FILED
DEC 03 2007
PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH

THE STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT

STATE OF WASHINGTON, Plaintiff, v. BLIND CHILDREN SERVICES OF PUGET SOUND in its own name and doing business as, ABANDONED CHILDREN'S FOUNDATION, ABCC, ABCCWW, ACF, AMERICAN BLIND CHILDREN'S COUNCIL, AMERICAN BLIND CHILDREN'S COUNCIL OF WESTERN WASHINGTON, BCSOPS, HANDICAPPED CHILDREN'S OUTREACH FOR WASHINGTON STATE, HANDICAPPED CHILDREN'S OUTREACH, HCOWS; DARIN ANTHONY DEWITT, Owner of Blind Children Services of Puget Sound, individually and as part of his marital community; ROBERT MELBOURNE SHAY, a/k/a R.M. FUKA, individually and as part of his marital community, Defendants.	NO. 07-2-01895-4 STIPULATED JUDGMENT AND ORDER AS TO BLIND CHILDREN SERVICES OF PUGET SOUND, ET AL.; DARIN ANTHONY DEWITT

I. JUDGMENT SUMMARY

1.1 Judgment Creditor: State of Washington

1.2 Judgment Debtors: Blind Children Services of Puget Sound, in its own name and doing business as, Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's Council, American Blind Children's Council of Western

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Seattle, WA 98104-3188
(206) 464-7745

		Washington, BCSOPS, Handicapped Children's Outreach for Washington State, Handicapped Children's Outreach, HCOWS; Darin Anthony Dewitt, Owner of Blind Children Services of Puget Sound, individually and as part of his marital community.
1.3	Principal Judgment Amount:	
	a. Costs and Fees:	$2,000.00
	b. Restitution:	$613.00 (See Section VI below)
	c. Civil Penalties:	**$0 imposed** ($16,500 suspended on condition of compliance with all of the terms of the Judgment and Decree.)
	d. Total Judgment:	**$2,613.00** (plus $16,500.00 civil penalties suspended on condition of compliance with all of the terms of the Judgment and Decree).
1.4	Post-Judgment Interest Rate:	12 percent per annum (for any amount owing after the agreed upon final payment date has passed).
1.5	Attorney for Judgment Creditor:	Shannon Smith, Assistant Attorney General
1.6	Attorney for Defendants:	*Pro se*

Plaintiff, State of Washington, commenced this action on September 19, 2006 pursuant to RCW 19.86, the Consumer Protection Act ("CPA"), and RCW 19.09, the Charitable Solicitations Act. The Defendants were served with the Summons and Complaint.

Plaintiff appeared by and through its attorneys, Robert M. McKenna, Attorney General; and Shannon Smith, Assistant Attorney General; and Defendants appeared pro se.

Plaintiff and Defendants have agreed upon a basis for adjudication of the matters alleged in the Complaint, and to the entry of this Stipulated Judgment, Findings of Fact, Conclusions of Law, Judgment and Decree (hereinafter referred to as "Stipulated Judgment" or "Decree" or "Order") pursuant to CR 54.

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Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7745

The Court has determined there is no just reason for delay in the entry of final judgment against Defendants, and being fully advised, the Court hereby makes and enters the following:

II. FINDINGS OF FACT

2.1 This action was commenced by the State of Washington pursuant to RCW 19.86, the Consumer Protection Act, and RCW 19.09, the Charitable Solicitations Act.

2.2 Unless otherwise specified, the term "Defendants" as used in this document shall mean Blind Children Services of Puget Sound, in its own name and doing business as Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's Council, American Blind Children's Council of Western Washington, BCSOPS, Handicapped Children's Outreach for Washington State, Handicapped Children's Outreach, HCOWS, and Darin Anthony DeWitt.

2.3 Unless otherwise specified, the term "Blind Children Services of Puget Sound" shall mean Blind Children Services of Puget Sound, Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's Council, American Blind Children's Council of Western Washington, BCSOPS, Handicapped Children's Outreach for Washington State, Handicapped Children's Outreach, and HCOWS.

