

IN THE MATTER OF:

KENNEBEC COUNTY DIVE AND RESCUE ASSOCIATION, INC.  
125 State Street  
Augusta, Maine 04330

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**AMENDED ASSURANCE OF DISCONTINUANCE**

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This **AMENDED ASSURANCE OF DISCONTINUANCE** (“ASSURANCE”) is entered into by the Attorney General of the State of Maine (“Attorney General”) acting pursuant to 5 M.R.S.A. § 210 and Kennebec County Dive and Rescue Association, Inc. (“Kennebec County Dive and Rescue”), a Maine nonprofit corporation with a principal place of business at 125 State Street, Augusta, Maine 04330.

This Amended Assurance of Discontinuance makes changes only to paragraph 2 under the **ASSURANCES** section for the purpose of enabling distribution of restitution. In all other respects, this Amended Assurance is the same as the previous Assurance dated January 24, 2003.

**ATTORNEY GENERAL’S POSITION**

1. The statements contained in this section represent the position of the Attorney General.
2. Kennebec County Dive and Rescue is a Maine nonprofit corporation organized for the purposes of equipping and training a rescue team for the Kennebec County Sheriff’s Office.
3. Kennebec County Dive and Rescue entered into a contract with a paid fundraiser to raise money for the purpose of equipping and training a rescue team in a manner that would tangibly benefit the Kennebec County Dive and Rescue Association and the Kennebec County Sheriff’s Office.

4. The Kennebec County Dive and Rescue Association's solicitation materials incorrectly stated that donations to it were tax deductible.

5. Members of the Kennebec County Sheriff's Office or persons claiming to be members of the Kennebec County Sheriff's Office solicited donations from the public in Kennebec County for the tangible benefit of the Kennebec County Dive and Rescue Association and the Kennebec County Sheriff's Office.

6. During its charitable fundraiser, the Kennebec County Dive and Rescue Association changed its solicitation materials to state that it was raising funds for educating children and teens in Kennebec County. It did not change its corporate purposes, and its solicitation materials continued to make references and representations that the funds would tangibly benefit law enforcement officers, a law enforcement agency or a law enforcement association.

7. The Kennebec County Dive and Rescue Association was not in fact organized for educating youths and no youth programs have been funded by it.

8. The Attorney General's position is that Kennebec County Dive and Rescue Association's conduct as set forth above violates the Solicitation by Law Enforcement Officers Act, 25 M.R.S.A. § 3702-A and the Maine Unfair Trade Practices Act, 5 M.R.S.A. § 207.

**KENNEBEC COUNTY DIVE AND RESCUE ASSOCIATION'S POSITION**

1. Kennebec County Dive and Rescue Association contends that it has not intentionally violated any State laws. It further contends that it is not responsible for actions allegedly taken by the paid professional fundraiser with whom it contracted for fundraising services.

## GENERAL AGREEMENTS

1. The parties have agreed to resolve the issues raised by the Attorney General's inquiry by entering into this **ASSURANCE**. Kennebec County Dive and Rescue Association is entering into this **ASSURANCE** solely for the purpose of settlement. No part of this **ASSURANCE** constitutes or shall constitute evidence against Kennebec County Dive and Rescue Association in any action brought by any person(s) or entity or other party for any violation of any law, except in an action brought to enforce the terms of this **ASSURANCE**.

2. The Attorney General acknowledges by execution hereof that this **ASSURANCE** constitutes complete settlement and release on behalf of the State of Maine against Kennebec County Dive and Rescue Association with respect to all claims, causes of action, damages, fines, costs and penalties which were asserted or could have been asserted prior to the effective date of this **ASSURANCE** under 5 M.R.S.A. § 207 and 25 M.R.S.A. § 3702-A, and relating to or based upon the subject matter of this **ASSURANCE**. The Attorney General agrees that the State of Maine shall not proceed with or institute any civil action or proceeding based upon 25 M.R.S.A. § 3702-A or 5 M.R.S.A. § 207, including but not limited to an action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys fees or costs for any conduct prior to the effective date of this **ASSURANCE**, which relates to the subject matter of this **ASSURANCE**, or for any conduct or practice prior to the effective date of this **ASSURANCE**, which relates to the subject matter of this **ASSURANCE**. Notwithstanding the foregoing, the Attorney General may institute an action or proceeding to enforce the terms and provisions of this **ASSURANCE** or to take action based on future conduct.

## ASSURANCES

1. Kennebec County Dive and Rescue Association agrees to stop soliciting donations from the public immediately upon execution of this **ASSURANCE**.
2. Kennebec County Dive and Rescue Association agrees to pay all of the money that it received in donations from the public to the Attorney General's Office to be distributed as *cy pres* restitution to a Kennebec County charity or charities to be selected by the Attorney General in his discretion. This payment shall be made immediately upon execution of this **ASSURANCE**.
3. Within thirty (30) days of the execution of this **ASSURANCE**, the Kennebec County Dive and Rescue Association will take all necessary steps to dissolve and cease to exist as a Maine nonprofit corporation.
4. Kennebec County Dive and Rescue Association will provide copies of all corporate and financial records to the Attorney General's Office immediately upon execution of this **ASSURANCE**.
5. Kennebec County Dive and Rescue Association and its officers agree to cooperate with the Attorney General's Office in its investigation of the paid fundraising corporation with which it contracted, including testifying if necessary.

