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ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
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OCT 28 2010

By: Joshua T. Rabinowitz  
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SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, ESSEX COUNTY  
Docket No.

PAULA T. DOW, Attorney General  
of the State of New Jersey, and  
THOMAS R. CALCAGNI, Acting Director:  
of the New Jersey Division of  
Consumer Affairs,

Plaintiffs,

v.

STEVEN ASHLEY,

Defendant.

Civil Action C-249-10

COMPLAINT

Paula T. Dow, the Attorney General of the State of New Jersey (the "Attorney General"), and Thomas R. Calcagni, the Acting Director of the Division of Consumer Affairs (the "Acting Director"), allege as follows:

**PRELIMINARY STATEMENT**

1. The Attorney General and the Acting Director (collectively, "Plaintiffs") bring this action (the "Action") against Steven Ashley ("Ashley" or "Defendant") pursuant to their authority to enforce the Charitable Registration and Investigations

Act, N.J.S.A. 45:17A-18 et seq. ("CRIA"), and the regulations promulgated thereunder, N.J.A.C. 13:48-1.1 et seq., as well as the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, et seq. ("CFA").

2. Defendant was associated with the International Foundation for Children and the Disabled ("IFCD"). IFCD, which did business in the New York/New Jersey area as Ray of Hope, solicited contributions in New Jersey even though IFCD d/b/a Ray of Hope ("Ray of Hope") was not registered in New Jersey and was not exempt from registration. After Defendant was no longer associated with Ray of Hope, he continued to hold himself out as a representative of Ray of Hope and made false and misleading statements to solicit car donations that were never intended to advance Ray of Hope's charitable purposes.

3. In addition to misrepresenting that he was soliciting car donations for the benefit of Ray of Hope, Defendant also overstated the fair market value of the cars that prospective donors offered to donate and failed to disclose that a donor's tax deduction had to be reduced by any cash or other benefit that the donor received in connection with the donation.

4. The Action seeks to enjoin Defendant from soliciting charitable contributions in New Jersey and from providing services to any organization that solicits charitable contributions in New Jersey without the prior approval of the Division.

5. The Action also seeks a civil monetary penalty from

Defendant and the recovery of Plaintiffs' attorneys' fees and investigative costs.

PARTIES

6. The Attorney General of the State of New Jersey is authorized pursuant to N.J.S.A. 45:17A-21 to administer and enforce the provisions of the CRIA and the regulations promulgated thereunder.

7. The Director is the person designated and charged pursuant to N.J.S.A. 45:17A-33(a) and N.J.A.C. 13:48-1.1 with the administration and enforcement of the CRIA.

8. Steven Ashley resides at 13 Frederick Court, Cedar Grove, New Jersey 07009.

JURISDICTION AND VENUE

9. The Court has subject matter jurisdiction of the Action pursuant to N.J.S.A. 45:17A-21(d), N.J.S.A. 45:17A-32(a), N.J.S.A. 45:17A-32(c), N.J.S.A. 45:17A-33(d), N.J.S.A. 45:17A-33(e) N.J.S.A. 56:8-2.7, and N.J.S.A. 56:8-8.

10. The Chancery Division has venue, pursuant to R. 4:3-1(a)(1), because the primary relief sought is to enjoin Defendant from soliciting for any charitable organization in New Jersey.

11. The Court has personal jurisdiction over Defendant pursuant to R. 4:4-4(a).

~~12. Venue is appropriate in Essex County, pursuant to R. 4:3-2(a)(3), because Defendant resided in Essex County at the~~

commencement of the Action.

THE DIVISION'S INVESTIGATION OF IFCD

13. IFCD is a not-for-profit corporation that was incorporated in the State of California on October 17, 1997. IFCD was granted tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

14. On or about March 15, 2007, IFCD received a Certificate of Assumed Name from the Division of Corporations in the State of New York's Department of State to do business as Ray of Hope.

