

DISTRICT COURT, JEFFERSON COUNTY, COLORADO Court Section 100 Jefferson County Parkway Golden, Colorado 80401-6002	
STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL, Plaintiff, v. FAMILY RELIEF FUND d/b/a DISABLED VETERANS CARE CENTER, a Colorado non-profit corporation, and RAYMOND E. SMITH, an individual, and MARLENE STOKES, an individual, Defendants.	▲ COURT USE ONLY ▲ Case No.: 08 CV 5049 Div 9
TEMPORARY RESTRAINING ORDER	

The Court, having reviewed the Verified Complaint, Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction, the supporting Affidavits appended to the Motion, and being fully advised in the premises,

FINDS that a temporary restraining order should be entered for the following reasons:

1. This Court has jurisdiction in the matter presented herein by virtue of § 6-1-110(1), C.R.S. (2008) and Rule 65, C.R.C.P.
2. This Court is expressly authorized to issue a Temporary Restraining Order to enjoin ongoing violations of the Colorado Consumer Protection Act ("CCPA") by § 6-1-110(1), C.R.S (2008):

(1) Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or

injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

§ 6-1-110(1), C.R.S.

3. Plaintiff, by means of its Verified Complaint and its Motion for Temporary Restraining Order and Preliminary Injunction supported by affidavits, has shown to this Court probable cause that:

4. Defendants have knowingly and intentionally violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-101 through 113 (2008) ("CCSA") and the Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-101 through 115 (2008) ("CCPA") in their operation of Family Relief Fund d/b/a Disabled Veterans Care Center ("FRF"). FRF purports to collect and distribute charitable donations to feed needy individuals, specifically senior citizens and veterans. Defendants have failed to provide any credible evidence that thousands of dollars donated to FRF since November 2007 actually go to the benefit of the needy.

5. Defendants wrongly imply to potential donors that they collect money for Thanksgiving Baskets or a food bank when in fact FRF operates no such food bank. Defendants' only business location is their apartment in Lakewood. Although Defendants claim that they find donation recipients through word-of-mouth from families and churches and donors, they are unable to provide any names or contact information of these referrals or recipients.

6. Defendants also say that they distribute money collected to needy individuals whom Defendant Smith knows along West Colfax and that Defendant Smith will take the needy individuals to a local King Soopers to buy food if he does not trust them. However, Defendants cannot provide any names or contact information of individuals to verify these activities.

7. During a civil investigative demand hearing on October 31, 2008, Defendants stated that FRF has used money collected through solicitations to donate \$8,000 worth of new clothes to the Jefferson County Action Center, Inc. Upon calling JCAC, Investigator Wild learned that JCAC had no record of receiving \$8,000 worth of new clothes from FRF, Stokes or Smith.

8. Defendants mislead consumers about the status and affiliation of FRF by wrongly implying that FRF is either affiliated with or has replaced a charity called Helping Hands for the Homeless Prevention. Defendants further mislead consumers by failing to disclose that FRF is not tax-exempt.

9. Defendants knowingly solicited and collect money from donors without a valid registration from the Colorado Secretary of State and without maintaining the required records regarding donation recipients.

10. Pursuant to Colorado case law, the State has shown that Defendants' deceptive practices are injurious to the public and that continued violations, if not enjoined, will cause immediate and irreparable injury. Immediate and irreparable injury to additional consumers will occur without a temporary restraining order and preliminary injunction because Defendants will continue to obtain money from consumers by deceptive and misleading representations. Baseline Farms Two, LLP v. Hennings, 26 P.3d 1209, 1212 (Colo. App. 2001); Lloyd A. Fry Roofing Co. v. State Department of Air Pollution, 191 Colo. 463, 553 P.2d 200 (1976), *cf.* Rathke v. MacFarlane, 648 P.2d 648 (Colo. 1982).

