

EXHIBIT 1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NEW HOPE FAMILY SERVICES, INC.,

5:18-CV-1419 (MAD/TWD)

Plaintiff,

vs.

SHEILA J. POOLE, in her official capacity
as Acting Commissioner for the Office of
Children and Family Services for the State
of New York,

**AFFIDAVIT OF JUDITH A.
GEYER IN SUPPORT OF NEW
HOPE FAMILY SERVICES'
MOTION FOR PRELIMINARY
INJUNCTION**

Defendant.

1. My name is Judith A. Geyer.
2. I am above the age of 18, of sound mind, and with full authority to make this declaration.
3. I am currently the Interim Executive Director of New Hope Family Services, Inc. (hereafter "New Hope"), located at 3519 James Street, Syracuse, NY 13206.
4. I became an employee of New Hope in 1992.
5. I began my employment with New Hope as an adoptive parent caseworker.
6. I became Executive Director in 1996 and continued in that role until 2013 when I retired.
7. Even after retirement as Executive Director, I continued to work for New Hope Family Services as an adoption caseworker. When the woman who replaced me as Executive Director became ill, I stepped in as Acting Executive Director in August of 2017.

8. After she passed away in April of 2018, I was given the title of Interim Executive Director and I have continued to maintain that position until today.

9. Kathy Jarman, Director of Client Services, for our pregnancy center is anticipated to succeed me as Executive Director on or about April 1, 2019.

10. The care of orphans and infants whose parents cannot care for them has been a Christian mission since the beginning of the faith.

11. St. James instructed the earliest church that “Religion that God our Father accepts as pure and faultless is this: to look after orphans and widows in their distress.” James 1:27.

12. New Hope’s adoption ministry is one small part of America’s rich religious heritage of helping birthmothers and children through adoption.

13. In 1958, Clinton H. Tasker, a Christian minister serving in a rescue mission, strongly sensed the call of God to open a Christian adoption ministry in New York that would care for women facing unplanned pregnancies and for their children.

14. He left the Mission and began traveling throughout the state speaking to churches, service organizations, and missionary committees to raise funds.

15. His vision was realized when New Hope Family Services’ incorporation was approved in 1965 by the State Board of Social Welfare under the name Evangelical Family Service, Inc.

16. Its board was composed of ministers and Christian philanthropists.

17. In 1977, New Hope amended its name to Evangelical Adoption and Family Services, Inc. to better reflect all of its services.

18. In 1986, New Hope began operating a pregnancy resource center under its umbrella.

19. In the early 1990s, Evangelical Adoption and Family Services, Inc., amended its name to New Hope Family Services, Inc.

20. Though New Hope's name has changed several times, the mission and Christian character of the organization have remained the same.

21. Like its founding board, the current board of New Hope is composed of devout believers who are actively involved in their Christian churches, including one member who is actively pastoring a church.

22. New Hope's mission is "to be Christ's hands extended to offer hope and help to people with pregnancy, parenting, adoption, or post-abortion needs in the Syracuse area and throughout the State of New York."

23. There are over 440,000 children in foster care in the U.S.

24. Over 120,000 of those children are waiting to be adopted.

25. In federal fiscal year 2017, New York had 27,268 children served in foster care, with 19,213 in foster care on September 30, 2017.

26. Of those, over 4,400 New York children were waiting to be adopted.

27. During fiscal year 2017, throughout the state of New York, a total of only 1,729 children were adopted.

28. Consistent with New Hope's mission, it operates as a pregnancy

resource center and temporary-foster-placement and adoption provider.

29. In order to scrupulously ensure its autonomy to operate in accordance with its religious beliefs, New Hope accepts no government funding.

30. New Hope's Christian faith and religious beliefs motivate and permeate its mission and all of its activities.

31. All of New Hope's paid staff, board members, and counseling volunteers must be in agreement with and sign New Hope's statement of faith, must be in agreement with and supportive of New Hope's religious mission, and must conduct themselves consistent with Christian faith and belief. Paid staff and counseling volunteers must also be willing and able to pray with and present the Gospel to New Hope's clients.

