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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
)	John Genette
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, John Genette, am President of Black Mountain Communications, Inc. (“BMC”), located at 34522 N. Scottsdale Road, Ste 428, Scottsdale, AZ 85266. BMC is a professional fundraising consultant (“PFC”) that is not currently registered with the Utah Division of Consumer Protection. I have personal knowledge of the facts stated in this declaration.

1. BMC is a member of the Association of Direct Response Fundraising Counsel.
2. BMC has no offices in Utah. BMC has no employees in Utah. BMC does not solicit business in Utah. BMC has no other contact with Utah. BMC does not purposefully direct its activities or the activities of our clients toward Utah.

3. BMC represents various charities that solicit charitable contributions through direct mail. BMC is aware of the burdensome regulatory process imposed upon PFCs by the Utah Division of Consumer Protection (the “Division”). BMC has determined that this burden is so great that it does not want to register as a PFC with the Division and is willing to forgo any business that it may lose because of this decision.

4. BMC’s charity-clients are also aware of the burdensome registration and reporting requirements that the Division imposes upon PFCs and upon nonprofits soliciting charitable contributions in Utah. Our full-service clients have chosen to not register with the Division and have chosen to not solicit charitable contributions in Utah because of these burdensome regulatory requirements.

5. When our full-service charity-clients’ donors happen to relocate to Utah, our full-service charity-clients lose contact with these donors. Because our full-service charity-clients are not registered with the Division to solicit charitable contributions in Utah, our full-service charity-clients cannot continue to contact these donors through the public education and charitable solicitation mailings they conduct.

6. Thus, these charity-clients are harmed by losing potential donations, by losing contact with existing donors, by losing opportunities for public education, and, most importantly, by the infringement of their right to free speech as guaranteed by the Constitution. This is all attributable to the burdensome regulatory requirements imposed by the Division on charities and PFCs. Without these burdensome requirements, our full-service charity-clients would be able to conduct public education and charitable solicitation campaigns in Utah with BMC’s assistance.

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

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

Executed on this the 19th day of March, 2009.

/s/ John Genette _____
John Genette