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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

AMERICAN CHARITIES FOR REASONABLE)	
FUNDRAISING REGULATION, INC. and)	
RAINBOW DIRECT MARKETING, LLC,)	Declaration of
)	Robert S. Tigner
Plaintiffs,)	
)	Case No.: 2:08cv00875 DAK
versus)	
)	
KEVIN V. OLSEN, Director of the Utah Division of)	
Consumer Protection, Department of Commerce)	
for the State of Utah,)	
)	
Defendant.)	
)	

I, Robert S. Tigner, am the General Counsel of the Association of Direct Response Fundraising Counsel (“ADRFCO”) a nonprofit association located at 1612 K Street, NW Suite 510, Washington, D.C. 20006. ADRFCO members are businesses or divisions of businesses that provide consulting services to nonprofit organizations with respect to direct response fundraising. Members do not solicit funds from the public. Services provided by members include offering advice and counsel; conducting feasibility studies and tests; designing and managing campaigns; developing and producing solicitation materials; and obtaining lists of prospective donors. ADRFCO adopted the first comprehensive code of ethics in the history of

our industry and members are required to abide by same. The code can be found at http://www.adrfco.org/index_files/rules.htm. A current list of our members is located at http://www.adrfco.org/index_files/membership.htm.

I represent ADRFCO on the Board of Directors of American Charities for Reasonable Fundraising Regulation, Inc. (“ACFRFR”). As general counsel to ADRFCO and as a member of the Board of Directors of ACFRFR, I have knowledge of the facts stated in this declaration.

1. ADRFCO’s members are professional fundraising counsel.
2. ADRFCO joined ACFRFR because ACFRFR is dedicated to advancing the cause of reasonable fundraising regulation, a cause in which ADRFCO’s membership has a strong interest.
3. ADRFCO’s members advise charities that solicit charitable contributions nationwide.
4. Most, if not all, of ADRFCO’s members do not have contact with Utah. They have no offices, employees, or clients in Utah. They do not purposefully direct their activities or those of their clients toward Utah. They only have indirect contact with Utah in that their clients may solicit charitable contributions using national lists which contain some addresses located in Utah.
5. Although these ADRFCO members have no contact with Utah and understood that Utah did not have jurisdiction over them to compel their registration there as professional fundraising counsel, they nevertheless registered with Utah and suffered an abridgment of their constitutional rights to avoid the expense of defending against a Utah administrative enforcement action.
6. Each year when these ADRFCO members’ registration renewal comes up, they consider

not renewing registration with Utah and continuing to advise clients that solicit charitable contributions nationwide. To date, most have continued to renew their Utah registrations to avoid the threat of enforcement and the cost of defending against such enforcement.

7. Because these ADRFCO members' constitutional rights are being infringed, a money judgment will not make them whole. The only way to make these ADRFCO members whole is to prevent enforcement of the registration requirement against them as long as they have no contact with Utah.
8. The present litigation commenced against Utah was authorized by the Board of Directors of ACFRFR on behalf of all of its members including those both named and unnamed in the litigation and including the membership of ADRFCO.
9. ACFRFR accepts as members all those who have provided support to ACFRFR in the past and present and elects to its board those such as ADRFCO who's financial support is \$5,000 or greater.

I declare under penalty of perjury that the foregoing is true and correct. 28 U. S. C. § 1746.

Executed on this the 17TH day of February 2009.

/s/ Robert S. Tigner
ROBERT S. TIGNER