32. New Hope's board members pray at New Hope board meetings.

33. New Hope holds regular times of worship and prayer for its employees and volunteers.

34. All of New Hope's paid staff and counseling volunteers are expected to counsel consistently with biblical truth.

35. New Hope believes that the Bible is the inspired and authoritative word of God and strives to follow its commands.

36. New Hope believes that:

- God is sovereign over and involved in the creation of every human life and every human life is created in the image and likeness of God and is worthy of protection;

- Every person has inherent dignity and self-worth and should be treated with respect and love;
- The biblical model for the family as set out in the Bible—one man married to one woman for life for their mutual benefit and the benefit of their children—is the ideal and healthiest family structure for mankind and specifically for the upbringing of children;
- God created two sexes—male and female. And each sex has a unique role and gifting that is intended to benefit the other and any children in the family;
- An individual’s sex as male or female is determined at the time of conception and cannot be changed;
- Caring for orphans is important to God and God desires believers to do so.

37. Through its adoption program, New Hope strives to save the lives of babies that God has created.

38. New Hope operates as a pregnancy resource center that exists to lovingly serve women facing the fears and concerns of an unplanned pregnancy, and their children.

39. New Hope’s pregnancy resource center serves approximately 700 clients per year.

40. New Hope provides the following services to its pregnancy center clientele: free urine pregnancy tests; free supplies from its care corner that clients

can frequent once per month, including items like car seats, clothes, formula, diapers, and wipes for children ages 0-2 years; referral for free ultrasound if pregnancy test is positive; free unplanned pregnancy options counseling focused on parenting and/or adoption; free childbirth education courses taught by a registered nurse; free counseling on parenting issues/challenges; referrals for medical, community, and social services; free post-abortion counseling; and free counseling following miscarriage or infant loss.

41. All of the services that New Hope provides as a pregnancy resource center are provided without consideration of the recipient's marital status, sexual orientation, gender identity, or religious belief.

42. All of the services that New Hope provides its pregnancy resource center clients are provided free of charge.

43. New Hope provides its services to women in unplanned pregnancies pursuant to its pro-life viewpoint, desiring to empower the women it serves to choose life for their child by either choosing to parent or to create a loving adoption plan for their child, rather than choosing abortion.

44. As a pregnancy resource center, New Hope regularly serves unmarried couples and those who identify as lesbian, gay, bisexual or transgender.

45. When New Hope has a pregnancy-resource-center client who has a positive pregnancy test and is open to learning about adoption, New Hope provides the mother counseling about the adoption process. New Hope encourages her that adoption is a loving option, enabling the mother to give her baby life and to select

the adoptive family with whom she feels comfortable entrusting her child.

46. New Hope never pressures a birthmother to make an adoption plan over parenting.

47. During the counseling process, New Hope shows the prospective birthmother profiles of some of the families with whom it has recently placed children as examples of the types of loving adoptive families that New Hope may be able to provide for her child.

48. New Hope holds over 1,500 counseling sessions per year as a pregnancy resource center.

49. New Hope's ability to serve its pregnancy-resource-center clients through its adoption program enhances its efficacy in encouraging women to choose life for their babies instead of abortion.

50. In addition, New Hope networks with and acts as a resource to other faith-based pregnancy resource centers throughout the State of New York, none of which are licensed adoption agencies. New Hope offers education sessions to pregnancy resource centers about adoption and the New York adoption process, so that pregnancy resource centers will be familiar with New Hope's services and will be conversant on the subject. New Hope does this so that other pregnancy resource centers will be more effective in their ability to counsel their clients toward adoption over abortion. These centers refer clients to New Hope who are open to learning about adoption.

51. New Hope's ability to serve other pregnancy resource centers and the

pregnant women those centers serve is enhanced by its ability to directly facilitate the creation of adoption plans and adoptive placements.

52. New Hope also operates as a New York voluntary adoption provider and is authorized to place children with New York state residents.

53. New Hope serves individuals from all over the state through its adoption program.

54. New Hope has been placing children in loving homes since 1965 and has placed over 1,000 children.

55. In recent years, New Hope has placed between eight and twelve children in adoptive homes per year.

56. New Hope is unique in New York as an adoption provider because it also operates as a pregnancy resource center.

57. New Hope's primary focus is providing placements for newborns, infants, and toddlers up to two years of age. It is of the greatest urgency that these youngest children be placed into foster or adoptive homes as quickly as possible. OCFS' data indicates that "children less than one year of age are most likely to be involved in a report to the [Statewide Central Register of Abuse and Maltreatment], and the allegations within those reports are most likely to be substantiated."