15. On or about August 27, 2007, IFCD filed a Charities Registration Statement with the Charities Bureau of the Department of Law of the State of New York ("Charities Registration Statement").

16. The Charities Registration Statement stated that IFCD's purpose was "to provide medical, educational and cultural assistance and benefits to children and the disabled." The Charities Registration Statement also stated that IFCD intended to solicit contributions "to provide educational and cultural assistance and benefits."

17. Ray of Hope solicited contributions through a car donation program ("Car Donation Program") in the New York/New Jersey area.

18. Through the Car Donation Program, Ray of Hope advertised for car donations in New Jersey and picked up donated cars in New

Jersey.

19. Ray of Hope solicited in New Jersey even though it did not register as a charitable organization under the CRIA and was not entitled to an exemption from the CRIA's registration requirements.

20. In May 2008, the Division served a subpoena duces tecum and a demand for certified statement on Ray of Hope.

21. In July 2008, Ray of Hope responded to the Division's subpoena and demand for certified statement.

22. The demand for certified statement, which was signed by Irina Shvartser ("Ms. Shvartser") and Defendant, included the following statements about Defendant's association with Ray of Hope:

- A. Steve Ashley has over 20 years experience as the owner of a car dealership. He donates his time and expertise to Ray of Hope. Steve Ashley and Irina Shvartser have been friends for over 10 years.
- B. Steve Ashley loaned Ray of Hope rent money at 0% interest when its former landlord requested prepayment of one year (sic) rent.

23. In November 2008, Ray of Hope produced additional documents and answered an additional demand for certified statement, which included the following statements:

- A. Ms. Shvartser and Steven Ashley (formerly did) assess whether a given vehicle can be repaired and resold based on its make, model, year and how severe the damage is to the vehicle.
- B. Steven Ashley is not and never was employed by Ray of Hope. He donated his time in order to help Ms. Shvartser

gain knowledge of the car repair business. He was never paid. As of March 2008 he has had no further connection with Ray of Hope.

24. During its investigation, the Division notified Ray of Hope that it was not permitted to solicit in New Jersey until it registered with the Division as a charitable organization.

#### ASHLEY'S VIOLATIONS

25. On June 26, 2009, a Division investigator called the telephone number - 1 800 639 9999 - that Ray of Hope used in its solicitation materials ("Ray of Hope Number") and identified herself as a New Jersey resident who was interested in donating a car to Ray of Hope. The investigator told the person who answered the telephone that she had heard an advertisement on a radio station, 1010 WINS, which said that one could donate a car and receive a tax deduction and cash back.

26. The person who answered the telephone said that if she donated a car that was "2001 or newer," she would receive a tax deduction and cash back.

27. The person who answered the telephone asked the investigator what kind of car she had. She said that she had a 2004 Toyota Camry that had 90,000 to 95,000 miles and was in good condition. He told her that if she donated the car, she would get (a) a tax deduction of between \$11,750 and \$12,100, (b) a cash payment of \$2,500 to \$3,000, and (c) a seven-day cruise or seven days at a 5 star resort.

28. According to the National Automobile Dealer's Association Official Used Car Guide ("NADA Guide") for June 2009, the "clean retail value" of a 2004 Toyota Camry SE that had 93,000 miles and was in good condition was less than \$10,050. According to the June 2009 NADA Guide, the "average trade-in" for the same model was \$7,225. Each statement of the car's value in the June 2008 NADA Guide was less than the value that the person who answered the telephone had represented to the investigator.

29. The person who answered the telephone failed to disclose that the amount of the tax deduction had to be reduced by the amount of cash and the retail value of the vacation vouchers the donor received. The person also failed to disclose that in order for a donor to qualify for a tax deduction of more than \$5,000, the donor would need to obtain a written appraisal of the car's value.

30. During the conversation, the person who answered the telephone stated that his name was Mark and that he lived in Cedar Grove.