2.4 Defendants accepted or herby waive personal service of the Summons and Complaint.

2.5 Defendants recognize and state that this Stipulated Judgment is entered into voluntarily and that no promises or threats have been made by the Attorney General's Office or any member, official, agent, or representative thereof to induce Defendants to enter into this Stipulated Judgment except as provided herein.

2.6 Defendants further agree that they will not oppose the entry of this Stipulated Judgment on the grounds that it fails to comply with Rule 65(d) of the Rules of Civil Procedure and hereby waive any objections based thereon.

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2.7 The violations alleged in the State's Complaint, have been engaged in by Defendants wholly or in part in Snohomish County, state of Washington, and elsewhere in the state of Washington. Defendants transact or have transacted business in the state of Washington.

2.8 Defendant Darin Anthony DeWitt is the owner of, and as such, controls its policies, activities, and practices, including those alleged in this Complaint. Defendant Darin Anthony DeWitt resides at 200 107th Street SW, Everett, Washington 98024.

2.8 Defendant Blind Children Services of Puget Sound was registered as a charitable organization with the Secretary of State from April 9, 2003 until May 6, 2005. Blind Children Services of Puget Sound was authorized to solicit charitable contributions in the State of Washington under the names Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's Council, American Blind Children's Council of Western Washington, BCSOPS, Handicapped Children's Outreach for Washington State, Handicapped Children's Outreach, and HCOWS from April 9, 2003 until May 6, 2005. The Secretary of State canceled the registration on May 6, 2005. Blind Children Services of Puget Sound, under the direction and control of Defendant Darin Anthony Dewitt continued to solicit and collect charitable contributions through at least March of 2006 without being registered as a charitable organization with the Secretary of State.

2.9 In its written solicitation material distributed to Washington consumers, Blind Children Services of Puget Sound, under the direction and control of Defendant Darin Anthony DeWitt, misrepresented that Blind Children Services of Puget Sound was registered with the Secretary of State under Registration No. 10386, when it was not so registered.

2.10 In written solicitation material it distributed to Washington consumers, Blind Children Services of Puget Sound, under the direction and control of Defendant Darin Anthony DeWitt, failed to clearly and conspicuously disclose in the body of the solicitation material that the Defendants' notice of solicitation is on file with the Secretary of State and

ATTORNEY GENERAL OF WASHINGTON
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800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7745

that the potential donor could obtain additional financial disclosure information from the Secretary of State at the Secretary of State's published number.

2.11 Defendants failed to maintain accurate, current, and readily available books and records regarding their charitable solicitation and collection activities for three years after the effective period to which the documents relate.

III. CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the Court hereby makes the following Conclusions of Law:

3.1 This Court has jurisdiction of the subject matter of this action and of the parties. The Plaintiff's Complaint in this matter states claims upon which relief may be granted under the provisions of RCW 19.86, the Consumer Protection Act and RCW 19.09, the Charitable Solicitations Act.

3.2 Defendants' acts and practices as described in Finding of Fact 2.8 violate RCW 19.09.065 and 19.09.100(16), (18), and are *per se* violations of RCW 19.86, the Consumer Protection Act, pursuant to RCW 19.09.340.

3.3 Defendants' acts and practices as described in Finding of Fact 2.9 violate RCW 19.09.100(12), and are *per se* violations of RCW 19.86, the Consumer Protection Act, pursuant to RCW 19.09.340. Defendants' acts and practices as described in Finding of Fact 2.9 also have the capacity to mislead a substantial number of consumers, are unfair and deceptive, and are unfair methods of competition and therefore constitute violations of RCW 19.86.020, which prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce, notwithstanding that they are *per se* violations of the Consumer Protection Act pursuant to RCW 19.09.340.

3.4 Defendants' acts and practices as described in Finding of Fact 2.10 violate RCW 19.09.100(1), (18), and are *per se* violations of RCW 19.86, the Consumer Protection Act, pursuant to RCW 19.09.340. Defendants' acts and practices as described in Finding of Fact 2.10

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Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7745

also have the capacity to mislead a substantial number of consumers, are unfair and deceptive, and are unfair methods of competition and therefore constitute violations of RCW 19.86.020, which prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce, notwithstanding that they are *per se* violations of the Consumer Protection Act pursuant to RCW 19.09.340.

