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PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH

**THE STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

NO. 07-2-01895-4

Plaintiff,

v.

BLIND CHILDREN SERVICES OF PUGET SOUND in its own name and doing business as, ABANDONED CHILDREN'S FOUNDATION, ABCC, ABCCWW, ACF, AMERICAN BLIND CHILDREN'S COUNCIL, AMERICAN BLIND CHILDREN'S COUNCIL OF WESTERN WASHINGTON, BCSOPS, HANDICAPPED CHILDREN'S OUTREACH FOR WASHINGTON STATE; HANDICAPPED CHILDREN'S OUTREACH, HCOWS; DARIN ANTHONY DEWITT, Owner of Blind Children Services of Puget Sound, individually and as part of his marital community; ROBERT MELBOURNE SHAY, a/k/a R.M. FUKA, individually and as part of his marital community,

STIPULATED JUDGMENT AND ORDER AS TO BLIND CHILDREN SERVICES OF PUGET SOUND, ET AL.; DARIN ANTHONY DEWITT

Defendants.

I. JUDGMENT SUMMARY

1.1 Judgment Creditor: State of Washington

1.2 Judgment Debtors: Blind Children Services of Puget Sound, in its own name and doing business as, Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's Council, American Blind Children's Council of Western

1 Washington, BCSOPS, Handicapped Children's
2 Outreach for Washington State, Handicapped
3 Children's Outreach, HCOWS; Darin Anthony
4 Dewitt, Owner of Blind Children Services of
5 Puget Sound, individually and as part of his
6 marital community.

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8 **1.3 Principal Judgment Amount:**

- 9 a. Costs and Fees: \$2,000.00
10 b. Restitution: \$613.00 (See Section VI below)
11 c. Civil Penalties: **\$0 imposed** (\$16,500 suspended on
12 condition of compliance with all of the terms of
13 the Judgment and Decree.)
14 d. Total Judgment: **\$2,613.00** (plus \$16,500.00 civil penalties
15 suspended on condition of compliance with all
16 of the terms of the Judgment and Decree).

17 **1.4 Post-Judgment Interest Rate:** 12 percent per annum (for any amount owing
18 after the agreed upon final payment date has
19 passed).

20 **1.5 Attorney for**
21 **Judgment Creditor:** Shannon Smith, Assistant Attorney General

22 **1.6 Attorney for Defendants:** *Pro se*

23 Plaintiff, State of Washington, commenced this action on September 19, 2006
24 pursuant to RCW 19.86, the Consumer Protection Act ("CPA"), and RCW 19.09, the
25 Charitable Solicitations Act. The Defendants were served with the Summons and Complaint.

26 Plaintiff appeared by and through its attorneys, Robert M. McKenna, Attorney
General; and Shannon Smith, Assistant Attorney General; and Defendants appeared pro se.

Plaintiff and Defendants have agreed upon a basis for adjudication of the matters
alleged in the Complaint, and to the entry of this Stipulated Judgment, Findings of Fact,
Conclusions of Law, Judgment and Decree (hereinafter referred to as "Stipulated Judgment"
or "Decree" or "Order") pursuant to CR 54.

1 The Court has determined there is no just reason for delay in the entry of final
2 judgment against Defendants, and being fully advised, the Court hereby makes and enters the
3 following:

4 **II. FINDINGS OF FACT**

5 **2.1** This action was commenced by the State of Washington pursuant to
6 RCW 19.86, the Consumer Protection Act, and RCW 19.09, the Charitable Solicitations Act.

7 **2.2** Unless otherwise specified, the term "Defendants" as used in this document
8 shall mean Blind Children Services of Puget Sound, in its own name and doing business as
9 Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's
10 Council, American Blind Children's Council of Western Washington, BCSOPS, Handicapped
11 Children's Outreach for Washington State, Handicapped Children's Outreach, HCOWS, and
12 Darin Anthony DeWitt.