58. New Hope is a relatively small adoption provider and takes a personal "arm-around-the-shoulder" approach to the services it provides to its adoption clients, walking birthparents through the journey of creating an adoption plan and providing guidance and counsel to prospective adoptive families through each step

of the application, homestudy placement, supervision, and finalization process.

59. Almost all of the adoptions New Hope handles are considered open adoptions, meaning that New Hope facilitates some degree of communication between the adoptive parents and birthparents about the child even after the adoptions are finalized.

60. New Hope allows birthparents and adoptive families to determine the level of openness they desire in the adoption, which includes issues such as (1) meeting the adoptive family before placement, (2) exchanging letters and photos with the adoptive family, (3) sending gifts to the child on holidays or birthdays, and/or (4) having one or two in-person visits per year with the child and adoptive family.

61. The chosen level of openness must be included in a Post Adoption Contact Agreement between the birthparents and adoptive parents, and is facilitated through New Hope until the child turns 18 years of age.

62. Even when birthparents and adoptive parents mutually agree to meet or communicate directly, New Hope remains available as a mediator should they develop a disagreement.

63. New Hope allows birthparents to choose a closed adoption if they prefer. In a closed adoption, there is no information sharing or communication from the adoptive parent to the birthparent regarding the child after the placement.

64. Many of New Hope's prospective birthmothers are referred to New Hope from other pregnancy resource centers throughout the state.

65. Many of New Hope's prospective birthparents contact New Hope directly because they have become aware of New Hope's adoption program and are interested in placing their unborn child for adoption through New Hope.

66. Many of New Hope's prospective birthparents are referred to New Hope by hospital social workers following the child's birth. Many of these clients are seeking immediate foster care placement for their child until an adoption can be arranged. New Hope provides this short-term foster care through its Tender Loving Care program.

67. Regardless of how a prospective birthparent is connected to New Hope, New Hope provides counseling concerning adoption and the adoption process to its prospective birthparents.

68. During the counseling process, New Hope discusses with birthparents their desires for the adoptive family with whom they would place their baby.

69. Consistent with state law and regulations, this includes discussing the birthparents' religious beliefs and whether they desire their baby to be placed in a home that practices those beliefs.

70. Consistent with state law and regulations, New Hope also discusses birthparents' race, ethnicity, and/or color and whether they desire the child to be placed with adoptive parents of similar race, ethnicity, or color.

71. During this process, birthmothers or birthfathers may also make statements to New Hope's birthparent caseworker about the age or sex of individuals with whom they would be willing to place their child.

72. During this process, birthmothers or birthfathers may also make statements about the family structure they would desire for their child's placement, such as a preference or aversion for the child to be placed in a home that already has other biological or adopted children, or a preference for the child to be placed in a home with a married mother and father.

73. During the process, birthmothers and birthfathers may also make statements about the type of community demographics or cultural characteristics they would desire for their child's upbringing.

74. During the process, birthmothers and birthfathers may also make statements about the educational or cultural backgrounds of individuals with whom they would be willing to place their child.

75. Based on the birthparent's desired characteristics for an adoptive family, New Hope reviews its list of prospective adoptive parents.

76. New Hope meets with birthparents, once a birthmother is approximately seven months along in her pregnancy, to show them actual parent profiles created by its current list of prospective adoptive parents.

77. If a birthmother has already given birth to the child, the child's actual characteristics are considered during these discussions.

78. New Hope typically shows five parent profiles to its prospective birthparents and ensures that the profiles match the birthparents' desires as well as the adoptive parents' willingness to adopt a child with the anticipated characteristics of the specific child.

79. New Hope generally has between 14 and 20 prospective adoptive families on its list that it has recommended for adoption.

80. All of the birthparents who have placed a child through New Hope have been able to find a family with whom they were comfortable placing their child for adoption from the profiles that New Hope provided during this process.

81. In some instances, a birthmother does not want to select the adoptive family with whom her child will be placed for personal reasons.

82. In those instances, New Hope considers the prospective adoptive parents on its list in light of the best interest of the child.

83. New Hope has never had a delay in placement because of consideration of these requirements.

84. New Hope receives inquiries about its adoption program from prospective adoptive parents from all over the state of New York.

85. New Hope invites those parents to attend one of its periodic orientation sessions to learn about New Hope, its program, and the adoption process.

