



BRIGHT FROM THE START

Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower, Atlanta, Georgia 30334
(404) 656-5957

Nathan Deal
GOVERNOR

Bobby Cagle, MSW
COMMISSIONER

April 5, 2013

CERTIFIED MAIL #7012 2210 0000 0134 2850, HAND DELIVERY AND REGULAR MAIL

Mr. Alverro L. Brown
Registered Agent
Chief Executive Officer
Lali's Angels, Inc.
d/b/a Lali's Angels
910 Dual Hall Court
Powder Springs, Georgia 30127

REGULAR MAIL

Mr. Alverro L. Brown
Director
Lali's Angels
3155 Chesnut Drive
Doraville, Georgia 30340

RE: Notice of Revocation

Dear Mr. Brown:

On March 30, 2012, Bright from the Start: Georgia Department of Early Care and Learning (Bright from the Start) issued a notice to Lali's Angels that it intended to restrict the Center's right to transport children for 12 months. The Center appealed this restriction. The Office of State Administrative Hearings (OSAH) affirmed the 12 month restriction on July 3, 2012. On July 17, 2012, Bright from the Start issued an Order for Intended Emergency Closure of Lali's Angels for violating the transportation restriction. On July 18, 2012, OSAH affirmed Bright from the Start's Order. On July 27, 2012, Bright from the Start notified Lali's Angels that its license to operate a child care learning center was revoked. On August 2, 2012, Lali's Angels filed a Petition for Injunctive Relief and Stay of Emergency Closure with OSAH. OSAH denied this Petition on August 3, 2012. On August 3, 2012, Lali's Angels filed a Petition for Judicial Review of Emergency Closure Order and a Stay of Order with the Cobb County Superior Court. On August 18, 2012, Bright from the Start and Lali's Angels entered into a Settlement Agreement and Full and Final Release of Claims (Settlement Agreement).

Pursuant to the Settlement Agreement, Bright from the Start rescinded the July 17, 2012 Order for Intended Emergency Closure as well as the July 27, 2012 revocation of Lali's Angels' license. Lali's Angels dismissed its actions pending before OSAH and the Cobb County Superior Court against Bright from the Start. In the Settlement Agreement, Lali's Angels agreed in part, to not provide or make available transportation services for children under its care for one year; to not contract with others to perform any transportation function or provide any transportation service for children under its care for one year; and to comply with all of Bright from the Start's Rules for Child Care Learning Centers. The Settlement Agreement is marked as Exhibit "A".

As a result of a complaint received March 12, 2013, Bright from the Start conducted an investigation at Lali's Angels. The findings of the investigation substantiated that rule violations occurred which jeopardized the health and safety of children in care. Specifically, on March 13, 2013, a center staff member transported four children to the center from their local elementary schools while the center was under a 12 month transportation restriction as of

August 18, 2012. The center also arranged transportation services through Lamak, Inc., for children to and from the center. The rule violations for which Bright from the Start is basing the revocation are marked as Exhibit "B", which shows a flagrant violation of rules that constitutes shocking intentional misconduct. The Department issued an Emergency Closure on March 15, 2013, and the Emergency Closure was affirmed by OSAH on March 21, 2013. The final decision is marked as Exhibit "C".

Based on the facility's noncompliance with the rules for child care learning centers, the licensee is hereby notified that the license to operate the Child Care Learning Center is revoked. Bright from the Start's legal authority for revoking a license is found in O.C.G.A. Sections 20-1A-12(b)(3)(5), 20-1A-12(c)(5), and 20-1A-10(q), and Bright from the Start's Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of the Rules and Regulations of the State of Georgia.

In accordance with O.C.G.A. Section 20-1A-10(o), this revocation becomes effective thirty (30) days from receipt of this Notice. You have the right to appeal the decision to revoke the license by filing a written request for an administrative hearing before an Administrative Law Judge with the Office of State Administrative Hearings. The request must be made in writing within ten (10) days of receipt of this Notice and addressed to:

**Ira Sudman
Chief Legal Officer
Bright from the Start
Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive, SE, Suite 754, East Tower
Atlanta, Georgia 30334**

If a hearing request is submitted, please be advised that the program shall remain closed until the appeal decision is issued pursuant to O.C.G.A. Section 20-1A-13(c)(3).

If the licensee does not appeal this action within ten (10) days of receipt of this Notice, the decision to revoke the license will be final. Licensure staff will conduct a follow-up visit to verify closure.

