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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
)	Christopher Dann
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, Christopher Dann, am President of Drakes Bay Fundraising, Inc. (“DBF”), located at 1100 Larkspur Landing Circle, Suite 280, Larkspur, CA 94939. DBF 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. DBF is a member of the Association of Direct Response Fundraising Counsel.
2. DBF has no offices in Utah. DBF has no employees in Utah. DBF does not solicit business in Utah. DBF has no other contact with Utah. DBF 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 DBF 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 DBF's constitutional rights were being infringed because DBF 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 DBF whole for this infringement of its rights. The only adequate relief that DBF could enjoy is to be free of the threat of the Division's registration requirement.

6. In 2007, the DBF was notified that one of our charity-clients had allowed its Utah registration to lapse. Until this time, DBF was under the impression that this charity-client was registered to solicit charitable contributions in all necessary jurisdictions, as it had earlier represented itself to be.

7. Upon learning this, DBF took immediate action to remedy the situation, including contacting the Division. DBF was surprised to learn that the Division was seeking to punish

DBF even though at all times relevant to this episode, DBF had a valid PFC permit issued by the Division.

8. Initially, the Division wanted DBF to pay \$7000.00 to the Division and sign a settlement agreement. Ultimately, DBF paid \$3750.00 to the Division, signed a settlement agreement and was still issued an administrative citation.

9. DBF has found the Division's enforcement of Utah law to be very burdensome and so have its clients. In fact, another one of DBF's charity-clients, whose identity DBF would like to keep confidential, has determined that the Utah laws as enforced by the Division are so burdensome that it would rather not solicit charitable contributions in Utah at all. This has harmed this charity-client in that it must now forego any possible donations from Utah residents and, more importantly, it has had to give up some of its First Amendment right to engage in public education and charitable solicitation to avoid the cost and administrative burden imposed by the Division.

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 March, 2009.

/s/ Christopher Dann
Christopher Dann