13 **2.3** Unless otherwise specified, the term "Blind Children Services of Puget Sound"
14 shall mean Blind Children Services of Puget Sound, Abandoned Children's Foundation,
15 ABCC, ABCCWW, ACF, American Blind Children's Council, American Blind Children's
16 Council of Western Washington, BCSOPS, Handicapped Children's Outreach for Washington
17 State, Handicapped Children's Outreach, and HCOWS.

18 **2.4** Defendants accepted or hereby waive personal service of the Summons and
19 Complaint.

20 **2.5** Defendants recognize and state that this Stipulated Judgment is entered into
21 voluntarily and that no promises or threats have been made by the Attorney General's Office
22 or any member, official, agent, or representative thereof to induce Defendants to enter into
23 this Stipulated Judgment except as provided herein.

24 **2.6** Defendants further agree that they will not oppose the entry of this Stipulated
25 Judgment on the grounds that it fails to comply with Rule 65(d) of the Rules of Civil
26 Procedure and hereby waive any objections based thereon.

1 **2.7** The violations alleged in the State's Complaint, have been engaged in by
2 Defendants wholly or in part in Snohomish County, state of Washington, and elsewhere in the
3 state of Washington. Defendants transact or have transacted business in the state of
4 Washington.

5 **2.8** Defendant Darin Anthony DeWitt is the owner of, and as such, controls its
6 policies, activities, and practices, including those alleged in this Complaint. Defendant Darin
7 Anthony DeWitt resides at 200 107th Street SW, Everett, Washington 98024.

8 **2.8** Defendant Blind Children Services of Puget Sound was registered as a
9 charitable organization with the Secretary of State from April 9, 2003 until May 6, 2005.
10 Blind Children Services of Puget Sound was authorized to solicit charitable contributions in
11 the State of Washington under the names Abandoned Children's Foundation, ABCC,
12 ABCCWW, ACF, American Blind Children's Council, American Blind Children's Council of
13 Western Washington, BCSOPS, Handicapped Children's Outreach for Washington State,
14 Handicapped Children's Outreach, and HCOWS from April 9, 2003 until May 6, 2005. The
15 Secretary of State canceled the registration on May 6, 2005. Blind Children Services of Puget
16 Sound, under the direction and control of Defendant Darin Anthony Dewitt continued to
17 solicit and collect charitable contributions through at least March of 2006 without being
18 registered as a charitable organization with the Secretary of State.

19 **2.9** In its written solicitation material distributed to Washington consumers, Blind
20 Children Services of Puget Sound, under the direction and control of Defendant Darin
21 Anthony DeWitt, misrepresented that Blind Children Services of Puget Sound was registered
22 with the Secretary of State under Registration No. 10386, when it was not so registered.

23 **2.10** In written solicitation material it distributed to Washington consumers, Blind
24 Children Services of Puget Sound, under the direction and control of Defendant Darin
25 Anthony DeWitt, failed to clearly and conspicuously disclose in the body of the solicitation
26 material that the Defendants' notice of solicitation is on file with the Secretary of State and

1 also have the capacity to mislead a substantial number of consumers, are unfair and deceptive, and
2 are unfair methods of competition and therefore constitute violations of RCW 19.86.020, which
3 prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct
4 of any trade or commerce, notwithstanding that they are *per se* violations of the Consumer
5 Protection Act pursuant to RCW 19.09.340.

6 **3.5** Defendants' acts and practices as described in Finding of Fact 2.11 violate
7 RCW 19.09.100(18), 19.09.200, 19.09.210 and WAC 434-120-125, 434-120-130, 434-120-135,
8 434-120-140 and are *per se* violations of RCW 19.86, the Consumer Protection Act, pursuant to
9 RCW 19.09.340. Defendants' acts and practices as described in Finding of Fact 2.11 also have
10 the capacity to mislead a substantial number of consumers, are unfair and deceptive, and are
11 unfair methods of competition and therefore constitute violations of RCW 19.86.020, which
12 prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct
13 of any trade or commerce, notwithstanding that they are *per se* violations of the Consumer
14 Protection Act pursuant to RCW 19.09.340.