3.5 Defendants' acts and practices as described in Finding of Fact 2.11 violate RCW 19.09.100(18), 19.09.200, 19.09.210 and WAC 434-120-125, 434-120-130, 434-120-135, 434-120-140 and are *per se* violations of RCW 19.86, the Consumer Protection Act, pursuant to RCW 19.09.340. Defendants' acts and practices as described in Finding of Fact 2.11 also have the capacity to mislead a substantial number of consumers, are unfair and deceptive, and are unfair methods of competition and therefore constitute violations of RCW 19.86.020, which prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce, notwithstanding that they are *per se* violations of the Consumer Protection Act pursuant to RCW 19.09.340.

3.6 Defendants' acts and practices as described in Finding of Fact 2.12 violates RCW 19.09.100(16), (18), and 19.09.200(1), and are *per se* violations of RCW 19.86, the Consumer Protection Act, pursuant to RCW 19.09.340. Defendants' acts and practices as described in Finding of Fact 2.12 also have the capacity to mislead a substantial number of consumers, are unfair and deceptive, and are unfair methods of competition and therefore constitute violations of RCW 19.86.020, which prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce, notwithstanding that they are *per se* violations of the Consumer Protection Act pursuant to RCW 19.09.340.

3.7 Plaintiff, State of Washington, is authorized by RCW 19.09.340 and 19.86.080 to enjoin violations of the Consumer Protection Act, to obtain restitution on behalf of persons harmed by such violations, and to obtain such further and other relief as the court may deem

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appropriate, including civil penalties up to the amount of $2,000.00 per violation and attorneys' fees and costs.

3.8 Plaintiff is entitled to a Decree enjoining and restraining Defendants and any and all persons in active concert or participation with Defendants from engaging in the future in the acts or practices described in Findings of Fact 2.8 through 2.12 that violate the Consumer Protection Act or the Charitable Solicitation Act.

3.9 Plaintiff is entitled to a Decree ordering Defendants to pay Plaintiff's costs and fees of $2,000.00 incurred by Plaintiff in pursuing this action. Said payment shall be in addition to and exclusive of any costs or fees which may be incurred by Plaintiff in enforcing the provisions of this Decree, including the costs of any collection actions. Plaintiff's request for costs and fees of $2,000.00 is reasonable, and Plaintiff is entitled to a Decree ordering Defendants to pay the requested amount.

3.5 Plaintiff is entitled to a Decree ordering Defendants to comply with the injunctive provisions described below.

3.6 Plaintiff is entitled to a Decree ordering Defendants to pay civil penalties as described below.

3.7 Plaintiff is entitled to a Decree ordering Defendants to pay restitution as described below.

Based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby makes the following Judgment and Order:

It is hereby ADJUDGED, ORDERED, and DECREED as follows:

IV. INJUNCTIONS

4.1 The injunctive provisions of this Judgment and Order shall apply to the Defendants, and the Defendants' successors, assigns, officers, agents, servants, employees, representatives, affiliates, and all other persons or entities in active concert or participation with the Defendants.

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4.2 Defendants shall immediately inform all successors, assigns, transferees, officers, agents, servants, employees, representatives, attorneys and all other persons or entities in active concert or participation with Defendants of the terms and conditions of this Judgment and Order.

4.3 Imposed Injunctions. Defendants and all successors, assigns, transferees, officers, agents, servants, employees, representatives, affiliates, attorneys and all other persons or entities in active concert or participation with Defendants are hereby permanently enjoined and restrained from directly or indirectly engaging in the following acts or practices in the State of Washington:

(a) Soliciting or collecting charitable contributions without current registration as a charitable organization with the Washington Secretary of State as required by RCW 19.09.065 as currently enacted or subsequently amended;

(b) If Defendants are exempt from registration with the Washington Secretary of State pursuant to RCW 19.09.076(1) and WAC 434-120-100(1)(c), currently enacted or subsequently amended, Defendants shall not solicit or collect charitable contributions unless and until they file an optional registration with the Washington Secretary of State as provided in WAC 434-120-110 as currently enacted or subsequently amended;