31. On July 13, 2010, a second Division investigator, who identified himself as "Joe Simon," called the Ray of Hope Number and told the person who answered the telephone that he had heard on the radio that one could donate a car and receive a tax deduction and cash.

~~32. The person who answered the telephone responded that~~  
~~anyone who donated a car will get a tax deduction and a three-day~~

vacation, and that if the car is "2001 or newer," the person will get the tax deduction plus cash.

33. During the conversation the person who answered the telephone stated that his name was Mark Blakeman.

34. Mark asked what kind of car the investigator wanted to donate. The investigator said that he wanted to donate a 2003 Chevy Trailblazer, LS model, with a little more than 88,000 miles.

35. Mark told the investigator that he could get a tax deduction of \$7,800 for the donation.

36. According to the July 2009 NADA Guide, a 2003 Chevy Trailblazer, LS model, with a little more than 88,000 miles was \$8,000. According to the July 2009 NADA Guide, the "average trade in" for the same model was \$5,325. The statement about the "average trade in value" was less than the value that Mark had represented to the investigator.

37. The investigator asked how much cash he could get for the donation and, after some discussion, Mark said that he could give the investigator \$2,000 in cash and could also throw in three or four 3-day vacation vouchers that would be good for a year.

38. Mark failed to disclose that the amount of the tax deduction had to be reduced by the amount of cash and the retail value of the vacation vouchers that the donor received. Nor did Mark disclose that in order for a donor to qualify for a tax deduction of more than \$5,000 the donor would need to obtain a



written appraisal of the car's value.

39. Mark and "Joe Simon" concluded their conversation by agreeing that Mark would pick up the car between eleven and noon on July 16, 2009. The place of the pick up would be on Route 35 in Ocean, New Jersey, just south of Deal Road.

40. At about 11:00 a.m. on July 16, [REDACTED] "Joe Simon" called the Ray of Hope Number to confirm that his car was scheduled to be picked up by noon that day. He was told that his pick up was on their schedule.

41. At 12:20 p.m., Mark called "Joe Simon" to say that he was on his way and should be at the pick up location within 10 minutes.

42. Mark arrived shortly thereafter with another person named Mike. After they arrived, Mike took the Chevy Trailblazer for a short ride to check the transmission.

43. After the test drive, Mark told Mike to switch the plates. Mike started to replace the New Jersey plates on the Trailblazer with a North Carolina dealer license plate number 066135.

44. While Mike was switching the plates, Mark handed "Joe Simon" a pre-printed Ray of Hope tax deduction receipt to "Joe Simon" for a stated vehicle valued at \$7,800. Shortly thereafter, Mark offered "Joe Simon" \$2,000 in cash in exchange for the title to the Chevy Trailblazer. ~~The pre-printed tax deduction receipt~~ stated that "The Ray of Hope has not provided you with any goods in

(sic) or services in exchange for your contribution."

45. Mark never disclosed to "Joe Simon" that he was not entitled to a tax deduction for his contribution unless he obtained a written appraisal of the value of the vehicle he was donating. Nor did Mark disclose that "Joe Simon" would also have to complete Section A of Internal Revenue Service ("IRS") Form 8283 to qualify for a tax deduction.

46. After "Joe Simon" identified himself as a Division investigator, he asked Mark for identification. Mark produced his New Jersey driver's license, which identified him as Steven Ashley and identified his address as 12 Frederick Court, Cedar Grove, New Jersey.

47. On July 28, 2009, two Division investigators visited 12 Frederick Court in Cedar Grove, New Jersey and noticed a vehicle with North Carolina dealer plate number 066139 that was parked in the driveway of the property.

#### ASHLEY'S DEPOSITION TESTIMONY

48. On November 17, 2009, the Division deposed Defendant.

49. Defendant testified that he was not employed and that he did not currently own or operate a business.

50. Defendant also testified that: (a) he had a wholesale used car dealer's license for North Carolina; and (b) he had a business in North Carolina that was called "Rays of Hope" and that

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Rays of Hope was not registered as a charity.