## GENERAL PROVISIONS

1. This **ASSURANCE** shall be governed by the law of the State of Maine, 5 M.R.S.A. § 210.
2. Kennebec County Dive and Rescue Association agrees that this **ASSURANCE** constitutes a legally enforceable obligation of Kennebec County Dive and Rescue Association, Inc. in accordance with its terms.

3. This **ASSURANCE** does not constitute an approval by the State of Maine of any of Kennebec County Dive and Rescue Association's solicitation materials or fundraising practices and Kennebec County Dive and Rescue Association shall not make any representation to the contrary.

4. This **AMENDED ASSURANCE** shall be effective upon execution.

5. Nothing in this **ASSURANCE** shall be construed as a waiver of any private rights of any person.

6. Any violation of this **ASSURANCE** shall constitute *prima facie* evidence of an act or practice declared to be unlawful by 5 M.R.S.A. § 207.

7. This **ASSURANCE** constitutes the entire agreement of the parties hereto and supersedes all prior agreements or understandings, whether written or oral, between the parties and/or their respective counsel with respect to the subject matter hereof. Any amendment or modification to this **ASSURANCE** must be in writing and signed by duly authorized representatives of all the parties hereto.

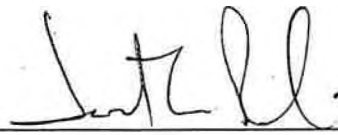
8. The undersigned representative for each party certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this **ASSURANCE** and to legally bind the party he or she represents to this **ASSURANCE**.

**SIGNATURE**

We the undersigned, who have authority to consent and sign on behalf of the parties in this matter, hereby consent to the form and contents of the foregoing **ASSURANCE** and to its entry:


Signed this 15<sup>th</sup> day of April, 2005.

KENNEBEC COUNTY DIVE AND  
RESCUE ASSOCIATION

By   
\_\_\_\_\_  
JONATHAN PERKINS, President  
Kennebec County Dive and Rescue Association, Inc.

APPROVED BY:

G. STEVEN ROWE  
Attorney General

  
\_\_\_\_\_  
LINDA J. CONTI  
ASSISTANT ATTORNEY GENERAL

IN THE MATTER OF:

KENNEBEC COUNTY DIVE AND RESCUE ASSOCIATION, INC.  
125 State Street  
Augusta, Maine 04330

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**ASSURANCE OF DISCONTINUANCE**

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This **ASSURANCE OF DISCONTINUANCE** (“**ASSURANCE**”) is entered into by the Attorney General of the State of Maine (“**Attorney General**”) acting pursuant to 5 M.R.S.A. § 210 and Kennebec County Dive and Rescue Association, Inc. (“**Kennebec County Dive and Rescue**”), a Maine nonprofit corporation with a principal place of business at 125 State Street, Augusta, Maine 04330.

**ATTORNEY GENERAL’S POSITION**

1. The statements contained in this section represent the position of the Attorney General.
2. Kennebec County Dive and Rescue is a Maine nonprofit corporation organized for the purposes of equipping and training a rescue team for the Kennebec County Sheriff’s Office.
3. Kennebec County Dive and Rescue entered into a contract with a paid fundraiser to raise money for the purpose of equipping and training a rescue team in a manner that would tangibly benefit the Kennebec County Dive and Rescue Association and the Kennebec County Sheriff’s Office.
4. The Kennebec County Dive and Rescue Association’s solicitation materials incorrectly stated that donations to it were tax deductible.

5. Members of the Kennebec County Sheriff's Office or persons claiming to be members of the Kennebec County Sheriff's Office solicited donations from the public in Kennebec County for the tangible benefit of the Kennebec County Dive and Rescue Association and the Kennebec County Sheriff's Office.

6. During its charitable fundraiser, the Kennebec County Dive and Rescue Association changed its solicitation materials to state that it was raising funds for educating children and teens in Kennebec County. It did not change its corporate purposes, and its solicitation materials continued to make references and representations that the funds would tangibly benefit law enforcement officers, a law enforcement agency or a law enforcement association.

7. The Kennebec County Dive and Rescue Association was not in fact organized for educating youths and no youth programs have been funded by it.

8. The Attorney General's position is that Kennebec County Dive and Rescue Association's conduct as set forth above violates the Solicitation by Law Enforcement Officers Act, 25 M.R.S.A. § 3702-A and the Maine Unfair Trade Practices Act, 5 M.R.S.A. § 207.

#### **KENNEBEC COUNTY DIVE AND RESCUE ASSOCIATION'S POSITION**

1. Kennebec County Dive and Rescue Association contends that it has not intentionally violated any State laws. It further contends that it is not responsible for actions allegedly taken by the paid professional fundraiser with whom it contracted for fundraising services.

