

SETTLEMENT AGREEMENT

WHEREAS, on October 4, 2006, CORNELIUS BYRNE ("BYRNE") possessed the following licenses issued by the City of New York:

(a) Horse-Drawn Cab Operators License Nos. 0624102, 0624096, 0675663, 0675658, and 0624053 issued by the New York City Department of Consumer Affairs ("DCA");

(b) Horse Drawn Cab Driver License No. 0624367 issued by DCA;

(c) Rental Horse Stable Permit Number H34-0000841 issued by the New York City Department of Health and Mental Hygiene ("DOHMH") for the Central Park Carriage Stables, 547 West 37<sup>th</sup> Street, New York, New York; and

(d) Rental Horse License Nos. H02-1262761 (Mickey), H021286638 (Gallagher), H02-1298300 (Spaghetti), H02-1262256 (Michelle); H02-1262757 (Dave) and H02-126758 (Decklan), H02-1249678 (Big shot), H02-1215342 (Henry), H02-1215343 (Lucky), H02-1162056 (Erin Reilly), H02-1127800 (Patrick O'Rourke), and H02-0957983 (Romeo) issued by DOHMH; and

WHEREAS, on October 4, 2006, the New York City Department of Investigations ("DOI") conducted an inspection of the Central Park Carriage Stables, 547 West 37<sup>th</sup> Street, New York, New York; and

WHEREAS, on December 12, 2007, BYRNE was arrested and charged in the Criminal Court of the City of New York, County of New York, with one count of violating Penal Law § 200.00 (Bribery in the Third Degree), one count of violating Penal Law § 200.20 (Rewarding Official Misconduct in the Second Degree), and one count of violating Penal Law § 200.30 (Giving Unlawful Gratuities); and

WHEREAS, on January 29, 2008, in the Criminal Court of the City of New York, County of New York, BYRNE pled guilty to one count of violating Penal Law § 240.20 (Disorderly Conduct); and

WHEREAS, on or about March 17, 2008, BYRNE applied to DCA to renew Horse-Drawn Cab Operators License Nos. 0624102, 0624096, 0675663, 0675658, and 0624053; and

WHEREAS, on June 19, 2009, DCA denied the applications of BYRNE to renew Horse-Drawn Cab Operators License Nos. 0624102, 0624096, 0675663, 0675658, and 0624053; and

WHEREAS, on June 19, 2009, DCA commenced a proceeding in the DCA tribunal to revoke BYRNE's Horse Drawn Cab Driver License No. 0624367; and

WHEREAS, on July 1, 2009, BYRNE commenced an action in the Supreme Court of the State of New York, County of New York, entitled Cornelius ("Neil") P. Byrne, individually and d/b/a/ Central Park Stables v. NYC Department of Consumer Affairs, Index No. 109382/09, challenging the denial of his applications to renew Horse-Drawn Cab Operators License Nos. 0624102, 0624096, 0675663, 0675658, and 0624053; and

WHEREAS, on July 24, 2009, DOHMH commenced a proceeding in the New York City Office of Administrative Trials and Hearings ("Oath") for BYRNE to show cause why the DOHMH Commissioner should not revoke Rental Horse Stable Permit Number H34-0000841 and Rental Horse License Nos. H02-1262761 (Mickey), H021286638 (Gallagher), H02-1298300 (Spaghetti), H02-1262256 (Michelle); H02-1262757 (Dave) and H02-126758 (Decklan), H02-1249678 (Big shot), H02-1215342

(Henry), H02-1215343 (Lucky), H02-1162056 (Erin Reilly), H02-1127800 (Patrick O'Rourke), and H02-0957983 (Romeo) based on BYRNE's conduct on October 4, 2006; and

WHEREAS, BYRNE, DCA and DOHMH in order to eliminate the risks and expenses of protracted litigation desire to reach a resolution of all matters;

NOW, IT IS HEREBY AGREED AND STIPULATED by and between BYRNE, DCA and DOHMH as follows:

1. DCA will issue operating letters permitting BYRNE to operate horse drawn cabs under license nos. 0624102, 0624096, 0675663, 0675658, and 0624053 until December 31, 2009.

2. Until December 31, 2009, if BYRNE shall sell any of the foregoing licensed horse-drawn cabs, he shall notify the DCA Commissioner of the name of the purchaser and of his intention to surrender the license for that cab. Upon application for a horse-drawn cab operator's license by the purchaser, the DCA Commissioner, pursuant to the terms of section 20-374(b) of the Administrative Code of the City of New York, shall issue a license to the purchaser, provided that the DCA Commissioner is satisfied that (a) no Byrne family member is the purchaser, (b) the sale is made for a fair market value in an arm's length transaction to an independent purchaser and (c) the applicant has demonstrated to the satisfaction of the DCA Commissioner that he or she is qualified to assume the duties and obligations of a horse-drawn cab license.

3. If BYRNE does not sell the horse-drawn cabs in arm's length transactions on or before December 31, 2009, he may sell or transfer the horse-drawn cabs to his brother PATRICK BYRNE. Provided that PATRICK BYRNE remains qualified to

assume the duties of a horse-drawn cab license, DCA will issue operating letters to PATRICK BYRNE permitting him to operating the horse-drawn cabs currently licensed under to operate horse drawn cabs under license nos. 0624102, 0624096, 0675663, 0675658, and 0624053 until May 31, 2010.

