

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

ROY BRONSIN HAUETER, et. al.,

Defendant(s)

NO. 17-2-33035-3 SEA


[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT

THIS MATTER, having come before the Court on the State of Washington's Motion for a Partial Summary Judgment, and the Court having heard the arguments, if any, of the parties and considered the following material:

1. Declaration of Joshua G. Studor and exhibits attached thereto;
2. Declaration of Lynda Atkins and exhibits attached thereto;
3. Declaration of MaryBeth Haggerty-Shaw and exhibits attached thereto;
4. Declaration of Roy Haueter, Sub. # 52, and exhibits attached thereto;
5. Declaration of Brandon Haueter, Sub. # 53, and exhibits attached thereto;
6. March 3, 2016, Civil Investigative Demand Deposition of Roy Bronsin Haueter;
7. April 1, 2016, Civil Investigative Demand Deposition of Brandon Haueter;
8. March 31, 2016, Civil Investigative Demand Deposition of Tracee Richardson;
9. July 2, 2018, Civil Rule 30(b)(6) Deposition of Family Entertainment Corporation;
10. July 31, 2018, Deposition of Brandon Haueter;

- 1 11. August 6, 2018, Deposition of Mindee Graver;
- 2 12. October 12, 2018, Deposition of Richard Green;
- 3 13. Declaration of Barbara Alling;
- 4 14. Declaration of Rick Austin;
- 5 15. Declaration of Susan M. Baker;
- 6 16. Declaration of Tabatha Blacksmith;
- 7 17. Declaration of Michele Boston;
- 8 18. Declaration of Susan Cannon;
- 9 19. Declaration of Benjamin Chotzen;
- 10 20. Declaration of Jennifer Christensen;
- 11 21. Declaration of Albert Coghill;
- 12 22. Declaration of Alana Cruse;
- 13 23. Declaration of Cynthia Douglas;
- 14 24. Declaration of Lisa Graton
- 15 25. Declaration of Christopher Huson;
- 16 26. Declaration of Lawrence Kessler;
- 17 27. Declaration of Linda Lind;
- 18 28. Declaration of Joe A. Lochner;
- 19 29. Declaration of Marylea Marquardt;
- 20 30. Declaration of Melody Mayfield;
- 21 31. Declaration of Linda Mendenhall;
- 22 32. Declaration of Rebecca Miller;
- 23 33. Deposition of Stuart A. Minkin, MD, FAAP;
- 24 34. Declaration of Bonnie Mogstad;
- 25 35. Declaration of Liz Sanborn;
- 26 36. Declaration of Pauline Shaffer;

- 1 37. Declaration of Maureen Smith;
- 2 38. Declaration of Fred Steffen;
- 3 39. Declaration of Betty Stiles;
- 4 40. Declaration of Beth Ann Sturgeon;
- 5 41. Declaration of Ruth E. Wallace;
- 6 42. Declaration of Mary E. Zimmewicz;
- 7 43. State of Washington's Motion for Summary Judgment;
- 8 44. Any Opposition or Reply briefs and supporting declarations as well as any other
- 9 papers or pleadings on file related to the State's Motion for Partial Summary
- 10 Judgment;
- 11 45. _____;
- 12 46. _____; and
- 13 47. _____.

14 Having found that there exist no issues of material fact, it is therefore ORDERED that
15 the State of Washington's Motion for Partial Summary Judgment is GRANTED. The Court
16 therefore DECLARES that:

- 17 1. This Court has jurisdictions over the parties and the subject matter herein.
- 18 2. Defendants Children's Hunger Relief Aid ("CHRA"), Children's Safety Society
19 ("CSS"), Emergency Relief Services ("ERS"), and Search and Rescue Charities ("SRC") are or
20 were, during all relevant times, nonprofit corporations incorporated under the laws of the State
21 of Washington and are, therefore, subject to the Nonprofit Corporations Act, RCW 24.03.
22 Though the nonprofits began as separate entities, their directors treat all four as though they are
23 the same organization.
- 24 3. Defendants CHRA, CSS, ERS, and SRC are or were, during all relevant times,
25 charitable organizations required to register with the Secretary of State and subject to the
26 requirements of the Charitable Solicitations Act ("CSA"), RCW 19.09.