15 **3.6** Defendants' acts and practices as described in Finding of Fact 2.12 violates
16 RCW 19.09.100(16), (18), and 19.09.200(1), and are *per se* violations of RCW 19.86, the
17 Consumer Protection Act, pursuant to RCW 19.09.340. Defendants' acts and practices as
18 described in Finding of Fact 2.12 also have the capacity to mislead a substantial number of
19 consumers, are unfair and deceptive, and are unfair methods of competition and therefore
20 constitute violations of RCW 19.86.020, which prohibits unfair methods of competition and
21 unfair or deceptive acts or practices in the conduct of any trade or commerce, notwithstanding
22 that they are *per se* violations of the Consumer Protection Act pursuant to RCW 19.09.340.

23 **3.7** Plaintiff, State of Washington, is authorized by RCW 19.09.340 and 19.86.080 to
24 enjoin violations of the Consumer Protection Act, to obtain restitution on behalf of persons
25 harmed by such violations, and to obtain such further and other relief as the court may deem
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1 appropriate, including civil penalties up to the amount of \$2,000.00 per violation and attorneys'
2 fees and costs.

3 **3.8** Plaintiff is entitled to a Decree enjoining and restraining Defendants and any
4 and all persons in active concert or participation with Defendants from engaging in the future
5 in the acts or practices described in Findings of Fact 2.8 through 2.12 that violate the
6 Consumer Protection Act or the Charitable Solicitation Act.

7 **3.9** Plaintiff is entitled to a Decree ordering Defendants to pay Plaintiff's costs
8 and fees of \$2,000.00 incurred by Plaintiff in pursuing this action. Said payment shall be in
9 addition to and exclusive of any costs or fees which may be incurred by Plaintiff in enforcing
10 the provisions of this Decree, including the costs of any collection actions. Plaintiff's request
11 for costs and fees of \$2,000.00 is reasonable, and Plaintiff is entitled to a Decree ordering
12 Defendants to pay the requested amount.

13 **3.5** Plaintiff is entitled to a Decree ordering Defendants to comply with the
14 injunctive provisions described below.

15 **3.6** Plaintiff is entitled to a Decree ordering Defendants to pay civil penalties as
16 described below.

17 **3.7** Plaintiff is entitled to a Decree ordering Defendants to pay restitution as
18 described below.

19 Based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby
20 makes the following Judgment and Order:

21 It is hereby ADJUDGED, ORDERED, and DECREED as follows:

22 **IV. INJUNCTIONS**

23 **4.1** The injunctive provisions of this Judgment and Order shall apply to the
24 Defendants, and the Defendants' successors, assigns, officers, agents, servants, employees,
25 representatives, affiliates, and all other persons or entities in active concert or participation with
26 the Defendants.

1 **4.2** Defendants shall immediately inform all successors, assigns, transferees, officers,
2 agents, servants, employees, representatives, attorneys and all other persons or entities in active
3 concert or participation with Defendants of the terms and conditions of this Judgment and Order.

4 **4.3 Imposed Injunctions.** Defendants and all successors, assigns, transferees,
5 officers, agents, servants, employees, representatives, affiliates, attorneys and all other persons or
6 entities in active concert or participation with Defendants are hereby permanently enjoined and
7 restrained from directly or indirectly engaging in the following acts or practices in the State of
8 Washington:

9 (a) Soliciting or collecting charitable contributions without current registration
10 as a charitable organization with the Washington Secretary of State as required by
11 RCW 19.09.065 as currently enacted or subsequently amended;

12 (b) If Defendants are exempt from registration with the Washington
13 Secretary of State pursuant to RCW 19.09.076(1) and WAC 434-120-100(1)(c), currently
14 enacted or subsequently amended, Defendants shall not solicit or collect charitable
15 contributions unless and until they file an optional registration with the Washington Secretary
16 of State as provided in WAC 434-120-110 as currently enacted or subsequently amended;