Sincerely,



Brenda Haynesworth
Child Care Services Director

Attachments

cc: Keith Bostick
Ira Sudman
Kristie Lewis
Elisabetta Kasfir
Candy Prince
Johnathan Davis
Glenene Lanier
Monica Warren
Jackie Shivers
Sherry Smith
Jennifer Bridgemen
Cynthia Cavers
Shenetta McNair
State File

List of Rule Violations for:

Lali's Angels
3155 Chestnut Drive
Doraville, Georgia 30340

1. Rule 591-1-1-.31(11) requires center staff to comply with all applicable laws and regulations.

During the investigation into the March 12, 2013 complaint, it was determined that the center director and owner instructed staff members at the center to transport children from their elementary school to the center in personal vehicles and arranged for children to be transported home from the center in vans labeled "LaMak." A staff person was observed on March 13, 2013, to leave the center with no children in the car and return approximately one hour later with four children in the vehicle. The center was under a 12 month transportation restriction as of August, 2012, and it violated the restriction by providing and arranging for transportation. These facts were affirmed by the Office of State Administrative Hearings (OSAH) March 22, 2013, decision (Exhibit "C").

The failure of the center staff to comply with all applicable laws and regulations could possibly place children at risk of harm.

2. Rule 591-1-1-.36(6)(c) requires center staff to use a transportation checklist that is approved by the Department.

During the investigation, it was determined that the center director and owner instructed staff to transport children to the center from their elementary schools in personal vehicles and also arranged for children to be transported home from the center in vans labeled "LaMak". Passenger transportation checklists were not used during transportation. These facts were affirmed by the Office of State Administrative Hearings in its March 22, 2013, decision.

The failure of the center staff to use a passenger checklist could possibly place children at risk of harm.

3. Rule 591-1-1-.36(6)(c)3 requires the driver to immediately document in writing with a check each time a child gets on and off the vehicle so that each child is accounted for every time the vehicle is loaded or unloaded.

During the investigation, it was determined that the center director and owner instructed staff to transport children to the center from their elementary schools in personal vehicles and also arranged for children to be transported home from the center in vans labeled "LaMak". On March 13, 2013, four children were observed to exit a vehicle in the center's parking lot with a center staff member. The staff member was not observed to use any type of documentation while transporting the children. These facts were affirmed by the Office of State Administrative Hearings in its March 22, 2013 decision.

The failure of the center staff to use a passenger checklist could possibly place children at risk of harm.

- 4. Rule 591-1-1-.36(6)(d) requires that the vehicle be thoroughly checked by a staff person who was present on the vehicle during the trip and then a second check be conducted by the director or the director's designee who was not on the trip.**

During the investigation, it was determined that first and second checks of the vehicle weren't conducted when center staff transported children to the center from their elementary schools in personal vehicles and arranged for children to be transported home from the center in vans labeled "LaMak." On March 13, 2013, four children were observed to exit a vehicle in the center's parking lot with a center staff member. The staff member was not observed to use any type of documentation while transporting the children and did not check the vehicle. These facts were affirmed in the Office of State Administrative Hearings emergency closure decision on March 22, 2013.

The failure of the center staff to conduct first and second checks of the vehicle could possibly place children at risk of harm.

- 5. Rule 591-1-1-.36(2)(f)2. requires that no vehicle used to transport children shall exceed the manufacturer's rated seating capacity for the vehicle.**

During the investigation, it was determined that on several occasions children were transported in multiple vehicles where the rated seating capacity for the vehicle was exceeded when center staff transported children to the center from their elementary schools. There were times when five or more children were transported in vehicles with a rated seating capacity of five. These facts were affirmed in the Office of State Administrative Hearings emergency closure decision on March 22, 2013.

The failure of the center staff to follow the manufacturer's rated seating capacity could possibly place children at risk of harm.

- 6. Rule 591-1-1-.36(2)(f)1. requires that during transportation all children must be secured in a child passenger restraining system or seat safety belts that are installed and used in accordance with the manufacturer's directions and state and federal laws and regulations.**

During the investigation, it was determined that children were transported without proper safety restraints in multiple vehicles when center staff transported children to the center from elementary schools. Children did not wear seat belts at times. On other occasions, seat belt sharing occurred among the children. These facts were affirmed in the Office of State Administrative Hearings emergency closure decision on March 22, 2013.

The failure of the center staff to use proper restraints when transporting children could possibly place children at risk of harm.

- 7. Rule 591-1-1-.36(1)(a) requires that all rules regarding transportation apply to transportation provided by a licensee, including transportation provided by any person on behalf of the licensee.**

During the investigation, it was determined that center staff did not follow transportation rules when center staff transported children to the center from their elementary schools in personal vehicles and arranged for children to be transported home from the center in vans labeled "LaMak". It was also determined that this transportation occurred on behalf of the licensee and, therefore, the center was responsible for meeting the transportation rules. These facts were affirmed in the Office of State Administrative Hearings emergency closure decision on March 22, 2013.

The failure of the center staff to follow transportation regulations could possible place children at risk of harm.

8. 591-1-1.36(6)(b) requires that an emergency medical information record be maintained in the vehicle for each child being transported.