4. Until May 31, 2010, if PATRICK BYRNE shall sell any of the foregoing licensed horse-drawn cabs, he shall notify the DCA Commissioner of the name of the purchaser and of his intention to surrender the license for that cab. Upon application for a horse-drawn cab operator's license by the purchaser, the DCA Commissioner, pursuant to the terms of section 20-374(b) of the Administrative Code of the City of New York, shall issue a license to the purchaser, provided that the DCA Commissioner is satisfied that (a) no Byrne family member is the purchaser, (b) the sale is made for a fair market value in an arm's length transaction to an independent purchaser and (c) the applicant has demonstrated to the satisfaction of the DCA Commissioner that he or she is qualified to assume the duties and obligations of a horse-drawn cab license.

5. BYRNE's horse-drawn cab driver's license is revoked effective December 31, 2009.

6. BYRNE's permit to operate the stable pursuant to DOHMH permit no. H34-0000841 at 547 West 37<sup>th</sup> Street, New York, New York and the licenses to use the following horses pursuant to Chapter 4 of Title 24 Rules of the City of New York are revoked, effective December 31, 2009: H02-1262761 (Mickey), H021286638 (Gallagher), H02-1298300 (Spaghetti), H02-1262256 (Michelle); H02-1262757 (Dave) and H02-126758 (Decklan), H02-1249678 (Big shot), H02-1215342 (Henry), H02-1215343 (Lucky), H02-1162056 (Erin Reilly), H02-1127800 (Patrick O'Rourke), and

H02-0957983 (Romeo). If BYRNE sells the stable and horses in an arm's length transaction, the purchaser shall be required to obtain a stable permit and a new license for each horse.

7. If BYRNE is unable to sell the stable or horses in arm's length transactions on or before December 31, 2009, he can arrange for use of the stable and the horses by his brother, PATRICK BYRNE and DOHMH will issue to PATRICK BYRNE a permit for the stable and licenses for the use of the horses identified in paragraph 6 of this Settlement Agreement for the period January 1, 2010 through May 31, 2010.

8. PATRICK BYRNE may sell the horses or assign the lease for use of the stables to other persons pursuant to an arm's length transaction. The sales and assignment cannot be made to BYRNE or any member of the Byrne family. Each assignee and purchaser shall be required to obtain the necessary permits and licenses from DOHMH.

X 9. The permit for the stable and the licenses for the horses issued by the DOHMH Commissioner to BYRNE will terminate in accordance with this agreement on June 1, 2010. From January 1, 2010 to May 31, 2010, PATRICK BYRNE will be responsible for the sale or other humane disposition of the horses, so that no horse shall remain in the stable premises after June 1, 2010 unless (a) the lease to the stable has been assigned in an arm's length transaction to another person who has obtained the necessary permit to operate the stable, and (b) the horse is sold in an arm's length transaction to another person.

10. BYRNE shall be barred from having any involvement in any horse-drawn carriage business, the operation of any stable, and the use of any licensed horse after

December 31, 2009. He cannot manage or otherwise conduct the affairs of any horse-drawn carriage business, operation of any stable, including the stable premises referenced in this agreement, or share in any of the proceeds of a horse-drawn carriage business on and after January 1, 2010, 2010 except that Byrne may collect rent on any lease of the stable assigned in an arm's length transaction and may take such steps as are necessary to maintain the leased premises consistent with his obligations as lessor and owner of the stable.

11. BYRNE shall pay DCA \$500 for the costs of its investigation.

12. Except as set forth above, upon the execution of this Settlement Agreement, BYRNE will be barred from holding any DCA license provided, however, that he may submit an application for a horse-drawn cab driver license and DCA will consider his qualifications therefor on or after January 1, 2012.

13. Except as set forth above, upon the execution of this Settlement Agreement, BYRNE will be barred from holding any permit or license issued by the DOHMH Commissioner.

14. Upon execution of this Settlement Agreement, BYRNE, DCA, DOHMH and the City of New York shall execute stipulations discontinuing with prejudice the proceeding entitled Cornelius ("Neil") P. Byrne, individually and d/b/a/ Central Park Stables v. NYC Department of Consumer Affairs, Index No. 109382/09, and the revocation proceedings in the DCA tribunal and at OATH, with each party bearing its own costs and attorneys fees.

15. Nothing contained in this Settlement Agreement shall be deemed to be an admission by DCA, DOHMH or the City of New York that they have acted unlawfully or

in any way violated BYRNE's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York.

16. Nothing in this Settlement Agreement shall be deemed to be an admission by BYRNE of a violation of any federal, state or local law, rule or regulation.

17. By executing this Settlement Agreement, BYRNE waives any rights to make a legal or equitable claim or to institute any legal proceedings of any kind against the City of New York, DCA, DOHMH or their employees relating to or arising out of the facts and circumstances of the matters set forth herein or based upon or arising out of the terms and conditions of this Settlement Agreement.

18. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York, DCA or DOHMH.

19. This Settlement Agreement contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this settlement agreement regarding the subject matter of the settlement agreement shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

20. The parties agree that no evidence of any matter raised for the purpose of agreeing to this Settlement Agreement, including but not limited to any discussion, admission, concession or offer to settle, whether oral or written, made during any negotiation concerning this Settlement Agreement, shall be used for any purpose in any judicial or administrative proceeding of any kind.

21. The parties have reviewed and revised this Settlement Agreement, and any rule of construction, by which any ambiguities are to be resolved against the drafting

party, shall not be applied in the interpretation of this Settlement Agreement.

September 25, 2009

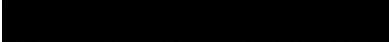
  
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