program.

94. In addition to the logo, SDWR’s site stated that JDRF “featured” the program in its newsletter.

95. Upon information and belief, JDRF sent a cease and desist letter to the organization to remove JDRF’s logo from SDWR’s website.

Warren’s Military Service

96. During their initial conversations with Defendant Warren, several consumers were told that Warren had served in the United States military.

97. Specifically, Warren stated to consumers that:

- a. He had served in the United States Marine Corps;
- b. He had trained dogs for the military; or

c. He received a medical discharge because of a diabetes diagnosis.

98. Warren further told consumers that during his time in the military he noticed that his dogs would alert him to his highs and lows of his blood sugar, and decided that he had found his calling to help others like him and to use dogs to alert to diabetic sugar changes.

99. In addition, SDWR's website contained the following statement in a biography of Warren:

After serving our country as a Marine where he worked and trained dogs, he was diagnosed with type 1 diabetes. It is through his own diagnoses that he decided to train retrievers to give back a quality of life for people with invisible disabilities.

100. Defendant Warren has never served in the United States Marine Corps or any other branch of the military.

Registration as a Charitable Organization

101. SDWR holds itself out as a corporation organized or operated for a charitable purpose, namely to provide educational training related to service dogs.

102. SDWR solicits or obtains contributions solicited from the public in support of this purpose.

103. SDWR solicits contributions in furtherance of its stated purpose in the Commonwealth of Virginia.

104. On or about April 6, 2011, SDWR filed its initial Registration Statement for a Charitable Organization with the Virginia Department of Agriculture and Consumer Services ("VDACS").

105. SDWR has operated as a charitable organization and solicited donations from the public on its behalf continuously since at least April 2011.

106. SDWR has filed five subsequent annual Registration Statements with VDACS;

every registration has been filed late, despite extended expiration deadlines.

107. In addition, on April 21, 2015, SDWR communicated to VDACS through a third-party registration company that its renewal registration would be delayed and, as such, SDWR had “ceased soliciting in VA until they are able to file the renewal registration.”

108. SDWR did not cease soliciting in Virginia in 2015 or at any point subsequent to its initial registration in 2011.

109. SDWR was not duly registered with VDACS (or subject to an extended expiration date on its renewal registration) during the following periods:

- a. November 13, 2013 to January 31, 2014;
- b. November 15, 2014 to January 11, 2016; and
- c. November 15, 2017 to December 14, 2017.

Defendant Warren’s Relationship with and Control of SDWR

110. Since its incorporation in 2010, Defendant Warren has served as a Director on SDWR’s board of directors.

111. According to the organization’s bylaws, Warren can only be removed from the board of directors by unanimous vote of all other Directors “on the basis of a material and intentional breach of fiduciary duty or willful wrongful action.”

112. Warren also is the President of SDWR, as well as its Chief Executive Officer and Chief Financial Officer.

113. SDWR’s bylaws state that Warren “shall be entitled to be the President” of SDWR in perpetuity, and can only be removed by unanimous vote of all of the Directors, pursuant to the bylaws, “on the basis of a material and intentional breach of fiduciary duty or willful wrongful action.”

114. Warren has, among his corporate duties, responsibility for the day-to-day operations of SDWR.

115. Warren, as President, is authorized to enter into contracts, leases, or other binding agreements on behalf of SDWR or in the name of SDWR, and he has done so on multiple occasions.

116. Warren also presents himself as the “founder” of Service Dogs, and is the public face of the corporation, which also bears his surname.

117. Warren speaks directly to consumers, donors, and the media regarding SDWR and its DAD program.

118. Warren drafted, revised, reviewed, or approved form documents and agreements sent to consumers who obtained DADs or sought to obtain DADs from SDWR, including but not limited to welcome letters, contracts, fundraising guidelines, FAQs, or other agreements.

119. Specifically, Warren drafted and approved the original DAD contracts signed by consumers.

120. Warren drafted, revised, reviewed, or approved content for the general public regarding SDWR or its DAD program, including but not limited to SDWR website content, blog or social media postings, and information on third party sites, such as donordrive.com.

121. Warren drafted, revised, reviewed, or approved SDWR’s initial and annual registration filing with the Virginia Department of Agriculture and Consumer Services, Office of Charitable and Regulatory Programs.

122. In addition, Warren communicated directly with consumers, donors or potential donors, and the general public regarding SDWR or its DAD program.

CAUSES OF ACTION

Count I: Virginia Consumer Protection Act

123. The Commonwealth re-alleges and incorporates by reference the matters set forth in paragraphs 1 through 122 of this Complaint.

124. Pursuant to Virginia Code § 59.1-197, the VCPA is to be applied as remedial legislation to promote fair and ethical standards of dealings between suppliers and the consuming public.