During the investigation, it was determined that on March 13, 2013, four children were transported in a vehicle by a center staff member. There were not any vehicle emergency medical records on file for the children transported on the vehicle. It was also determined that for several months children were transported and this information was not on file for the children transported during that time. These facts were affirmed in the Office of State Administrative Hearings emergency closure decision on March 22, 2013.

Failure of the center to maintain emergency medical information could possibly place children at risk of harm.

9. Rule 591-1-1.37(c) requires the center to cooperate with Bright from the Start during an investigation or inspection.

During the investigation, it was determined that center staff provided false and misleading information regarding transportation that was provided by the center. Center staff stated that they did not transport children or arrange for transportation to be conducted. It was determined that center staff were paid by center management to transport children in their personal vehicles and center management arranged for children to be transported in vehicles labeled "LaMak." Additionally, it was previously determined that the center has made false statements during an investigation regarding a child being left on the center vehicle in 2011. Also, the Office of State Administrative Hearings found testimony given by center management during a hearing on March 21, 2013, to be "dishonest, evasive, and lacking in candor" and indicated that center management has a "propensity for circumventing regulatory requirements."

Failure of the center staff to cooperate with investigations and provide accurate and truthful information could possibly place children at risk of harm.

10. Rule 591-1-1.32(6) requires that children are supervised at all times.

During the investigation, it was determined that on March 13, 2013, a child, approximately four or five years old, ran onto a playground alone without direct supervision from a staff member. The child was observed to retrieve a pink jacket and run back into the building from the playground structure. An adult was observed to close the classroom door after the child returned.

Also, during the investigation, on March 13, 2013, four children were observed outside of a vehicle in a parking lot while the staff member/driver remained inside her vehicle. The children were observed to play on the sidewalk and in the grass and to wander away from the vehicle during this time. Children were observed to climb the fence and go onto the center's playground. Two children were observed to walk more than 100 feet away from the vehicle into grassy and bushy areas where they could not be observed. The staff member was still inside the vehicle at this time. The children were called back to the vehicle after the staff member stepped out. The staff member then went onto the playground leaving the children outside of the fence initially. Also, during the investigation, the children were observed to walk and run ahead of the staff member in an active parking lot.

Failure of the center staff to properly supervise the children could possibly place children at risk of harm.

Signed by both parties
8/13/2013

IN THE MATTER OF:

LALI'S ANGELS, INC d/b/a
LALI'S ANGELS CHILD CARE

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SETTLEMENT AGREEMENT AND FULL AND FINAL RELEASE OF CLAIMS

WHEREAS, on March 30, 2012, Bright From the Start: Georgia Department of Early Care and Learning ("Bright from the Start" or "Department") brought an action against Lali's Angels Inc, d/b/a Lali's Angels Childcare ("Lali's Angels" or "Center") to impose an enforcement fine and a transportation restriction upon Lali's Angels based upon an incident whereby a child in care was left unsupervised on a vehicle and the Center's non-compliance with Bright from the Start's Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of Rules and Regulations for the State of Georgia ("Rules and Regulations");

WHEREAS, on July 3, 2012, Office of State Administrative Hearings (OSAH) Judge Schroer affirmed Bright from the Start's decision to impose an enforcement fine and restrict Lali's Angel's ability to transport children for one year and said Initial Decision was docketed on July 5, 2012;

WHEREAS, on July 17, 2012, Bright from the Start issued an Order for Intended Emergency Closure ("Order") based upon additional alleged noncompliance with Department Rules and Regulations and alleged noncompliance with the recommendation in the Initial Decision of Judge Schroer;

WHEREAS, on July 18, 2012, OSAH Judge Schroer affirmed Bright from the Start's Order;

WHEREAS, on July 27, 2012, Bright from the Start issued a Notice of Revocation to Lali's Angels;

WHEREAS, on August 1, 2012, Lali's Angels timely sought agency review of the Initial Decision of Judge Schroer;

WHEREAS, on August 2, 2012, Lali's Angels file a Petition for Injunctive Relief and Stay of Order of Emergency Closure;

WHEREAS, on August 3, 2012, said Petition for Injunctive Relief and Stay of Order of Emergency Closure was denied;

WHEREAS, on August 3, 2012, Lali's Angels filed a Petition for Judicial Review of the Emergency Closure Order and stay of said Order;

WHEREAS, a hearing has been scheduled for August 14, 2012, in Cobb County Superior Court regarding Lali's Angels' application for a stay of Bright from the Start's actions;

WHEREAS, Lali's Angels and the Department desire to ensure that all children in the care of Lali's Angels are safe and cared for in a healthy manner;

NOW COMES, Bright from the Start and Lali's Angels and hereby agree, without admitting to or refuting any contested allegations made by the other, to dispose of this dispute and be bound by the terms and conditions set forth in this Consent Agreement. Therefore, it is hereby AGREED THAT:

1. For and in consideration of the agreements set forth herein below, the receipt and sufficiency of which are hereby acknowledged, Lali's Angels, Inc. d/b/a Lali's

Angels Child Care (referred to as "Petitioner"), for itself, its attorneys, its heirs, its executors, administrators, successors and assigns, do hereby fully, finally and forever release and discharge Bright From The Start: Georgia, Department of Early Care and Learning (the "Department"); and all other administrators, directors, supervisors, and other officials and employees thereof (collectively referred to as "Respondent"), of and from all claims, demands, actions, causes of action, suits, damages, losses and expenses of any and every nature and description whatsoever, asserted or which might have been asserted by or on behalf of Petitioner against the Respondent related to the case of Lali's Angels, Inc, v. Georgia Department of Early Care and Learning, Civil Action File No.: 12-1-7363-40, Superior Court of Cobb County, State of Georgia and Lali's Angels v. Georgia Department of Early Care and Learning, Docket No.: OSAH-DECAL-CCLC 1230331-33-Schroer.

2. This settlement agreement is a full and final release of claims ("release"), and it specifically includes, but not by way of limitation, all claims asserted by or on behalf of Petitioner against Respondent, together with any and all claims which might have been asserted by or on behalf of Petitioner in any suit, claim, or grievance against Respondent for or on account of any matter or things whatsoever through and including the date of this release.
3. Bright from the Start shall rescind the July 27, 2012 Notice of Revocation against Lali's Angels;
4. Bright from the Start shall rescind the Order for Emergency Closure against Lali's Angels;

5. Lali's Angels shall pay the \$299.00 fine in accordance with the March 30, 2012 letter from Bright from the Start;
6. Lali's Angels shall comply with all of Bright from the Start's Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of Rules and Regulations for the State of Georgia;
7. Lali's Angels, or its principals or employees, shall not provide or make available transportation services for children under its care for one year;
8. Lali's Angels, or its principals or employees, shall not contract with others to perform any transportation function or provide any transportation service for children under its care for one year;
9. Bright from the Start shall issue a Grant Agreement to Lali's Angels for Pre-K services for the 2012-2013 academic year;
10. Lali's Angels shall promptly dismiss all pending actions in the Office of Administrative Hearings and Cobb County Superior Court with prejudice;
11. Should either party breach this agreement, either party retains the right to take adverse action;
12. In the event that any paragraph, sentence, clause or phrase of this consent agreement construed by any court or administrative body of competent jurisdiction, to be invalid, illegal, unconstitutional, or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining paragraphs or portions of this consent settlement agreement. The remaining paragraphs or portions in this consent agreement shall remain in full force and

- effect, as if such paragraph or portion of this document so determined or adjudged invalid or unconstitutional were not originally a part of this consent agreement
13. The undersigned further state that they have carefully read the within and foregoing settlement and know and understand the contents thereof and that they have executed the same knowingly, voluntarily and willingly; and
14. This release may be executed in multiple counterparts and by facsimile, each of which shall constitute and original instrument.

THIS 10th DAY OF August 2012.

Bobby D. Cagle with express permission
Bobby D. Cagle, MSW
Commissioner
Bright from the Start: Georgia Department of Early Care and Learning
2 Martin Luther King Jr. Drive SE, 754 East Tower
Atlanta, Georgia 30334
Kay Hellwig

Alverro L. Brown
Alverro Brown
Chief Executive Officer
Lali's Angels, Inc d/b/a/ Lalis' Angels Child Care
910 Dual Hall Court
Powder Springs, Georgia 30127

BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA



MAR 22 2013

LALI'S ANGELS, INC.,

Petitioner,

v.

GEORGIA DEPARTMENT OF EARLY
CARE AND LEARNING,

Respondent.

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Docket No.:
OSAH-DECAL-CCLC-1333404-44-Miller

Kevin Westray
Kevin Westray, Legal Assistant

FINAL DECISION
ORDER AFFIRMING EMERGENCY CLOSURE

I. INTRODUCTION

This matter is an appeal by the Petitioner, Lali's Angels, Inc., of the Order for Intended Emergency Closure of its child care facility issued by the Commissioner for the Georgia Department of Early Care and Learning ("Department") on March 15, 2013. A preliminary hearing pursuant to O.C.G.A. § 20-1A-13 was held on March 20, 2013, before the undersigned Administrative Law Judge of the Office of State Administrative Hearings.

The Petitioner was represented by John C. Jones, Esq., and Melvin M. Goldstein, Esq. The Department was represented by Clare Michaud, Esq. After careful consideration of the evidence and the arguments of the parties, and for the reasons set forth below, the Order for Intended Emergency Closure is hereby **AFFIRMED**.

II. FINDINGS OF FACT

A. Factual Background

1.