1 4. Defendants Roy Haueter, Billee Haueter, Brandon Haueter, Nancy Haueter, and
2 Traccee Richardson are, or have been, governors, officers, managers, directors, and/or otherwise
3 in charge of CHRA, CSS, ERN, and SRC during the period relevant to this lawsuit.

4 5. The State must prove three elements to prevail on its Consumer Protection Act
5 (“CPA”) claim: (1) an unfair or deceptive act or practice; (2) occurring in trade or commerce;
6 (3) that affects the public interest. *State v. Kaiser*, 161 Wn. App. 705, 719, 254 P.3d 850 (2001);
7 *see also Hangman Ridge Training Stables v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 719 P.2d 531
8 (1985). Whether a particular act is unfair or deceptive is a question of law. *See Panag v. Farmers*
9 *Ins. Co. of Washington*, 166 Wn.2d 27, 47, 204 P.3d 885 (2009).

10 6. By operation of RCW 19.09.340, violations of the CSA are *per se* violations of the
11 CPA.

12 7. The CSA prohibits charitable organizations from making false, misleading, or
13 deceptive statements in solicitations for charitable contributions. Each false, misleading, or
14 deceptive statement is a separate violation of the CSA and the CPA.

15 8. Since at least December 22, 2010, the nonprofit corporate defendants, under the
16 direction of Roy Haueter and Brandon Haueter have solicited Washington consumers for
17 charitable contributions using the telephone, direct mail, and the Internet. The defendants’
18 solicitations were false, misleading, and deceptive and had the capacity to deceive an ordinary
19 consumer as to each of the following:

- 20 a. Claims that any of the nonprofits provided cancer examinations or
21 screenings to disadvantaged people;
- 22 b. Claims that any of the nonprofits provided funding for, or conducted,
23 cancer research;
- 24 c. Claims that any of the nonprofits provided financial assistance to families
25 of hospitalized children;
- 26 d. Claims that any of the nonprofits provided emergency food vouchers;

- 1 e. Claims that any of the nonprofits provided school supplies and clothes to
2 foster children;
- 3 f. Claims that any of the nonprofits provided food assistance to needy people
4 including the elderly and military families;
- 5 g. Claims that indicated money raised through donations would be used to
6 assist search and rescue organizations or the Civil Air Patrol;
- 7 h. Claims by any of the nonprofits that the nonprofit was “local” or
8 implications thereof;
- 9 i. Claims by any of the nonprofits’ that charitable activities would benefit
10 “local” individuals;
- 11 j. Claims or implications that created the net impression that any of the
12 nonprofits were affiliated with a search and rescue organization and/or the
13 Civil Air Patrol;
- 14 k. Claims that created the deceptive net impression that CHRA was affiliated
15 with any children’s hospital;
- 16 l. Claims that created the deceptive net impression that the nonprofit was in
17 urgent need of donations or that immediate help had been requested of
18 them; and
- 19 m. Claims that the nonprofits had a “Charity Headquarters.”

20 9. The Plaintiff is entitled to judgment as a matter of law as to its First Cause of
21 Action.

22 10. None of the nonprofit defendants had a principle or usual place of business.

23 11. The nonprofit defendants’ use of P.O. Boxes and commercial mailboxes in the
24 region where the potential donor resides created a deceptive net impression that each nonprofit
25 had a principal or usual place of business local to the potential donor.
26

1 12. The Plaintiff is entitled to judgment as a matter of law as to its Second Cause of
2 Action. All of the nonprofits' mailed solicitation violated the CSA and CPA.

3 13. The Plaintiff failed to put forth evidence regarding its third cause of actions and
4 is, therefore, not entitled to judgment as a matter of law.

5 14. A charitable organization shall disclose the city of its principal place of business
6 and the Secretary of State's Charity Division's phone number and web address at the point of
7 solicitation. Each failure to disclose said information is a separate violation of the CSA and CPA.

8 15. Since at least December 22, 2010, the nonprofit corporate defendants, under the
9 direction of Roy Haueter and Brandon Haueter, solicited Washington consumers for charitable
10 contributions using direct mail and the Internet. Every solicitation failed to disclose the city of
11 the nonprofits' principal place of business and the phone number and web address of the
12 Secretary of State's Charity Division at the point of the solicitation.