(c) Representing, directly or by implication, that Defendants or any other charitable organization or entity Defendants may form is registered with the Washington Secretary of State unless it is so registered;

(d) Operating as a charitable organization in the State of Washington without complying with the recordkeeping requirements established by RCW 19.09.200, .210 and WAC 434-120-125, -130, -135, -140 as currently enacted or subsequently amended;

(e) Soliciting charitable contributions under the name, registration number, tax-exempt number, or EIN of any other organization unless Defendants have obtained the written consent of such organization. Defendants must maintain a copy of such consent for three years following any solicitation activity conducted Defendants;

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(f) Engaging in any commercial fundraising activities, as defined by RCW 19.09 or WAC 434-120 as currently enacted or subsequently amended, on behalf of any entity without being registered with the Secretary of State as a commercial fundraiser as required by RCW 19.09.065 as currently enacted or subsequently amended;

(g) Failing to make any of the disclosures required by RCW 19.09.100, as currently enacted or subsequently amended, other applicable law, in any oral or written solicitations.

4.4 Suspended Injunctions. The following injunctions are set forth herein as a remedy for the violations committed by Defendants, but their implementation is suspended upon condition that Defendants shall not commit any material violation of the other injunctive terms of this Stipulated Judgment. Should the Court find in the future that any of the Defendants who are party to this Stipulated Judgment have violated materially any of the injunctive provisions of this Stipulated Judgment, then the parties hereby stipulate and agree that upon a showing of such violation, the Court shall enter the following injunctive relief:

Defendants and all successors, assigns, transferees, officers, agents, servants, employees, representatives, affiliates, attorneys and all other persons or entities in active concert or participation with Defendants are hereby permanently enjoined and restrained from directly or indirectly engaging in the following acts or practices in the State of Washington:

(a) Engaging in charitable solicitation, as defined by RCW 19.09 as currently enacted or subsequently amended, of any whatsoever, including but not limited to any solicitation where it states or implies any appeal for the support of veterans, children, children's hospitals, or other programs to benefit youth, battered women, domestic violence victims, the disabled, or any other charitable or purportedly charitable cause of any kind, regardless of whether the beneficiary or beneficiaries of such solicitations are individuals, groups, organizations, associations, for-profit corporations, non-profit corporations, hospitals, group homes, or other entity;

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(b) Owning, operating, managing, consulting with, or working for or on behalf of any charitable organization that conducts charitable solicitations in the State of Washington, whether as an owner, co-owner, partner, employee, manager, salesperson, telefunder or telemarketer, solicitor, script writer or editor, advisor or consultant, or independent contractor

(c) Engaging in the business of a commercial fundraiser, commercial coventurer, or fundraising consultant as defined in RCW 19.09 or WAC 434-120 as currently enacted or subsequently amended, or owning, managing, or working for or on behalf of such commercial fundraiser or fundraising consultant, whether as an owner, co-owner, partner, employee, manager, salesperson, telefunder or telemarketer, solicitor, script writer or editor, advisor or consultant, or independent contractor

V. CIVIL PENALTIES

5.1 Pursuant to RCW 19.86.140, Plaintiff shall recover and Defendant shall pay civil penalties in the amount of $16,500.00. However, $16,500.00 is suspended on condition of compliance with all of the terms of this Judgment and Decree.

5.2 The suspended portion of the civil penalty shall be imposed by the Court upon a showing by the State, upon reasonable notice to the Defendants, that one or more of the Defendants materially has violated one or more of the terms of this Judgment and Decree. This suspended civil penalty shall be viewed as analogous to liquidated damages (or a liquidated penalty) for all of the past violations committed by Defendants in addition to whatever violations Defendants may commit in the future, to be payable in case of a material violation in the future.

5.3 Defendants shall make this payment by cashier's check, made payable to the Attorney General—State of Washington, and shall be delivered to the Office of the Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-3188, to the attention of Cynthia Lockridge.

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VI. RESTITUTION

6.1 Pursuant to RCW 19.86.080, Defendant agrees to remit to the Attorney General's Office the sum of $613.00 as restitution to consumers who have made charitable donations to Defendants after October 26, 2004. This amount reflects restitution to those consumers who donated to Defendants after May 6, 2005, and who complained to or inquired of Attorney General's Office or the Secretary of State's Office regarding their donations, or whose identity the Attorney General's Office obtained through its investigation.

