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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
)	Allison Porter
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, Allison Porter, am Executive Vice President and Co-Founder of Avalon Consulting Group, Inc. (“Avalon”), located at 1150 17th Street, NW, Suite 200, Washington, DC 20036. Avalon is a professional fundraising consultant (“PFC”) that is currently registered with the Utah Division of Consumer Protection. I have personal knowledge of the facts stated in this declaration.

1. Avalon is a member of the Association of Direct Response Fundraising Counsel.
2. Avalon has no offices in Utah. Avalon has no employees in Utah. Avalon does not solicit business in Utah. Avalon has no other contact with Utah. Avalon does not

purposefully direct its activities or the activities of our clients toward Utah. However, some of our clients solicit contributions nationwide using national mailing lists and these campaigns may include solicitations in Utah.

3. Given that Avalon has no contact with Utah, it is our understanding that Utah does not have jurisdiction over us to compel us to register with the Division of Consumer Protection (the “Division”). We have nevertheless registered with the Division because we wanted to avoid the expense and distraction of defending against an administrative enforcement action brought by the Division to force us to register, and perhaps fining us for failing to do so.

4. At the time we registered with the Division, and on every occasion when we considered renewing our Utah permit, we knew that Avalon’s constitutional rights were being infringed because Avalon did not have any contact with Utah and therefore the Division did not have jurisdiction to enforce any registration requirement. Yet we still registered and renewed to avoid the expense and burden of defending against an administrative citation from the Division.

5. No compensation can make Avalon whole for this infringement of its rights. The only adequate relief that Avalon could enjoy is to be free of the threat of the Division’s registration requirement.

6. In 2005, when Avalon filed papers to renew its PFC permit with the Division, a discrepancy arose because several of our charity-clients had allowed their Utah registrations to lapse and we had continued to assist them. The Division would not renew Avalon’s PFC permit until the matter was investigated and resolved through a settlement agreement.

7. In the meantime, acting upon directions from the Division, Avalon was compelled to tell its other clients – clients whose permits to solicit charitable contributions in Utah were in

good standing – that they must suspend their charitable solicitation and public education campaigns until Avalon and the Division resolved this issue.

8. Thus, these charity-clients had their First Amendment Constitutional rights to solicit charitable contributions in Utah and communicate with Utahans suspended even though they had complied with the laws that the Division administers. In other words, the rights of these charity-clients were infringed merely because the Division was pursuing an administrative enforcement action against Avalon.

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

Executed on this the 18th day of March, 2009.

/s/ Allison Porter
Allison Porter