86. During the orientation presentation, New Hope makes its nature as a religious ministry clear, opening the meeting with prayer, and providing information about the organization's history and religious mission. New Hope also explains scripture passages and principles about children, including that Jesus loves children, that children are to be valued as gifts from God, and that Christians are told to have faith like a child.

87. During the presentation, New Hope instructs prospective adoptive parents about its vision that adoption is intended to meet the needs of the child by providing a loving home, and that the role of a child should never be to meet the needs of the adoptive parent. New Hope also educates prospective adoptive parents about open adoption, the adoption triad (child, birth parents, adoptive parents), birthparents and their desires to select a good home for their child if they are unable to parent, the home-study process, legal surrenders, and agency fees, among other things.

88. At the orientation meeting, prospective adoptive parents are given New Hope's application packet. Completion of this application puts an applicant on New Hope's waiting list to begin the homestudy process.

89. Usually within six months of receipt of the initial application, the applicant is mailed an invitation to begin the homestudy process and must resubmit an updated application to accept.

90. The first session of the homestudy process—Session One—is an all-day session that begins with prayer. The first portion is a group session with several other applicants. It is followed by individual meetings in the afternoon with an adoptive-parent caseworker.

91. In Session One, applicants receive a homestudy packet with various documents they need in order to complete the homestudy process.

92. At the end of Session One, New Hope provides prospective adoptive families a little booklet entitled "Steps to Peace with God."

93. Session One includes, among other things, an overview of the home-study process, a review of application documents and requirements, a discussion of required reading on interracial adoption, an exploration of applicants' motivations to adopt, including discussion relating to infertility, grief, and loss, and how faith in God can help applicants through these issues. The session also includes education on bonding and attachment, with an emphasis on how different types of child care plans impact bonding and attachment for working parents.

94. Homestudy Session Two takes approximately two and a half hours and takes place on site at the applicant's home and begins with prayer.

95. Session Two includes an in-depth interview by the New Hope caseworker to survey the home for compliance with safety requirements, explore the prospective adoptive parents' experience with children, family support, parenting philosophy, ability to parent a child of a different race or culture, faith and religious practice, and family dynamics, including interviews of any children in the home.

96. Homestudy Session Three is perhaps the most intensive and takes approximately four hours at New Hope's facility.

97. In Session Three, the caseworker further interviews the applicant or applicants. Married applicants are interviewed separately as well as together.

98. The purpose of Session Three is to explore the applicants' strengths and weaknesses in more detail, and to explore the following subjects: family of origin, family dynamics, thoughts on discipline and affection, work responsibilities, marital stability including sensitive topics like pornography use, mental-health

history, financial stability, and parenting philosophy.

99. In the case of a married couple, New Hope is concerned about the importance of ensuring the intimacy and strength of the marriage for the benefit of any child placed with them.

100. New Hope views any discrepancies it discovers through these interviews to potentially be cause for concern regarding the marital relationship.

101. New Hope's primary concern during Session Three is ensuring that the home of the applicant(s) will be a safe, stable environment for the child.

102. After each session, the caseworker makes notes regarding the caseworker's findings and assessments.

103. Following Session Three, the caseworker and I meet to review the entire contents of the casefile. During this meeting the caseworker and I consider all of the documentation submitted and make a determination to approve or disapprove the applicants as prospective adoptive parents. In making this determination, New Hope is always focused on the best interest of any child who may be placed in the home.

104. Only those who are recommended for placement will be invited to participate in Session Four.

105. Homestudy Session Four is a teaching session that is done in a group setting that begins with prayer.

106. During Session Four, New Hope discusses how to talk to your child about adoption and other issues that are common to adopted children and families.

107. During Session Four, New Hope also shows examples of adoptive-parent profiles to prospective adoptive parents and instructs them about how to create their own profile, which will be the picture and message that connects them with the birthparent.

108. After Session Four, adoptive parents are given a month or so to make a profile. They first complete a draft profile, including pictures and wording, which they submit to New Hope for review.

109. New Hope's adoptive-parent caseworker and birthparent caseworker both review this draft, make suggested edits, and provide the adoptive parents with helpful feedback. Upon receiving that feedback, adoptive parents may collaborate further with New Hope on edits to their parent profile before finalizing them in a scrapbook format.