6.2 If the Attorney General's Office is unable to distribute restitution to any consumer entitled to restitution under this section, the Attorney General's Office, at its discretion, shall apply that amount toward additional attorney's fees or costs, and/or toward consumer education.

6.3 Defendant shall pay the $613.00 in restitution in six (6) monthly installments. The first payment of $113.00 shall be due on December 1, 2007. The remaining five (5) payments of $100.00 each shall be due on or before the first business day of the next successive month, beginning on January2, 2008. The final restitution payment shall be made no later than April 1, 2008. Provided, nothing in this paragraph shall be construed to preclude the Defendant from paying the restitution balance prior to April 1, 2008.

6.4 Defendants shall make all payments by cashier's check, made payable to the Attorney General—State of Washington, and shall be delivered to the Office of the Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-3188, to the attention of Cynthia Lockridge.

VII. ATTORNEYS' FEES AND COSTS

7.1 Pursuant to RCW 19.86.080, Plaintiff shall recover and Defendant shall pay costs and attorneys' fees incurred in pursuing this matter in the amount of $2,000.00. Interest on any unpaid balance of this amount shall accrue in the amount of 12% per annum.

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7.2 Defendant shall bear Plaintiff's reasonable costs, including reasonable attorneys' fees, for enforcing this Judgment in any successful action to enforce any of its provisions.

7.3 Defendant shall pay the $2,000.00 judgment for attorneys' fees and costs in twenty (20) monthly installments. The first payment of $100.00 shall be due on June 1, 2008. The remaining nineteen (19) payments of $100.00 each shall be due on or before the first business day of the next successive month. The final restitution payment shall be made no later than January 2, 2010. Provided, nothing in this paragraph shall be construed to preclude the Defendant from paying the attorneys' fees and cost balance prior to January 2, 2010.

7.4 Defendants shall make all payments by cashier's check, made payable to the Attorney General—State of Washington, and shall be delivered to the Office of the Attorney General, 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104-3188, to the attention of Cynthia Lockridge.

VIII. ENFORCEMENT

8.1 Pursuant to RCW 19.86.140, any violation of the terms of this Judgment may form the basis for further enforcement proceedings.

8.2 The violation of any of the terms of this Judgment shall constitute a violation of the Consumer Protection Act, RCW 19.86, *et seq*.

8.3 Jurisdiction is retained for the purpose of enabling any party to this Judgment, with or without the prior consent or approval of the other party, to apply to the Court at any time for the enforcement of compliance therewith, the punishment of violations thereof, or the modification or clarification thereof.

8.4 Nothing in this Judgment shall be construed as to limit or to bar any other governmental entity or any other consumer in the pursuit of additional remedies against Defendants.

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8.5 Representatives of the Office of Attorney General shall be permitted, upon 10 days' notice to Defendants, to access, inspect, and/or copy all business records or documents under the control of Defendants, in order to monitor compliance with the injunctive provisions of this Stipulated Judgment.

8.6 Under no circumstances shall this Judgment or the names of the State of Washington or the Office of the Attorney General, Consumer Protection Division, or any of its employees or representatives be used by Defendants' agents or employees in connection with the promotion of any product or service or an endorsement or approval of Defendants' practices.

8.7 The Court finding no just reason for delay, hereby expressly directs entry of this Judgment.

NOV 30 2007

DATED this 13 day of NOVEMBER, 2007.

LESTER H. STEWART
COURT COMMISSIONER

JUDGE/COURT COMMISSIONER

Presented by

ROBERT M. MCKENNA
Attorney General

SHANNON E. SMITH, WSBA #19077
Senior Counsel
Attorneys for Plaintiff
State of Washington

Agreed to, Approved for Entry, and
Notice of Presentation Waived:

BLIND CHILDREN SERVICES, et al.
Defendant
By: Darin Anthony Dewitt, Owner

DARIN ANTHONY DEWITT
Defendant

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188
(206) 464-7745