Lali's Angels Child Care ("Lali's Angels" or "Center")¹ is a child care learning center located in Doraville, Georgia. The facility, which is owned and operated by Alverro and Biraj

¹ The Petitioner does business under the name "Lali's Angels Child Care." (Exhibit R-9.)

Brown, offers day care for children as young as infants. Lali's Angels also operates a pre-kindergarten program and an after school program for children of school age. Prior to July 2012, the Center was authorized to provide transportation services to children who attended its programs. (Testimony of Biraj Brown, Alvarro Brown, Shenetta McNair, and Elizabeth Holland; Exhibits R-7, R-11.)

2.

On February 7, 2011, an employee of Lali's Angels left a preschool-age child unattended in the facility's van for approximately four hours, in violation of several of the Department's transportation safety regulations. Although the child did not suffer any lasting physical injuries, his health and welfare were placed in significant danger.² Mr. and Ms. Brown failed to report the incident to the Department within twenty-four hours, as required. In fact, they failed to report the incident to the Department at any time. The Department was unaware that the incident had occurred until October 2011, when one of its consultants discovered a disciplinary memorandum to the responsible employee during a routine licensing visit to the Center. (Testimony of Ms. Brown and Ms. Holland; Exhibit R-12.)

3.

On July 3, 2012, following an administrative hearing regarding the February 2011 incident and the attendant rule violations, Administrative Law Judge Kimberly W. Schroer issued an Initial Decision affirming the Department's decision to impose a twelve-month restriction on the Petitioner's authorization to transport children.³ Further litigation ensued, culminating in a Settlement Agreement and Full and Final Release of Claims ("Settlement

² In the summer of 2010, a child died after being left alone in a Georgia child care provider's vehicle on a hot day. (Testimony of Ms. Holland.)

³ Judge Schroer determined that Ms. Brown had instructed the Center's director and another employee not to report the incident. (Exhibit R-12.)

Agreement”), which the parties executed on August 10, 2012. (Testimony of Ms. Brown, Mr. Brown, and Ms. Holland; Exhibits R-9, R-12.)

4.

Pursuant to the Settlement Agreement, the parties agreed, *inter alia*, as follows:

6. Lali’s Angels shall comply with all of Bright from the Start’s Rules for Child Care Learning Centers, Chapter 591-1-1 of the Official Compilation of Rules and Regulations for the State of Georgia;
7. Lali’s Angels, or its principals or employees, shall not provide or make available transportation services for children under its care for one year; [and]
8. Lali’s Angels, or its principals or employees, shall not contract with others to perform any transportation function or provide any transportation service for children under its care for one year

(Exhibit R-9.)

B. Violations of Settlement Agreement

5.

Lali’s Angels failed to abide by the transportation restriction set forth in the Settlement Agreement by arranging transportation for children in its after school program. At the direction of Mr. and Ms. Brown, transportation was provided both by the Center’s employees and by Lamak Group, Inc. (“Lamak”), a transportation service. (Testimony of Ms. McNair, Hung Bui, and Lashawna Edwards; Exhibit P-3.)

i. Transportation Provided By Lali’s Angels Employees

6.

From September 19, 2012, to March 11, 2013, LaShawna Edwards was employed by Lali’s Angels as a teacher in the Center’s after school program. During this time, she used her personal vehicle to provide transportation to the Center for children who attended elementary schools in the area. Although this responsibility was not listed in her formal job description, she

transported the children because Ms. Brown instructed her to do so. Ms. Brown compensated Ms. Edwards for her transportation services by paying her for her time⁴ and giving her an additional \$25.00 per week in cash to pay for gasoline. (Testimony of Ms. Edwards.)

7.

Ms. Edwards routinely transported children to Lali's Angels from two schools: Pleasantdale Elementary School ("Pleasantdale") and Evansdale Elementary School ("Evansdale"). Three children, one of whom was Ms. Edwards' daughter, attended Pleasantdale. Two others attended Evansdale. At Pleasantdale, vehicles were required to display a red card with a carpool number. The parents of the Pleasantdale children gave their school-issued red card to the Center, and Ms. Edwards used it to pick up the children. The card was stored at Lali's Angels, in the classroom supervised by Elizabeth Williams, when it was not being used. (Testimony of Ms. Edwards and Elizabeth Williams.)

8.

When Ms. Edwards began working at Lali's Angels, she drove a Chevrolet Tahoe sport utility vehicle, which was large enough to accommodate six passengers. However, for a period of several weeks, she transported seven children in this vehicle. When this occurred, one child sat in the front passenger seat; two children sat in the second row passenger seats; and four children sat in the third row passenger seats. Because the third row contained only three seat belts, the two children in the middle were "double-buckled," i.e., they shared a seat belt. (Testimony of Ms. Edwards.)