17 (c) Representing, directly or by implication, that Defendants or any other
18 charitable organization or entity Defendants may form is registered with the Washington
19 Secretary of State unless it is so registered;

20 (d) Operating as a charitable organization in the State of Washington
21 without complying with the recordkeeping requirements established by RCW 19.09.200, .210
22 and WAC 434-120-125, -130, -135, -140 as currently enacted or subsequently amended;

23 (e) Soliciting charitable contributions under the name, registration
24 number, tax-exempt number, or EIN of any other organization unless Defendants have
25 obtained the written consent of such organization. Defendants must maintain a copy of such
26 consent for three years following any solicitation activity conducted Defendants;

1 (f) Engaging in any commercial fundraising activities, as defined by
2 RCW 19.09 or WAC 434-120 as currently enacted or subsequently amended, on behalf of any
3 entity without being registered with the Secretary of State as a commercial fundraiser as
4 required by RCW 19.09.065 as currently enacted or subsequently amended;

5 (g) Failing to make any of the disclosures required by RCW 19.09.100, as
6 currently enacted or subsequently amended, other applicable law, in any oral or written
7 solicitations.

8 **4.4 Suspended Injunctions.** The following injunctions are set forth herein as a
9 remedy for the violations committed by Defendants, but their implementation is suspended upon
10 condition that Defendants shall not commit any material violation of the other injunctive terms
11 of this Stipulated Judgment. Should the Court find in the future that any of the Defendants who
12 are party to this Stipulated Judgment have violated materially any of the injunctive provisions of
13 this Stipulated Judgment, then the parties hereby stipulate and agree that upon a showing of
14 such violation, the Court shall enter the following injunctive relief:

15 Defendants and all successors, assigns, transferees, officers, agents, servants,
16 employees, representatives, affiliates, attorneys and all other persons or entities in active concert
17 or participation with Defendants are hereby permanently enjoined and restrained from directly
18 or indirectly engaging in the following acts or practices in the State of Washington:

19 (a) Engaging in charitable solicitation, as defined by RCW 19.09 as
20 currently enacted or subsequently amended, of any whatsoever, including but not limited to any
21 solicitation where it states or implies any appeal for the support of veterans, children, children's
22 hospitals, or other programs to benefit youth, battered women, domestic violence victims, the
23 disabled, or any other charitable or purportedly charitable cause of any kind, regardless of
24 whether the beneficiary or beneficiaries of such solicitations are individuals, groups,
25 organizations, associations, for-profit corporations, non-profit corporations, hospitals, group
26 homes, or other entity;

1 (b) Owning, operating, managing, consulting with, or working for or on
2 behalf of any charitable organization that conducts charitable solicitations in the State of
3 Washington, whether as an owner, co-owner, partner, employee, manager, salesperson,
4 telefunder or telemarketer, solicitor, script writer or editor, advisor or consultant, or independent
5 contractor

6 (c) Engaging in the business of a commercial fundraiser, commercial
7 coventurer, or fundraising consultant as defined in RCW 19.09 or WAC 434-120 as currently
8 enacted or subsequently amended, or owning, managing, or working for or on behalf of such
9 commercial fundraiser or fundraising consultant, whether as an owner, co-owner, partner,
10 employee, manager, salesperson, telefunder or telemarketer, solicitor, script writer or editor,
11 advisor or consultant, or independent contractor

12 V. CIVIL PENALTIES

13 5.1 Pursuant to RCW 19.86.140, Plaintiff shall recover and Defendant shall pay
14 civil penalties in the amount of \$16,500.00. However, \$16,500.00 is suspended on condition
15 of compliance with all of the terms of this Judgment and Decree.