125. During all relevant times, Defendant SDWR is or was a “supplier” of “goods” or “services” in connection with “consumer transactions” as those terms are defined in § 59.1-198 of the VCPA.

126. In connection with consumer transactions, the VCPA prohibits suppliers from:

- a. Misrepresenting the source, sponsorship, approval, or certification of goods or services, pursuant to Virginia Code § 59.1-200(A)(2);
- b. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another, pursuant to Virginia Code § 59.1-200(A)(3);
- c. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits, pursuant to Virginia Code § 59.1-200(A)(5);
- d. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model, pursuant to Virginia Code § 59.1-200(A)(6);
- e. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction, pursuant to Virginia Code § 59.1-200(A)(14).

127. SDWR violated the VCPA through the acts and practices described in this

Complaint, including but not limited to:

- a. Misrepresenting the skills or abilities of DADs sold by SDWR, including but not limited to: their ability to detect blood glucose levels (a) to the parts per trillion; (b) from long distances, or overnight; (c) 20 to 45 minutes faster than a blood meter or an implanted glucose monitoring system, in violation of Virginia Code §§ 59.1-200(A)(5), (6) and (14);
- b. Misrepresenting the efficacy of DADs sold by SDWR, including but not limited to representations that its DADs were 100 percent effective, or scientifically proven to be accurate, in violation of Virginia Code §§ 59.1-200(A)(6) and (14);
- c. Misrepresenting the testing performed on, and the training provided to, DADs sold by SDWR, prior to their placement with consumers, in violation of Virginia Code §§ 59.1-200(A)(5), (6), and (14);
- d. Misrepresenting the training and assistance that would be provided by SDWR trainers after placement of a DAD with a consumer, in violation of Virginia Code § 59.1-200(A)(14);
- e. Misrepresenting how consumers could pay for a DAD, and how long they would have to pay the balance due pursuant to a contract with SDWR, in violation of Virginia Code § 59.1-200(A)(14);
- f. Misrepresenting what goods or services would be included in the cost of a DAD, in violation of Virginia Code §§ 59.1-200(A)(5) and (14);
- g. Misrepresenting the terms and conditions under which a DAD was provided, including but not limited to: (a) the existence of the written contract, and the terms contained therein; and (b) the limitations to or terms governing the performance

guarantee, in violation of Virginia Code § 59.1-200(A)(14);

h. Misrepresenting that consumers were not entitled to refunds because SDWR is a non-profit organization and therefore cannot or does not give refunds, in violation of Virginia Code § 59.1-200(A)(14);

i. Misrepresenting Warren's military service and background in connection with SDWR and its DAD program, in violation of Virginia Code §§ 59.1-200(A)(3) and (14); and

j. Misrepresenting that JDRF endorsed, sponsored, or approved of SDWR or its DAD program, or was affiliated with or connected to SDWR, in violation of Virginia Code §§ 59.1-200(A)(2), (3) and (14).

128. SDWR willfully engaged in the acts and practices described in this Complaint in violation of the VCPA.

129. Individual consumers have suffered losses as a result of the aforesaid violations of the VCPA by SDWR.

Count II: Virginia Solicitation of Contributions Law

130. The Commonwealth re-alleges and incorporates by reference the matters set forth in paragraphs 1 through 129 of this Complaint.

131. During all relevant times, Defendant SDWR is or was a "charitable organization" engaged in the "solicitation" of "contributions" as those terms are defined in § 57-48 of the VSOC law.

132. The VSOC law prohibits, among other things:

a. In connection with the solicitation of contributions or the sale of tangible personal property or services for charitable purposes, representing or leading anyone by

any manner, means, practice or device whatsoever to believe, that any other person sponsors or endorses such solicitation of contributions, sale of tangible personal property or services for charitable purposes, or approves of such charitable purposes or a charitable organization connected therewith, when such other person has not given written consent to the use of his name for these purposes, pursuant to Virginia Code § 57-57(C);

b. A charitable organization soliciting in this Commonwealth without being duly registered or granted the appropriate exempt status, pursuant to Virginia Code § 57-57(K);

c. In any solicitation or collection of contributions for a charitable purpose, employing any device, scheme or artifice to defraud or obtain money or property by any misrepresentation or misleading statement, pursuant to Virginia Code § 57-57(L).