⁴ At the hearing, Ms. Brown produced a document labeled "Employee Time Card" that purported to establish that Ms. Edwards was not paid for any of the time she spent transporting children. The Court declines to rely upon this document, inasmuch as Ms. Brown's testimony lacked credibility and was contradicted by that of Ms. Edwards. (Testimony of Ms. Brown and Ms. Edwards; Exhibit P-2.)

9.

Ms. Edwards sold the Tahoe and subsequently drove two other vehicles during her tenure at Lali's Angels: a Honda Accord and a Dodge Neon. Both of these vehicles accommodated four passengers, with one seated in the front and three in the back. However, Ms. Edwards routinely transported a total of five children from Pleasantdale and Evansdale to the Center. When this occurred, one child sat in the front passenger seat and the remaining four children shared the back seat. Because the back seat contained only three seat belts, the two children in the middle of the back seat were double-buckled. On cold days when the children wore heavy coats, they were unable to use the seat belts at all. (Testimony of Ms. Edwards.)

10.

Ms. Edwards did not use a passenger transportation checklist to account for the children she transported. She did not perform checks of her vehicle when she arrived at the Center, nor did she ensure that another staff member performed a second check. (Testimony of Ms. Edwards.)

11.

Ms. Edwards eventually became dissatisfied with her employment at Lali's Angels. She believed that Ms. Brown was "shorting" her paychecks, and she no longer wished to transport children in her personal vehicle. Despite Ms. Edwards' disgruntlement, the Court found her to be a credible witness based on her personal demeanor and her willingness to portray herself in an unflattering light. (Testimony of Ms. Edwards.)

12.

On March 11, 2013, Ms. Edwards' sister, LaToya Brooks, asked Ms. Edwards to transport her daughter from Oak Cliff Elementary to her home. Ms. Edwards agreed. However, she later determined that she did not have enough time to drive her niece home due to her

transportation duties at Lali's Angels. Ms. Edwards therefore brought her niece to the Center, along with the three children from Pleasantdale.⁵ When they arrived, Ms. Brown told Ms. Edwards that she was not permitted to bring her niece to the Center because her niece was not registered. Ms. Edwards left the premises with her daughter and her niece. She did not return to work after that day. (Testimony of Ms. Brown and Ms. Edwards.)

13.

The next day, March 12, 2013, Ms. Brooks called the Department and filed a complaint regarding the transportation provided by Lali's Angels.⁶ The Department assigned Shenetta McNair, a consultant with the Department's complaint unit, to investigate the complaint. (Testimony of Ms. McNair and LaToya Brooks.)

14.

On March 13, 2013, the day after the complaint was filed, Ms. McNair visited the facility. She arrived at approximately 1:30 p.m. to observe the method of transportation utilized by children in the after school program. Ms. McNair observed Elizabeth Williams, an employee of Lali's Angels, place the red Pleasantdale carpool card in the window of her personal vehicle, a Nissan Maxima, and drive away. When Ms. Williams returned to the Center, four children were also in her car. (Testimony of Ms. McNair and Ms. Williams; Exhibits R-2, R-3, R-4, R-5.)

15.

Upon Ms. Williams' arrival at Lali's Angels, the four children emerged from the car while Ms. Williams remained seated inside. The children, ages six, seven, nine, and eleven, played in the parking lot and in a grassy area approximately 100 feet away from the car. After

⁵ The two children at Evansdale did not attend the after school program that day. (Testimony of Ms. Edwards.)

⁶ Contrary to Ms. Brooks' testimony at the hearing, it appears that her complaint was motivated by anger at her sister, at Lali's Angels, or both. Notwithstanding the Court's concerns regarding her credibility, her complaint and testimony are irrelevant to the findings herein.

several minutes, Ms. Williams got out of the car, and she and the children entered the building. Ms. Williams did not complete any paperwork or perform a vehicle check. (Testimony of Ms. McNair and Ms. Williams.)

16.

Ms. McNair entered the facility shortly after Ms. Williams and the children. Inside the facility, she observed that a brochure was displayed prominently at the front desk. The brochure stated, under the heading "Transportation," that "[t]ransportation is provided to and from the public schools for children enrolled in our Before and After School Program." (Testimony of Ms. McNair; Exhibits R-6, R-7.)

17.

At the hearing, Ms. Brown testified untruthfully regarding her knowledge of the transportation arrangements for the children that Ms. McNair observed with Ms. Williams on March 13, 2013. More specifically, she stated that she was not present when Ms. Williams left to pick up the children, and that she was unaware that Ms. Williams intended to provide their after school transportation until she returned to the Center with the children. According to Ms. Brown, she informed Ms. Williams that this was not permitted due to the transportation restriction.⁷ This testimony by Ms. Brown was not credible. (Testimony of Ms. Brown.)

18.