51. Defendant asserted his privilege against self-incrimination with respect to questions about whether Rays of Hope had ever conducted business with Ray of Hope or had any other relationship with Ray of Hope. Defendant also asserted his privilege against self-incrimination with respect to questions about whether he had ever purchased cars from Ms. Shvartser and whether he exported cars.

52. Defendant asserted his privilege against self-incrimination when asked why he had North Carolina dealer plates with him on July 16, 2009. Defendant also asserted his privilege against self-incrimination when asked whether he knows what happened to the cars with North Carolina dealer plates that were on his property or parked near his property.

53. Defendant asserted his privilege against self-incrimination when asked whether Ray of Hope had provided the money he used to offer a cash payment to acquire the Chevy Trailblazer from the Division investigator.

54. Defendant asserted his privilege against self-incrimination when asked about his employment history and his sources of income for the past five years.

55. Defendant asserted his privilege against self-incrimination when asked whether he had ever been employed by or ~~had ever received money from Ray of Hope.~~ Defendant also asserted his privilege against self-incrimination when asked whether he has

ever provided services to Ray of Hope and whether he is currently compensated by Ray of Hope.

56. Defendant asserted his privilege against self-incrimination when asked whether he has ever been employed by or associated with any other charity or not-for-profit organization.

57. Defendant asserted his privilege against self-incrimination when asked when he met Ms. Shvartser and whether he had a business relationship with her. Defendant also asserted his privilege against self-incrimination when asked whether he had ever picked up cars on behalf of Ms. Shvartser or Ray of Hope and whether he has a current business relationship with Ms. Shvartser.

58. Defendant asserted his privilege against self-incrimination when asked: (a) whether he had ever answered telephone calls for Ray of Hope; (b) whether he had ever identified himself as Mark Blakeman; (c) whether anyone at Ray of Hope had authorized him to tell persons they would receive cash for their cars; (d) whether he had told people who called to donate a car that they would receive both cash and a tax deduction; (e) whether he had told people who called about donating a car the amount of tax deduction they were allowed to take; (f) whether he had told people who called about a car donation whether the cash payment would affect the amount of their tax deduction; (g) whether he had

~~gone to 1502 Highway 35 South, Ocean, New Jersey on July 16, 2009~~

to pick up a Chevy Trailblazer that was being donated to Ray of Hope; (h) whether he had cash to give to the person who was

donating the Chevy Trailblazer; (i) whether he had dealer plates from North Carolina numbered 066135 when he came to pick up the Chevy Trailblazer; and (j) whether he knew to whom the dealer's plates were registered.

COUNT I

**DEFENDANT MADE FALSE STATEMENTS ON  
BEHALF OF RAY OF HOPE IN VIOLATION  
OF N.J.S.A. 45:17A-32(a).**

59. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 58 as if fully set forth herein.

60. N.J.S.A. 45:17A-32(a) states that any statement made on behalf of a charitable organization shall be truthful.

61. Section 170(f)(12) of the Internal Revenue Code, 26 U.S.C. § 170(f)(12), states that for a contribution of a used motor vehicle, boat, or airplane that exceeds \$500 no charitable deduction shall be allowed unless the donor substantiates the contribution by a contemporaneous written acknowledgment by the donee organization that, among other things, states whether the donee organization provided any goods or services as consideration for the contribution and provides a good faith estimate of the value of those goods or services. Section 170(f)(12)(F) states that "[t]he Secretary [of the Treasury] shall prescribe such regulations or other guidance as may be necessary to carry out the purposes of this paragraph."

62. 26 C.F.R. 1.170A-1(c) states that the value of a charitable contribution made in property other than money is the

fair market value of the property, which is defined as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts."

63. The IRS has explained the laws that apply to car donations to charities in IRS Publication 4302 - A Charity's guide to Vehicle Donations - and IRS Publication 4303 - A Donor's Guide to Car Donations.