16 5.2 The suspended portion of the civil penalty shall be imposed by the Court upon
17 a showing by the State, upon reasonable notice to the Defendants, that one or more of the
18 Defendants materially has violated one or more of the terms of this Judgment and Decree.
19 This suspended civil penalty shall be viewed as analogous to liquidated damages (or a
20 liquidated penalty) for all of the past violations committed by Defendants in addition to
21 whatever violations Defendants may commit in the future, to be payable in case of a material
22 violation in the future.

23 5.3 Defendants shall make this payment by cashier's check, made payable to the
24 Attorney General—State of Washington, and shall be delivered to the Office of the Attorney
25 General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-3188, to the attention of
26 Cynthia Lockridge.

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VI. RESTITUTION

6.1 Pursuant to RCW 19.86.080, Defendant agrees to remit to the Attorney General's Office the sum of \$613.00 as restitution to consumers who have made charitable donations to Defendants after October 26, 2004. This amount reflects restitution to those consumers who donated to Defendants after May 6, 2005, and who complained to or inquired of Attorney General's Office or the Secretary of State's Office regarding their donations, or whose identity the Attorney General's Office obtained through its investigation.

6.2 If the Attorney General's Office is unable to distribute restitution to any consumer entitled to restitution under this section, the Attorney General's Office, at its discretion, shall apply that amount toward additional attorney's fees or costs, and/or toward consumer education.

6.3 Defendant shall pay the \$613.00 in restitution in six (6) monthly installments. The first payment of \$113.00 shall be due on December 1, 2007. The remaining five (5) payments of \$100.00 each shall be due on or before the first business day of the next successive month, beginning on January 2, 2008. The final restitution payment shall be made no later than April 1, 2008. Provided, nothing in this paragraph shall be construed to preclude the Defendant from paying the restitution balance prior to April 1, 2008.

6.4 Defendants shall make all payments by cashier's check, made payable to the Attorney General—State of Washington, and shall be delivered to the Office of the Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-3188, to the attention of Cynthia Lockridge.

VII. ATTORNEYS' FEES AND COSTS

7.1 Pursuant to RCW 19.86.080, Plaintiff shall recover and Defendant shall pay costs and attorneys' fees incurred in pursuing this matter in the amount of \$2,000.00. Interest on any unpaid balance of this amount shall accrue in the amount of 12% per annum.

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1 8.5 Representatives of the Office of Attorney General shall be permitted, upon 10
2 days' notice to Defendants, to access, inspect, and/or copy all business records or documents
3 under the control of Defendants, in order to monitor compliance with the injunctive provisions
4 of this Stipulated Judgment.

5 8.6 Under no circumstances shall this Judgment or the names of the State of
6 Washington or the Office of the Attorney General, Consumer Protection Division, or any of its
7 employees or representatives be used by Defendants' agents or employees in connection with
8 the promotion of any product or service or an endorsement or approval of Defendants'
9 practices.

10 8.7 The Court finding no just reason for delay, hereby expressly directs entry of this
11 Judgment.

12 DATED this 13 day of ~~NOVEMBER~~, 2007.

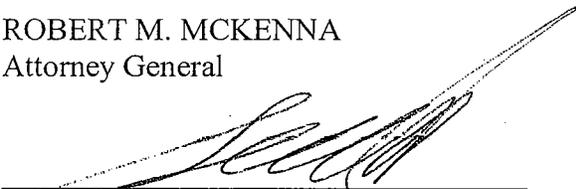
NOV 30 2007

LESTER H. STEWART
COURT COMMISSIONER

JUDGE/COURT COMMISSIONER

15 Presented by
16 ROBERT M. MCKENNA
17 Attorney General

Agreed to, Approved for Entry, and
Notice of Presentation Waived:

18 
19 _____
20 SHANNON E. SMITH, WSBA #19077
21 Senior Counsel
22 Attorneys for Plaintiff
23 State of Washington

24 
25 _____
26 BLIND CHILDREN SERVICES, et al.
Defendant
By: Darin Anthony Dewitt, Owner



DARIN ANTHONY DEWITT
Defendant