133. SDWR violated the VSOC law through the acts and practices described in this Complaint, including but not limited to:

a. Employing a device, scheme or artifice to obtain money or property by misrepresentation or misleading statement, in violation of Virginia Code § 57-57(L), by:

i. Misrepresenting the skills or abilities of DADs sold by SDWR, including but not limited to: their ability to detect blood glucose levels (a) to the parts per trillion; (b) from long distances, or overnight; (c) 20 to 45 minutes faster than a blood meter or an implanted glucose monitoring system;

ii. Misrepresenting the efficacy of DADs sold by SDWR, including but not limited to representations that its DADs were 100 percent effective, or scientifically proven to be accurate;

- iii. Misrepresenting the testing performed on, and the training provided to, DADs sold by SDWR, prior to their placement with consumers;
 - iv. Misrepresenting the training and assistance that would be provided by SDWR trainers after placement of a DAD with a consumer;
 - v. Misrepresenting how consumers could pay for a DAD, and how long they would have to pay the balance due pursuant to a contract with SDWR;
 - vi. Misrepresenting what goods or services would be included in the cost of a DAD;
 - vii. Misrepresenting the terms and conditions under which a DAD was provided, including but not limited to: (a) the existence of the written contract, and the terms contained therein; and (b) the limitations to or terms governing the performance guarantee;
 - viii. Misrepresenting that consumers were not entitled to refunds because SDWR is a non-profit organization and therefore cannot or does not give refunds;
 - ix. Misrepresenting Warren's military service and background in connection with SDWR and its DAD program;
 - x. Misrepresenting that JDRF endorsed, sponsored, or approved of SDWR or its DAD program, or was affiliated with or connected to SDWR.
- b. Representing or leading others to believe that JDRF endorsed or sponsored its solicitation of contributions, and/or sale of tangible property for charitable purposes, without its written consent, in violation of Virginia Code § 57-57(C);
 - c. Soliciting contributions in the Commonwealth without being duly

registered, in violation of Virginia Code § 57-57(K).

Count III: Individual Liability/Active Participation

134. The Commonwealth re-alleges and incorporates by reference the matters set forth in paragraphs 1 through 133 of this Complaint.

135. A corporation can act only through its officers and agents, and where the business itself involves a violation of the law, all who participate in it are liable.

136. During all relevant times, Warren, individually or together with others, directed, controlled, approved, or participated in the acts and practices of SDWR, including those acts and practices that are the subject of this Complaint.

137. By virtue of his active participation in the wrongful acts of SDWR, Warren should be held personally liable for all violations of the VCPA and the VSOC law committed by or through SDWR.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, the Commonwealth of Virginia, prays that this Court:

A. Permanently enjoin SDWR and Warren, as well as all other officers, directors, employees, agents, successors, and assigns of SDWR from violating § 59.1-200 of the VCPA pursuant to Virginia Code § 59.1-203;

B. Grant judgment against SDWR and Warren, jointly and severally, and award to the Commonwealth all sums necessary to restore to any consumers the money or property acquired from them by the Defendants in connection with violations of § 59.1-200 of the VCPA pursuant to Virginia Code § 59.1-205;

C. Enter any additional orders or decrees as may be necessary to restore to any consumers the money or property acquired from them by SDWR and Warren in connection with

violations of § 59.1-200 of the VCPA pursuant to Virginia Code § 59.1-205;

D. Grant judgment against SDWR and Warren, jointly and severally, and award to the Commonwealth civil penalties of up to \$2,500.00 per violation for each willful violation of § 59.1-200 of the VCPA pursuant to Virginia Code § 59.1-206(A), the exact number of violations to be proven at trial;

E. Grant judgment against SDWR and Warren, jointly and severally, and award to the Commonwealth its costs, reasonable expenses incurred in investigating and preparing the case up to \$1,000.00 per violation of § 59.1-200 of the VCPA, and attorney's fees pursuant to Virginia Code § 59.1-206(C);

F. Permanently enjoin SDWR and Warren, as well as all other officers, directors, employees, agents, successors, and assigns of SDWR from violating the VSOC law pursuant to Virginia Code § 57-59(D);

G. Grant judgment against SDWR and Warren, jointly and severally, and award to the Commonwealth civil penalties of up to \$5,000.00 per violation of the VSOC law pursuant to Virginia Code § 57-59(E), the exact number of violations to be proven at trial;

H. Grant judgment against SDWR and Warren, jointly and severally, and award to the Commonwealth its costs, reasonable expenses incurred in investigating and preparing the case up to \$250.00 per violation of the VSOC law, and attorney's fees, pursuant to Virginia Code § 57-59(E);

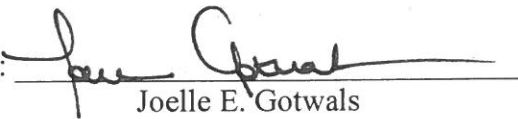
I. Order SDWR and Warren to make an accurate and verified accounting to this Court for all funds, pledges, property, and other things of value received from the solicitations described in this Complaint;

J. Impose a constructive trust on all funds received by SDWR and Warren from the

solicitations described in this Complaint for the benefit of charitable organizations who support those purposes for which the funds were solicited; and

K. Grant such other and further relief as the Court deems equitable and proper.

**COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL**

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