64. IRS Publication 4302 and IRS Publication 3403 include the following statements of the laws governing vehicle donations that are relevant to Defendant's conduct: (a) the maximum amount that a donor can deduct for her donation is the fair market value of the vehicle; (b) a donor can take a deduction of \$250 or more only if the charity provides a contemporaneous written acknowledgment of the donation that includes "a statement that no goods or services were provided by the charity in return for the contribution" or "a description and good faith estimate of the value of the goods and services" that the charity provided; (c) if a donor claims a deduction of more than \$500, then the donor has to complete Section A of IRS Form 8283; and (d) if the donor claims a deduction of more than \$5,000, then the donor must obtain a written appraisal of the car.

65. When Division investigators called the Ray of Hope Number on June 26, 2009 and on July 13, 2009, Defendant answered the telephone and spoke on behalf of Ray of Hope.

66. On June 26, 2009, Defendant falsely stated to the Division investigator that she would be entitled to a tax deduction of between \$11,750 to \$12,000 for her donation of the 2004 Camry with 90,000 to 95,000 miles to Ray of Hope.

67. This statement was false because it: (a) overstated the value of the car; (b) did not subtract the cash payment to the investigator; and (c) did not subtract the retail value of the vacation package that the investigator would receive in connection with the donation.

68. This statement was also false because the donation was not for the benefit of Ray of Hope.

69. On July 13, 2009, Defendant falsely stated to the Division investigator that the investigator would be entitled to a tax deduction of \$7,800 for his donation of a 2003 Chevy Trailblazer with 88,000 miles to Ray of Hope.

70. This statement was false because it: (a) overstated the value of the car; (b) did not subtract the cash payment to the investigator; and (c) did not subtract the retail value of the vacation package that the investigator would receive in connection with the donation.

71. This statement was also false because the donation was not for the benefit of Ray of Hope.

72. Defendant's conduct constitutes multiple violations of the CRIA, N.J.S.A. 45:17A-32(a).

COUNT II

DEFENDANT SOLICITED CONTRIBUTIONS  
FOR A PURPOSE OTHER THAN A PURPOSE  
STATED IN IFCD'S STATEMENT OF  
CHARITABLE ORGANIZATION IN VIOLATION  
OF N.J.S.A. 45:17A-32(c).

73. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 72 as if fully set forth herein.

74. N.J.S.A. 45:17A-32(c) (1) states that it is unlawful to solicit contributions for the benefit of a charitable organization for a purpose other than the charitable purpose expressed in the statement of the charitable organization.

75. IFCD's, and therefore Ray of Hope's, charitable purpose was "to provide medical, educational and cultural assistance and benefits to children and the disabled."

76. On June 26, 2009 and July 13, 2009, Defendant solicited contributions for Ray of Hope for the benefit of his private business, Rays of Hope.

77. Defendant's conduct constitutes at least two violations of the CRIA, N.J.S.A. 45:17A-32(c).

COUNT III

DEFENDANT SOLICITED CONTRIBUTIONS  
FOR IFCD BY FAILING TO DISCLOSE  
MATERIAL FACTS.

78. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 77 as if fully set forth herein.

79. N.J.S.A. 45:17A-32(c) (1) states that it is unlawful to solicit contributions for the benefit of a charitable organization



by failing to disclose any material fact.

80. On June 26, 2009 and July 13, 2009, Defendant solicited car donations for Ray of Hope without disclosing that the amount of the tax deduction that a donor was entitled to receive had to be reduced by the amount of the cash, and the value of any gifts (i.e., vacation vouchers), the donor received as a result of the donation.

81. On June 26, 2009 and July 13, 2009, Defendant solicited car donations for Ray of Hope without disclosing that the prospective donor was entitled to a tax deduction in excess of \$5,000 only if donor obtained a written appraisal of the fair market value of the car and completed an IRS form 8283, which required the signature of an authorized official of the charity.