Ms. Brown also testified that she was aware that Ms. Edwards sometimes drove children from Pleasantdale to Lali's Angels, and that Ms. Edwards did this because she was already transporting her own daughter to the Center. According to Ms. Brown, only Ms. Edwards and the children's parents were privy to the details of this arrangement. Ms. Brown offered no

⁷ Ms. Williams stated that Ms. Brown did not comment when she returned with the children on March 13, 2013. Ms. Williams' testimony in this regard, which conflicted with that of Ms. Brown, was credible. (Testimony of Ms. Williams.)

explanation for Ms. Edwards' purported willingness to transport the Evansdale children to the Center. Mr. Brown, in contrast to his wife, professed to be unaware of the method of transportation utilized by children in the after school program. The testimony offered by both Ms. Brown and Mr. Brown was disingenuous and lacked credibility. (Testimony of Ms. Brown and Mr. Brown.)

19.

Ms. Williams, who transported the children on March 13, 2013, testified that she "just knew" that she should pick up the children on that date – in the absence of any direction from either Ms. Brown or the children's parents. According to her testimony, she acted of her own accord because she understood that Ms. Edwards, who had routinely driven the children to the Center until the incident two days earlier, no longer worked at Lali's Angels. Ms. Williams' testimony in this regard was not credible.⁸ (Testimony of Ms. Williams.)

ii. Transportation Provided By Lamak

20.

After the twelve-month transportation restriction took effect, the parents of some of the children enrolled at the Center entered into transportation agreements with Lamak. To the extent these parents contracted with Lamak and paid for the service independent of Lali's Angels, the transportation arrangements complied with the Settlement Agreement. However, Lamak also transported other children pursuant to an arrangement with the Browns, in violation of the Settlement Agreement and without the knowledge of the children's parents. (Testimony of Hung Bui, Mr. Brown, and Ms. Brown; Exhibit P-3.)

⁸ Ms. Williams remains employed at Lali's Angels. Thus, her testimony was influenced by the presence of her employers in the courtroom, as well as her concern that closure of the facility would result in the loss of her job and income. (Testimony of Ms. Williams.)

21.

Hung Bui is the father of a seven-year-old boy who has attended the after school program at Lali's Angels for approximately three years. Mr. Bui writes a check each week for \$55.00, leaves the space for the payee's name blank, and gives the check to Ms. Brown. Mr. Bui's payment covers the costs of both the after school program and his son's transportation to the Center. Prior to March 19, 2013, it was Mr. Bui's understanding, based on his conversations with Ms. Brown, that a Lali's Angels employee transported his son from school to the Center in the facility's van. (Testimony of Ms. Brown and Mr. Bui.)

22.

On March 19, 2013, Mr. Bui arrived at the Center to pick up his son from the after school program. At that time, Ms. Brown informed him that his son was actually being transported from his school to the Center by "Jillian," a driver for Lamak.⁹ Mr. Bui was surprised and distressed by this news. Ms. Brown asked Mr. Bui to fill out two forms: one document entitled "Vehicle Emergency Medical Information" and another entitled "Transportation Agreement."¹⁰ Mr. Bui explained to Ms. Brown that he needed to take the forms to his employer¹¹ before returning them. (Testimony of Mr. Bui; Exhibit R-1A.)

23.

At 6:15 a.m. on March 20, 2013, the morning of the hearing, Ms. Brown called Mr. Bui at home and asked him if he had completed the forms. Mr. Bui stated that he had not, and he again explained that he needed to take the forms to his employer. (Testimony of Mr. Bui.)

⁹ Jillian did not testify at the hearing, and her surname is unknown.

¹⁰ Both documents contain the heading "Lamak Group, Inc.," yet neither document lists contact information for Lamak. (Exhibit R-1A.)

¹¹ Because Mr. Bui is not a native English speaker, he may have required his employer's assistance to complete the forms.

24.

In her hearing testimony, Ms. Brown denied that these conversations with Mr. Bui took place and stated that Mr. Bui had made his own transportation arrangements with Lamak. She further stated that she had received a copy of the transportation agreement Mr. Bui had purportedly signed with Lamak, but that she was unable to locate it. At one point during her testimony, she suggested that it had disappeared after she gave the child's file to Ms. McNair on the afternoon of March 13, 2013. Her testimony was not credible. (Testimony of Ms. Brown.)

25.

At the hearing, Ms. Brown produced copies of the "Vehicle Emergency Medical Information" and "Transportation Agreement" forms for fifteen children enrolled at Lali's Angels.¹² Of these, the forms for eight children appear to be in order. They date to the fall of 2012 and authorize Lamak to transport children enrolled in the Center's pre-kindergarten program from their homes to the Center, and vice versa. (Testimony of Ms. Brown; Exhibit P-3.)

26.