11. Defendants will suffer no undue hardship by the entry of a temporary restraining order or preliminary injunction since Defendants have no right to continue to engage in unlawful and deceptive trade practices in the State of Colorado, or to collect money from consumers as a result of such unlawful and deceptive conduct in violation of the CCPA. Further, Defendants have no right to unjustly benefit from such deceptive trade practices. Without an injunction, Plaintiff will be unable to adequately protect the public from Defendants' ongoing unlawful activities.

12. C.R.C.P. 65(b) allows the entry of a temporary restraining order without written or oral notice to defendants if it clearly appears from the facts shown by affidavit or the Verified Complaint that immediate and irreparable injury or damage will result from giving said notice. In view of the continuing and serious harm to consumers as outlined in the accompanying affidavits and Verified Complaint, and because Defendants will continue to solicit donations via telephone as the holiday season approaches, the entry of a temporary restraining order without notice to Defendants is necessary and appropriate.

13. Defendants' history indicates a tendency to move without notice in order to evade law enforcement. Notice to Defendants of this temporary restraining order would have the detrimental effect of giving Defendants time to request additional money from unsuspecting donors, liquidate their bank account(s) and hide donor information.

14. Pursuant to Rule 65(c) C.R.C.P., Plaintiff is not required to provide a security bond.

15. Plaintiff respectfully requests that the Court set a date for an evidentiary hearing within 10 calendar days following the Court's Order regarding Plaintiff's Motion

for Temporary Restraining Order and Preliminary Injunction. Pursuant to 121 § 1-6, C.R.C.P.

IT IS HEREBY ORDERED PURSUANT TO § 6-1-110(1) AS FOLLOWS:

16. Defendants, and any other persons under their control or in active concert or participation with Defendants who receive actual notice of this Court's Order, are enjoined from soliciting and accepting donations on behalf of Family Relief Fund.

17. Defendants Stokes and Smith are further enjoined from soliciting and accepting donations on behalf of any charity or purported charity in Colorado.

18. In view of Defendants' fraudulent and deceptive practices perpetrated in Colorado, it is necessary and appropriate for the Court to freeze any bank accounts of Defendants into which consumer funds have been deposited or transferred. **Thus, Defendants and any other persons under their control or in active concert or participation with Defendants who receive actual notice of this Court's Order are enjoined:**

a. From withdrawing, transferring or otherwise encumbering any funds from any account, including but not limited to those accounts in Defendants' names, at any financial institution into which defendants deposited or transferred money received from consumers as a result of Defendants' solicitations for charitable donations.

b. From negotiating any checks, money orders, wire transfers, drafts, or other negotiable instruments received by Defendants as a result of Defendants' charitable solicitations.

c. From depositing or processing any credit card and debit card receipts obtained by Defendants as a result of Defendants' charitable solicitations, and are further restrained and enjoined from using any financial transaction device, such as a debit or credit card number, obtained from any consumer.

d. From spending, transferring, giving away, or in any way disposing of any monies received by Defendants as a result of Defendants' charitable solicitations.

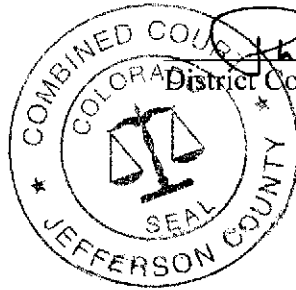
19. The provisions above apply, but are not limited to, accounts at the following banking institution associated with Defendants: **Suncorp Credit Union, 9305 W. Alameda Ave., Lakewood, CO.** Account number 2758360.

20. A peace officer designated by the Attorney General's Office shall impound, pursuant to § 6-1-107(1)(c) C.R.S., Defendants' donor receipts and lead lists

stored at 285 S. Holland Street, Apt. #2, Lakewood, CO 80226. Impounding of these lead lists is necessary in order to assess consumer harm, and to inform those consumers that FRF is not affiliated with Helping Hands for Charity and is not a tax exempt charity.

ENTERED this 24th day of November, 2008, at 3:00 o'clock. ^{7:00} This Order shall expire within ten (10) calendar days of its entry on December 4, 2008 at 3:00 o'clock ^{7:00} unless otherwise directed by the Court.

BY THE COURT:



District Court Judge