82. On June 26, 2009 and July 13, 2009, Defendant solicited car donations for Ray of Hope without disclosing that Ray of Hope was not registered to solicit charitable contributions in New Jersey.

83. On June 26, 2009 and July 13, 2009, Defendant solicited car donations to Ray of Hope without disclosing that he was not authorized to solicit, or to accept, car donations on behalf of Ray of Hope.

84. Defendant's conduct constitutes multiple violations of the CRIA, N.J.S.A. 45:17A-32(c)(1).

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COUNT IV

DEFENDANT SOLICITED CHARITABLE  
CONTRIBUTIONS BY MEANS OF PRACTICES  
THAT VIOLATED THE CFA.

85. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 84 as if fully set forth herein.

86. The CFA, specifically N.J.S.A. 45:17A-32(c)(3), states that it is unlawful to solicit contributions through practices that violate the applicable provisions of the CFA, N.J.S.A. 56:8-1 et seq.

87. N.J.S.A. 56:8-2.7 states that it shall be unlawful for any person to solicit funds or a contribution of any kind where the person falsely represents, or the consumer has been falsely led to believe, that the person is soliciting by or on behalf of a charitable organization.

88. Defendant solicited contributions by misrepresenting that he was representing Ray of Hope.

89. Defendant solicited contributions in a context where prospective donors, who called the Ray of Hope Number, were falsely led to believe that Defendant was soliciting on behalf of Ray of Hope.

90. Defendant's conduct constitutes multiple violations of the CFA, N.J.S.A. 56:8-2.7.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs seek the following relief:

- A. A declaration that Defendant's acts and omissions constitute multiple violations of N.J.S.A. 45:17A-32(a), N.J.S.A. 45:17A-32(c)(1), N.J.S.A. 45:17A-32(c)(3) and N.J.S.A. 56:8-2.7;
- B. Defendant shall be enjoined, pursuant to N.J.S.A. 45:17A-33(e), from soliciting on behalf of any charitable organization in New Jersey and from providing services to any organization that promotes that organization's efforts to solicit charitable contributions in New Jersey;
- C. Defendant shall be enjoined, pursuant to N.J.S.A. 56:8-8, from soliciting contributions in New Jersey by falsely representing, or by falsely causing persons to believe, that he is soliciting on behalf of any charitable or nonprofit organization;
- D. Defendant shall be ordered to pay, pursuant to N.J.S.A. 45:17A-33(d) and N.J.S.A. 56:8-13, the maximum civil monetary penalty permitted by law for his violations of the CRIA and the CFA;
- E. Defendant shall be ordered to pay, pursuant to N.J.S.A. 45:17A-33(d), N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19, the attorneys' fees and investigative costs that Plaintiffs incurred in

connection with the Action for the use of the State; and

F. Such other and further relief as the Court deems just and appropriate.

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Joshua T. Rabinowitz  
Joshua T. Rabinowitz  
Deputy Attorney General

Dated: October 27, 2010

RULE 4:5-1 CERTIFICATION

OCT 28 2010

I certify, to the best of my information and belief, that the allegations in the complaint in this Action ("Complaint") involving the aforementioned violations of ~~the~~ Charitable Registration and Investigations Act, N.J.S.A. 45:17A-18 et seq., and the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., are not the subject of any other action pending in any other court of this State. I am aware that two private contract actions have been brought against a Steven Ashley for amounts less than \$7,500, but have no direct information that either relates to the allegations in the Complaint. I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated.

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

  
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Joshua T. Rabinowitz  
Deputy Attorney General

Dated:       October 27, 2010  
              Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorney General Joshua T. Rabinowitz is hereby designated as trial counsel for the Plaintiffs in this action.

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Joshua T. Rabinowitz  
Joshua T. Rabinowitz  
Deputy Attorney General

Dated: October 27, 2010  
Newark, New Jersey