The remaining seven sets of forms are more suspect. The forms for four children, while they authorize Lamak to transport the children from their elementary schools to the Center, are dated between March 13, 2013, and March 15, 2013.¹³ Regarding the remaining three children, the medical information forms date to the fall of 2012, but the transportation agreements are dated March 20, 2013, the day of the hearing. These three children also appear to be enrolled in the Center's pre-kindergarten program, rather than its after school program. Ms. Brown offered

¹² Ms. McNair requested these documents when she was present at the facility on March 13, 2013. However, Ms. Brown did not produce them until the day of the hearing. (Testimony of Ms. Brown and Ms. McNair.)

¹³ Prior to Ms. McNair's visit to the Center, three of these four children were routinely picked up after school by Ms. Edwards or Ms. Williams. (Testimony of Ms. McNair, Ms. Edwards, and Ms. Williams.)

no credible explanation for the date discrepancies or the absence of information regarding the means of transportation for other children who attend the after school program. (Testimony of Ms. Brown; Exhibit P-3.)

27.

Throughout their testimony, both Ms. Brown and Mr. Brown made statements that were self-serving, evasive, implausible, and wholly lacking in credibility. The Court therefore declines to rely on the majority of their testimony. (Testimony of Ms. Brown and Mr. Brown.)

II. CONCLUSIONS OF LAW

1.

The Department bears the burden of proof in this matter. Ga. Comp. R. & Regs. r. 616-1-2-.07. The standard of proof is a preponderance of evidence. Ga. Comp. R. & Regs. r. 616-1-2-.21.

2.

In July 2011, the General Assembly gave the Department's Commissioner the authority to close an early care and education program on an emergency basis for up to twenty-one days. Under O.C.G.A. § 20-1A-13(c)(1), the Commissioner may order an emergency closure under the following circumstances:

- (A) Upon the death of a minor at such program, unless such death was medically anticipated or no serious rule violations related to the death by the program were determined by the department; or
- (B) Where a child's safety or welfare is in imminent danger.

O.C.G.A. § 20-1A-13(c)(1). Prior to July 2011, the Commissioner's authority in the event of an immediate threat to the health, safety or welfare of a child was restricted to placing a monitor at the Center. See O.C.G.A. § 20-1A-13(b).

The Department proved, by a preponderance of the evidence, that the safety and welfare of children at Lali's Angels are in imminent danger within the meaning of O.C.G.A. § 20-1A-13(c)(1)(B). The Court's determination is based on the following considerations:

- (1) The serious and potentially fatal consequences to a child if the incident that occurred on February 7, 2011, is repeated;
- (2) Lali's Angels' failure to report the incident that occurred on February 7, 2011;
- (3) The Center's refusal to abide by the transportation restriction imposed by the Settlement Agreement;
- (4) The serious rule violations stemming from the Center's refusal to abide by the transportation restriction imposed by the Settlement Agreement,¹⁴ including the increased risk of injury to children who are not appropriately restrained in a vehicle;
- (5) Ms. Brown's and Mr. Brown's evasiveness, dishonesty, and lack of candor in their dealings with the Department, the parents of children enrolled at Lali's Angels, and this Court; and
- (6) The Court's serious concern that a monitor would be unable to provide adequate oversight of the transportation of children to and from Lali's Angels, in light of the Browns' propensity for circumventing regulatory

¹⁴ By authorizing the transportation of children to the Center in the manner described in the Findings of Fact, above, Lali's Angels has failed to comply with the Department's transportation rules, as follows:

- (1) The Center failed to ensure that children were properly restrained with seat belts, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(2)(f)(1);
- (2) The Center failed to ensure that vehicles used to transport children did not exceed to vehicle's seating capacity, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(2)(f)(2);
- (3) The Center failed to ensure that passenger transportation checklists were used to account for children during transportation, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(6)(c);
- (4) The Center failed to ensure that the driver or other designated person documented each child's entrance to and exit from the vehicle, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(6)(c)(3); and
- (5) The Center failed to ensure that thorough vehicle checks by the driver and another designated staff member occurred after children were unloaded from the vehicle, in violation of Ga. Comp. R. & Regs. r. 591-1-1-.36(6)(d).

requirements, their pattern and practice of providing false or misleading information, and the Department's limited authority to investigate the conduct of unlicensed individuals.

Accordingly, the Commissioner is authorized to order the emergency closure of Lali's Angels for up to twenty-one days, pursuant to O.C.G.A. § 20-1A-13(c)(1).

IV. DECISION

In accordance with the foregoing Findings of Fact and Conclusions of Law, the Order for Intended Emergency Closure is hereby **AFFIRMED**.

SO ORDERED, this 22nd day of March, 2013.

A handwritten signature in cursive script, appearing to read "Kristin L. Miller", written in dark ink over a horizontal line.

KRISTIN L. MILLER
Administrative Law Judge