13 16. The Plaintiff is entitled to judgment as a matter of law as to its Fourth Cause of
14 Action. All of the nonprofits' solicitations violated the CSA and CPA.

15 17. Any entity that receives compensation for directly or indirectly soliciting or
16 collecting charitable contributions on behalf of a charitable organization is a commercial fund-
17 raiser and must register with the Secretary of State. Each solicitation made by a commercial
18 fund-raiser without being first registered with the Secretary of State is a separate violation of the
19 CSA and CPA.

20 18. From at least December 22, 2010 to August 24, 2018, Brandon Haueter, who did
21 business as Turnkey Leasing, was a commercial fund-raiser. During the same time period,
22 neither Brandon Haueter nor Turnkey Leasing was registered as a commercial fund-raiser.

23 19. Between December 22, 2010 and August 24, 2018, Brandon Haueter's
24 commercial fund-raiser made 8,000 calls per day, six days per week, on behalf of the nonprofit
25 defendants
26

1 20. The Plaintiff is entitled to judgment as a matter of law as to its Fifth Cause of
2 Action. Each and every solicitation call made between December 22, 2010 and August 24, 2018,
3 is a separate violation of the CSA and CPA.

4 21. The Plaintiff failed to put forth evidence regarding its sixth cause of actions and
5 is, therefore, not entitled to judgment as a matter of law.

6 22. Charitable organization are required to maintain three years of accurate, current,
7 and readily available books and records at their usual business locations.

8 23. [Because the nonprofit defendants have no usual place of business they
9 necessarily failed to keep accurate, current, and readily available books and records as required
10 by the CSA]

11 [The call center at 9449 Park Ave. South, Tacoma, Washington was the nonprofit
12 defendants' usual business location. The nonprofit defendants failed to keep accurate, current,
13 and readily available books and records at their usual place of business.]

14 24. The plaintiff is entitled to judgment as a matter of law as to its Seventh Cause of
15 Action.

16 25. CHRA, CSS, ERN, and SRC and their governors, officers, and directors are
17 trustees of a charitable trust. Trustees of a charitable trust owe duties of good faith, care, loyalty,
18 and integrity. Additionally they owe a duty to keep and render clear and accurate accounts with
19 respect to the administration of the trust.

20 26. CHRA, CSS, ERN, and SRC and their governors, officers, and directors breached
21 their duties to the nonprofits' charitable trusts by engaging in self-dealing, failing to address
22 conflicts of interest, failing to provide appropriate supervision and accountability for their
23 executive director, and failing to account for the trust property.

24 27. The plaintiff is entitled to judgment as a matter of law as to its Eighth Cause of
25 Action.

1 28. The directors and those in control over the nonprofit corporate defendants have
2 engaged in, and will likely continue engaging in acts, that are illegal, oppressive, and fraudulent.
3 Further, the assets of the nonprofit corporate defendants have been misapplied and wasted. The
4 State's petition for involuntary dissolution of the corporate defendants is GRANTED.

5 29. When a nonprofit corporation dissolves it must distribute its assets in accordance
6 with RCW 24.03.225, including adopting a plan of distribution and providing notice to the
7 Attorney General at least 20 days before adopting the plan.

8 30. CHRA and SRC each dissolved without a plan of distribution and without notice
9 to the Attorney General.

10 31. CHRA and SRC made distributions of assets contrary to law.

11 32. The plaintiff is entitled to judgment as a matter of law as to its Tenth Cause of
12 Action.

13 33. Individuals, including corporate officers, may be personally liable for conduct that
14 violates the CPA if he or she "participate[d] in" or "with knowledge approve[d] of" the practice that
15 violates the CPA. *State v. Ralph Williams' N.W. Chrysler Plymouth, Inc.*, 87 Wn.2c 298, 322, 553
16 P.2d 423 (1976).

17 34. Individual defendants Roy Haueter and Brandon Haueter are found personally liable
18 for the conduct that violates the CPA described herein.

19 DATED this 30 day of Nov, 2018.

20 
21 _____
22 THE HONORABLE JULIE SPECTOR

23 Presented by:

24 ROBERT W. FERGUSON
25 Attorney General

26 _____
JOSHUA STUDOR, WSBA # 47183
LYNDA ATKINS, WSBA# 52396

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