110. Once adoptive parents have finalized their profile, they are placed on the list for consideration by birthparents when a child is in need of an adoptive home.

111. Shortly after adoptive parents have submitted their profile, the New Hope caseworker discusses again in more detail the characteristics and legal risks of a child they are willing to adopt.

112. Consistent with state law and regulation, this discussion will include preferences for a child of a specific sex, race, color, or ethnicity.

113. New Hope will also discuss the adoptive parents' willingness to be involved in an open adoption including meeting the birthparent prior to placement,

exchanging letters and pictures, and meeting with the birthparent in person once or twice per year during a visit supervised by New Hope.

114. Prior to making a placement with adoptive parents, New Hope educates them on sudden infant death syndrome, vaccinations, safe sleep environments for children, caring for premature infants, and the placement, supervision, and finalization process.

115. Information relevant to New Hope's formal homestudy report for its adoptive parents must be assembled prior to making a placement.

116. That report includes the following language:

This report is the culmination of the Homestudy process conducted by New Hope Family Services, Inc. This homestudy process includes training on the following topics: Adoption as a life-changing process, the adoption triangle, the seven core issues of adoption, preparation for the homestudy process from the perspective of both agency and self-assessment, adoptedness as it relates to the developmental esteem in the adopted child, discussion on the uses adopted children usually face, discussion regarding birthparents' resolution of loss, profile preparation instructions and learning to wait. The homestudy process also includes a tour of the home, individual interviews with the husband and wife and joint interviews with the couple.

.....

New Hope Family Services, Inc. is authorized by the New York State Office of Children and Family Services as a child-placement and child care agency. The Agency certifies that it has completed a homestudy on the above mentioned family and that the family has met all the pre-adoption requirements established by the State of New York, including a search of the New York State Central Register on Child Abuse and Maltreatment.

117. The shortest length of time allowed by law for finalization after

placement is three months, but the process usually takes between six months and one year to complete. During that time New Hope maintains legal custody of the child while the adoptive parents have physical guardianship.

118. After a child is placed, New Hope remains in close contact with the adoptive family to ensure that the child is receiving proper medical care and feeding, among other things.

119. New Hope places phone calls to the family and follows up with in-person visits at least two or three times during a period of about six months, and usually once every quarter thereafter if necessary.

120. These supervisory visits are intended to gather information about the child's growth, health, and development as well as to assess the degree of attachment developing between the adoptive parents and the child.

121. New Hope's caseworkers also assess how the level of openness agreed to in the Contact Agreement is playing out in actuality for the adoptive parents and how they are coping with it emotionally.

122. The caseworker's goal is to ensure the child's safety but also to help facilitate the adjustment of the adoptive parents to the child's placement in the home.

123. New Hope caseworkers are required to complete field reports reporting on their supervisory visits for inclusion in the case file and formal supervisory report.

124. In preparation for finalization, the homestudy report—which serves as

New Hope's official recommendation of an adoptive family—must be notarized.

125. Before finalization, the homestudy update and supervisory reports are also prepared and notarized. These reports include information about the child's placement in the home and the child's adjustment to the family. These reports serve as New Hope's official recommendation of the adoptive family for the adoption of the specific child.

126. Following the finalization of an adoption, because of Contact Agreements, New Hope remains involved with the majority of its clients until the child turns 18 years of age.

127. New Hope facilitates letters, photos, and/or gifts being passed back and forth between the adoptive family and birthparents.

128. Depending on the level of openness, New Hope may also supervise and facilitate up to two in-person visits per year.

129. Under certain circumstances, New Hope provides temporary foster placements.

130. New Hope calls its foster-care services Tender Loving Care homes.

131. In general these temporary placements occur when either (1) a birthmother working with New Hope has delivered in a hospital and has not decided between parenting or placement for adoption, or (2) a birthparent is referred to New Hope by a hospital social worker because she has not yet made an adoption plan and desires to do so.

132. New Hope recruits foster families that are willing to take in newborns

on short notice.

133. For the same reasons previously set forth, New Hope typically seeks married husband and wife couples to serve as foster parents.

134. New Hope certifies its foster families for placements in accordance with the state regulatory process.

135. Similar to the adoption homestudy process, that process requires New Hope to interview and collect information on applicants in order to explore applicants' reasons for wanting to foster, their marital stability, family structure, religious affiliation, family background, and life history, among other things.