#### **GENERAL AGREEMENTS**

1. The parties have agreed to resolve the issues raised by the Attorney General's inquiry by entering into this **ASSURANCE**. Kennebec County Dive and Rescue Association is



entering into this **ASSURANCE** solely for the purpose of settlement. No part of this **ASSURANCE** constitutes or shall constitute evidence against Kennebec County Dive and Rescue Association in any action brought by any person(s) or entity or other party for any violation of any law, except in an action brought to enforce the terms of this **ASSURANCE**.

2. The Attorney General acknowledges by execution hereof that this **ASSURANCE** constitutes complete settlement and release on behalf of the State of Maine against Kennebec County Dive and Rescue Association with respect to all claims, causes of action, damages, fines, costs and penalties which were asserted or could have been asserted prior to the effective date of this **ASSURANCE** under 5 M.R.S.A. § 207 and 25 M.R.S.A. § 3702-A, and relating to or based upon the subject matter of this **ASSURANCE**. The Attorney General agrees that the State of Maine shall not proceed with or institute any civil action or proceeding based upon 25 M.R.S.A. § 3702-A or 5 M.R.S.A. § 207, including but not limited to an action or proceeding seeking restitution, injunctive relief, fines, penalties, attorneys fees or costs for any conduct prior to the effective date of this **ASSURANCE**, which relates to the subject matter of this **ASSURANCE**, or for any conduct or practice prior to the effective date of this **ASSURANCE**, which relates to the subject matter of this **ASSURANCE**. Notwithstanding the foregoing, the Attorney General may institute an action or proceeding to enforce the terms and provisions of this **ASSURANCE** or to take action based on future conduct.

### **ASSURANCES**

1. Kennebec County Dive and Rescue Association agrees to stop soliciting donations from the public immediately upon execution of this **ASSURANCE**.

2. Kennebec Dive and Rescue Association agrees to pay all of the money that it received in donations from the public to the Attorney General's Office to be used to pay

consumers restitution as provided in 5 M.R.S.A. § 207. This payment shall be made immediately upon execution of this **ASSURANCE**.

3. Within thirty (30) days of the execution of this **ASSURANCE**, the Kennebec County Dive and Rescue Association will take all necessary steps to dissolve and cease to exist as a Maine nonprofit corporation.

4. Kennebec County Dive and Rescue Association will provide copies of all corporate and financial records to the Attorney General's Office immediately upon execution of this **ASSURANCE**.

5. Kennebec County Dive and Rescue Association and its officers agree to cooperate with the Attorney General's Office in its investigation of the paid fundraising corporation with which it contracted, including testifying if necessary.

#### **GENERAL PROVISIONS**

1. This **ASSURANCE** shall be governed by the law of the State of Maine, 5 M.R.S.A. § 210.

2. Kennebec County Dive and Rescue Association agrees that this **ASSURANCE** constitutes a legally enforceable obligation of Kennebec County Dive and Rescue Association, Inc. in accordance with its terms.

3. This **ASSURANCE** does not constitute an approval by the State of Maine of any of Kennebec County Dive and Rescue Association's solicitation materials or fundraising practices and Kennebec County Dive and Rescue Association shall not make any representation to the contrary.

4. The effective date of this **ASSURANCE** shall be January 24, 2003.

5. Nothing in this **ASSURANCE** shall be construed as a waiver of any private rights of any person.

6. Any violation of this **ASSURANCE** shall constitute prima facie evidence of an act or practice declared to be unlawful by 5 M.R.S.A. § 207.

7. This **ASSURANCE** constitutes the entire agreement of the parties hereto and supersedes all prior agreements or understandings, whether written or oral, between the parties and/or their respective counsel with respect to the subject matter hereof. Any amendment or modification to this **ASSURANCE** must be in writing and signed by duly authorized representatives of all the parties hereto.

8. The undersigned representative for each party certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this **ASSURANCE** and to legally bind the party he or she represents to this **ASSURANCE**.

**SIGNATURE**

We the undersigned, who have authority to consent and sign on behalf of the parties in this matter, hereby consent to the form and contents of the foregoing **ASSURANCE** and to its entry:

Signed this 24<sup>th</sup> day of January, 2003.

KENNEBEC COUNTY DIVE AND  
RESCUE ASSOCIATION

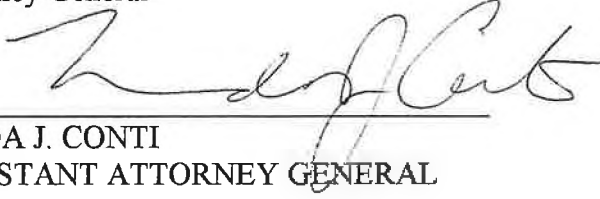
By

  
\_\_\_\_\_  
JONATHAN PERKINS, President

Kennebec County Dive and Rescue Association, Inc.

APPROVED BY:

G. STEVEN ROWE  
Attorney General

A handwritten signature in cursive script, appearing to read "Linda J. Conti", is written over a horizontal line.

LINDA J. CONTI  
ASSISTANT ATTORNEY GENERAL