136. New Hope neither receives nor distributes any government funding in connection with its Tender Loving Care foster program.

137. Because of New Hope's religious beliefs, New Hope will not recommend or place children with unmarried couples or same-sex couples as adoptive parents.

138. New Hope's "Special Circumstances" policy, formalizes this policy and practice and states in part:

If the person inquiring to adopt is single . . . The Executive Director will talk with them to discern if they are truly single or if they are living together without the benefit of marriage. . . because New Hope is a Christian Ministry it will not place children with those who are living together without the benefit of marriage.

If the person inquiring to adopt is in a marriage with a same sex partner . . . (The Executive Director will . . . explain that because New Hope is a Christian Ministry, we do not place children with same sex couples).

139. New Hope has worked with unmarried individuals who are truly single in the past and remains willing to work with such individuals.

140. Because New Hope handles inquiries from unmarried couples and same-sex couples pursuant to the policy and practice described above, New Hope has never denied an unmarried couple or same-sex couple's application. Whenever a same-sex couple or unmarried couple is interested in a referral, New Hope refers them to the appropriate county social services office or another provider. On information and belief, no same-sex couple or unmarried couple who has inquired with New Hope about adoption has ever complained to OCFS about how New Hope handled their inquiry.

141. In January or February of 2018, Suzanne Colligan of OCFS called me. During the call, Ms. Colligan conveyed that, under a new policy implemented in 2018, OCFS would be conducting comprehensive on-site reviews of each private provider's procedures.

142. On July 18, Ms. Colligan sent me an email to schedule the adoption program review. That email stated in part:

For your information and in considering a date, below is a general outline of the topics to be covered when we meet. Additionally, I'll need to review adoption records; 1 closed record and if available 3 open pending adoptions. We can talk this through depending on the types of records you have in process.

The on-site review takes anywhere from 4-5 hours to complete, which depends on the record details and the length of discussion needed to cover the topics. Please let me know if you have any questions.

Adoption Model
Agency Goals & Objectives (Fiscal & Program)
Range of Services
Advertisements
Staffing

Waiting List
Maintenance of records

I will need a copy of the following:

Fee Schedule
Board of Directors
Policy and Procedural Manual
Forms
State licenses and/or Contracts
Fiscal Review

143. On July 20, Ms. Colligan confirmed by email that the adoption program review was scheduled for September 6, 2018 at 9:00 a.m.

144. Based on Ms. Colligan's direction that she would need a copy of New Hope's policies and procedure manual, I updated New Hope's formal policies and procedures on adoption into one consolidated manual.

145. On August 28, I received an email from Ms. Colligan, stating in part:

I also thought that it might be helpful for you to see the application we use with agencies requiring reauthorization for corporate authority. Since you are authorized in perpetuity, your agency is not required to complete/submit this form. However, I will be asking many of the program questions on it, so you may find it helpful in preparing for my visit.

146. A few days before the on-site review, Ms. Colligan and I had a call. During the call, Ms. Colligan advised me that she would be providing me with a form that she would be using as a guide for the format of her review. Ms. Colligan stressed that I did not need to complete the form or sign it because of New Hope's perpetual authorization status.

147. On September 6, 2018, Ms. Colligan met with myself and Kathy Decesare, New Hope's Center Director for approximately eight hours.

148. At that meeting, Ms. Colligan provided me with a new regulation that all agencies are required to implement.

149. Ms. Colligan also advised me about how New Hope had handled information that a specific birthparent had died, stating that even in such circumstances the agency could not share the information but could only direct inquiries to the New York State Adoption Registry.

150. Ms. Colligan identified these two topics as opportunities for improvement.

151. During the on-site review, Ms. Colligan never indicated that New Hope's authorization to handle adoption placements was in jeopardy as a result of these opportunities for improvement.

152. Ms. Colligan indicated that OCFS' review would be written up formally within one month, further stating that this timeframe was an OCFS requirement.

153. Ms. Colligan took a copy of New Hope's policy and procedure manual with her when she left.

154. On October 1, 2018, OCFS sent me a letter as an attachment to an email. The letter documented the on-site review and stated in part:

Our office found that your program has a number of strengths in providing adoption services within the community. one of which is the strong emphasis on assisting the birth parents in making an informed decision for their newborn, providing them time to make the decision, along with a supportive and detailed adoptive family selection process. During the site visit there were a few topic areas that warranted a follow up meeting to discuss and verify adjustments have been made to the current agency policies. The topics include:

- Immediate implementation of 18-OCFS-ADM-07: Foster/Adoptive Home Certification Approval Process
- Request for non-identifying information and medical history by adoptive families, adoptee, or birth parent; including usage of the Adoption Information Registry through the Department of Health.
- The agency's role and limitations regarding the exchange of information related to conditions of a surrender.

This program review will be conducted at your agency every three years. Annual onsite visits will be conducted over the next two years. We would like to thank you for the courtesy and cooperation extended to us during the visit and look forward to working with you as you continue to provide adoption services.

155. On October 5, 2018, Ms. Colligan and I scheduled a follow up meeting for October 15, 2018 to address the items mentioned in the October 1 letter.

156. On or about October 9, 2018, I received a call from Ms. Colligan. During the call, Ms. Colligan stated that she had been reading New Hope's policies and procedures manual and that New Hope's policy not to place children with those who are living together without the benefit of marriage or with same-sex couples violated Title 18 NYCCR § 421.3 and was impermissible.

157. Ms. Colligan told me that New Hope would have to comply with § 421.3 by placing children with unmarried couples and same-sex couples.

158. Ms. Colligan said that if New Hope did not comply, New Hope would be "choosing to close."

159. I responded that New Hope would be unwilling to violate its religious beliefs by placing children with unmarried or same-sex couples.

160. During the phone call, Ms. Colligan stated that "[s]ome Christian

ministries have decided to compromise and stay open.”

161. I affirmed again that New Hope would be unwilling to violate its beliefs and stated that “[w]e will never choose to close. You will be forcing us to close.” I also stated that New Hope’s religious freedom was being violated.

162. Ms. Colligan told me that I would be getting a letter from OCFS mandating compliance by a specific date.

163. On October 11, 2018, I sent Ms. Colligan an email stating in part:

I just was thinking about the 18 years of correspondence contracts that our adoptive couples have and the visits—sometimes two per year between adoptive couples and birthparents. If you were to close down our agency, would another agency provide staff to handle all of this casework for the next 18 years?

164. Ms. Colligan replied on October 11, 2018, stating in part:

You will be receiving a letter from our office soon requesting a formal written response regarding your agency’s position. When OCFS receives written notification of an agency’s intention to close a program, OCFS will respond with written instructions to the agency with the steps they must take. These steps include the agency’s responsibility to seek and obtain agreement with another NYS authorized agency to maintain and store their adoption records, of which includes the handling of activities outlined in the legally bound agreements with birth parents.

165. On October 12, 2018, Ms. Colligan sent me an email stating in part:

We will put Monday’s follow up meeting [to discuss a few minor improvements identified during the visit] on hold for now. The purpose of the follow up meeting would be to work on the necessary changes to your agency policy manual. Based on our recent phone call, the follow up meeting for those purposes does not appear needed at this time.

166. On October 17, 2018, Ms. Colligan indicated in email to me that she

had mailed out a certified letter. That email stated in part:

Once the letter is returned providing us with written notice of your intent, we will send out a letter outlining our expectations around the handling of those that you are currently providing services and the adoption records.

167. I did not receive the certified letter, so I called several times to follow up with Ms. Colligan, but my voicemails were unreturned.

168. On October 26, because I was going to be having a meeting with the Board of New Hope and could not reach Ms. Colligan, I called and spoke to another OCFS staff member.

169. On October 26, 2018, I received an electronic copy of the letter to which Ms. Colligan had referred. The letter stated that New Hope's policy pertaining to "not placing 'children with those who are living together without the benefit of marriage' or 'same-sex couples' violates Title 18 NYCRR § 421.3." The letter further stated:

OCFS hereby requests a formal written response from [New Hope] stating the agency's position in regard to revising this policy to eliminate those portions that violate the above-cited regulation. Please respond within 15 days of receipt of this letter indicating specifically whether [New Hope] intends to revise the present policy and continue the existing adoption program, or that [New Hope] will not revise the policy so as to comply with the above-cited regulation.

Please be aware that should the agency fail to bring the policy into compliance with the regulation, OCFS will be unable to approve continuation of [New Hope's] current adoption program and [New Hope] will be required to submit a close-out plan for the adoption program.

170. New Hope was given until November 30, 2018, to respond to OCFS' ultimatum.

171. Without violating its religious beliefs, New Hope is unable to comply with the OCFS ultimatum to recommend unmarried couples and same-sex couples as foster and adoptive parents, to counsel unmarried and same-sex couples concerning adoptive parenthood and related relational issues, and to place children with unmarried couples and same-sex couples.

172. In fulfillment of its longstanding mission pursued in obedience to the faith of its staff and board, New Hope desires to continue taking on new adoptive parents, birthparents, foster parents, and children for placement in foster care and adoption, but the state now threatens to absolutely prevent New Hope from doing so by terminating New Hope's perpetual license and prohibiting it from serving in all of these ways.

173. At the time of the State's ultimatum, New Hope had approximately thirteen prospective adoptive families on its list that had completed the homestudy process and were waiting for a child to be placed with them.

174. New Hope had a homestudy Session One meeting scheduled for October 29, 2018, to begin the homestudy process with six more prospective adoptive families. Because it had been told that it would have to violate its beliefs or shut down, New Hope was forced to cancel the homestudy Session One meeting. New Hope advised those families of what the state was requiring. Four of the families requested a refund of their application fees.

175. Since receiving the demand from OCFS that New Hope violate its beliefs or cease adoptions, nine additional prospective adoptive families have

contacted New Hope about beginning the adoption process. Because of OCFS' threats, New Hope was obliged to tell them that it may not be able to work with them at this time.

176. New Hope desires to contact these prospective adoptive parents and work with them to place children in need of loving homes.

177. Since receiving the demand from OCFS that New Hope violate its beliefs or cease adoptions, at least five expectant birthmothers contacted New Hope asking for help in placing their children for adoption. But New Hope was obliged to tell them that that it has suspended taking on new birthparents and children to work with towards adoption because of OCFS' threats.

178. New Hope desires to work with these prospective birthparents to help them find loving homes for their children.

179. New Hope has three active foster families that are willing to accept placements, but it has similarly had to advise them that its program is on hold due to the uncertainty caused by the OCFS ultimatum.

180. New Hope had a training session concerning adoption scheduled for October 18, 2018, for center directors from several pregnancy resource centers from around the state. Because of OCFS' threat to terminate New Hope's authorization to provide adoption services, New Hope was forced to cancel the training.

181. If New Hope were to violate its religious beliefs and place children with unmarried couples and same-sex couples, the pregnancy resource centers that it currently serves through trainings and referrals would be less inclined to refer to

New Hope, and may no longer refer to New Hope at all, because they are faith-based organizations that share New Hope's religious beliefs regarding the nature of marriage and family.

182. If New Hope were to violate its beliefs, it would lose some of its clients, including birthmothers, adoptive families, and foster families, who choose to work with New Hope because of their shared Christian faith.

183. If New Hope is unable to place children for adoption or in foster care, its ability to effectively minister to and help women who are facing unplanned pregnancies through its pregnancy resource center will be impaired.

184. New Hope currently retains legal custody of three children that it has placed with three separate adoptive families this year.

185. New Hope continues to actively supervise those placements but has advised those families of what the state is requiring and that it is unsure if it will be able to continue to handle the finalization of their adoptions. If New Hope is unable to do so, finalization of these adoptions will be delayed because of being transferred to another provider.

186. Because the majority of New Hope's adoptions are open adoptions, if New Hope is unable to continue its adoption program, it will have to transfer 117 adoptive families and 117 birthparent families that it has worked with over the past 18 years, to another provider to facilitate those Contact Agreements.

187. If New Hope loses its authorization to place children, it will have to transfer all fifty-three years of its adoptive family and birthparent files to another

provider.

188. If New Hope loses its authorization to place children in adoptive homes or foster care, it will likely have to terminate the employment of five of its employees.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Date: December 11th, 2018.

Judith A. Geyer
Judith A. Geyer

STATE OF NEW YORK)
) ss.:
COUNTY OF)
Onondaga

On the 11th day of December, 2018, before me, the undersigned, a Notary Public in and for said state, personally appeared Judith A. Geyer, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

Kathryn Decesare

Notary Public

KATHRYN DECESARE
NOTARY PUBLIC-STATE OF NEW YORK
NO. 01-DE6065549
QUALIFIED IN ONONDAGA COUNTY
MY COMMISSION EXPIRES 10-22-20 21