



## TENNESSEE REGULATORY AUTHORITY

460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

### MEMORANDUM

TO: Sara Kyle, Chairman  
Eddie Roberson, Director  
Kenneth C. Hill, Director

FROM: J. Richard Collier, General Counsel

DATE: December 18, 2009

SUBJECT: Staff Investigation of Corporations for Character for Alleged Violation of  
Tenn. Code Ann. § 65-4-401 *et seq.* and Tenn. Comp. R. & Regs. 1220-4-11  
Docket No. 09-00200

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Attached for consideration by this panel is a Settlement Agreement between the Consumer Services Division ("Staff") and Corporations for Character ("C4C") for violations of the Tennessee Do-Not-Call Telephone Solicitation Statute, Tenn. Code Ann. § 65-4-401 *et seq.* and Tenn. Comp. R. & Regs. 1220-4-11.

Between September 2, 2009 and October 22, 2009, the Staff of the Tennessee Regulatory Authority ("Authority") received complaints from eleven persons registered on the Do-Not-Call list alleging against C4C seventeen (17) separate violations of Tenn. Code Ann. § 65-4-401 *et seq.* At the time of the complaints, C4C was not registered with the Authority as a telephone solicitor. Pursuant to this Settlement, C4C will make a payment of \$18,000 to the Authority along with assurances that it will fully comply with applicable state law. The terms of this Settlement provide that C4C will pay the first installment of \$9,000 to the Authority upon approval of this Settlement Agreement. The remaining \$9,000 shall be paid no later than thirty (30) days following the date of the approval of the Settlement Agreement. In addition, C4C has now registered with the Authority as a telephone solicitor and is receiving the Do-Not-Call list. A designated representative for C4C will be available telephonically to answer questions from the panel during the Authority Conference at which the panel considers this Settlement Agreement.

Considering all relevant facts, the Staff asserts that the terms of this Settlement are fair and reasonable and should result in no further telephone solicitation complaints being filed against C4C. Staff submits the attached Settlement Agreement for consideration by this panel.

Enclosure: Settlement Agreement  
Original in Docket No. 09-00200  
c: Matthew G. Cooper, Esq.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>ALLEGED VIOLATIONS OF TENN. CODE ANN.</b>	)	<b>DOCKET NO.</b>
<b>§ 65-4-401 <i>et seq.</i>, DO-NOT-CALL SALES</b>	)	
<b>SOLICITATION LAW, AND RULES OF TENNESSEE</b>	)	
<b>REGULATORY AUTHORITY, CHAPTER 1220-4-11,</b>	)	
<b>BY CORPORATIONS FOR CHARACTER</b>	)	

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**SETTLEMENT AGREEMENT**

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This Settlement Agreement has been entered into between the Consumer Services Division (“CSD”) of the Tennessee Regulatory Authority (“TRA”) and Corporations for Character (“C4C”) and is subject to the approval of the Directors of the TRA. C4C is a professional fundraising entity with headquarters at 5286 South Commerce Drive, Murray, Utah.

This Settlement Agreement addresses seventeen (17) complaints received by the CSD pertaining to fund raising activities in Tennessee conducted by C4C in violation of the Tennessee Do-Not-Call Telephone Solicitation Law, TENN. CODE ANN. § 65-4-404, and TENN. COMP. R. & REGS. 1220-4-11-.07(1). Between September 2, 2009 and October 22, 2009, C4C knowingly made or caused to be made telephone solicitation calls to eleven residential subscribers in Tennessee who had given timely and proper notice to the TRA of their objection to receiving telephone solicitations.

On or about September 2, 2009, the CSD received the first complaint from a person properly listed on the Tennessee “Do Not Call” register, alleging that she had received a telephone solicitation pertaining to Tennessee Fraternal Order of Police Foundation (“TFOPF”).

The CSD provided notice, via certified mail, of the first complaint on or about October 16, 2009 and informed C4C of its alleged violation of TENN. CODE ANN. § 65-4-404 and TENN. COMP. R. & REGS. 1220-4-11-.07(1). The CSD received the last complaint related to C4C on or about October 22, 2009 regarding a solicitation call that occurred on or about October 9, 2009. The CSD provided a Notice of Alleged Violation (“NAV”) for each violation to C4C via certified mail. In addition, C4C failed to register with the TRA as a telephone solicitor pursuant to TRA Rule 1220-4-11-.04.

C4C responded to the NAVS stating that it had fully intended to comply with the laws governing telephone solicitation calls in Tennessee. Through its investigation and with the cooperation of counsel for C4C, the CSD determined that the TFOPF contracted with C4C to solicit charitable contributions on behalf of the TFOPF. In June of 2009, C4C completed and filed an Application for Registration of a Professional Solicitor with the Tennessee Division of Charitable Solicitations of the Department of the Secretary of State. In August of 2009, C4C was notified by the Division of Charitable Solicitations that it could begin its fundraising campaign for the TFOPF. C4C reviewed Tennessee’s Do-Not-Call program, specifically TENN. COMP. R. & REGS. 1220-4-11, and did not consider its fundraising activities as included within the scope of activities requiring registration under the TRA’s Do-Not-Call rules. Upon establishing contact with the Tennessee Fraternal Order of Police and C4C, the CSD informed C4C that the definition of “Telephone solicitation” in Tennessee’s underlying statutes, TENN. CODE ANN. § 65-4-401, included requests for charitable solicitations when such solicitations are conducted on behalf of a charitable organization by a third party nonmember of the charitable organization.

C4C has acknowledged that it did place calls to the consumer phone numbers listed in the NAVs. C4C has made good faith efforts to comply with Tennessee laws governing telephone solicitation calls and stated the failure to register with the TRA was completely inadvertent. C4C promptly suspended its calling campaign in Tennessee and filed an application to become a registered solicitor under Tennessee's Do-Not-Call program. C4C also has incorporated measures to screen all of its future calls against the Tennessee Do-Not-Call list.

In response to the complaints, C4C asserts that it did not commit known violations of the Tennessee Do-Not-Call statutes; that it has registered as a solicitor under Tennessee's Do-Not-Call program and that it has established reasonable practices and procedures to effectively prevent future violations of the Tennessee Do-Not-Call statutes and rules. C4C has cooperated fully and in good faith with the CSD in the investigation of the complaints.

TENN. CODE ANN. § 65-4-405(f) authorizes the TRA to assess penalties for violations of the Tennessee Do-Not Call statutes, including the issuance of a cease and desist order and the imposition of a civil penalties for knowing violations. CSD considered several factors stated in TENN. CODE ANN. § 65-4-116(b) during the negotiations that resulted in this Settlement Agreement, including the size of C4C's business, C4C's good faith cooperation during the investigation and the gravity of the violations by C4C.

In an effort to resolve these seventeen (17) complaints and the failure to register violation, CSD and C4C agree to settle this matter based upon the following acknowledgements and terms subject to approval by the Directors of the TRA:

1. C4C agrees to pay the sum of eighteen thousand dollars (\$18,000) to the TRA in full and complete settlement of the alleged violations of the Tennessee Do-Not-Call statutes and the TRA's Do-Not-Call rules as

more fully described herein. C4C will make two payments of nine thousand dollars (\$9,000) each; one such payment upon approval of this Settlement Agreement by the Directors of the TRA and one payment of the remaining nine thousand dollars (\$9,000) within thirty (30) days following the date of approval of the Settlement Agreement. Upon the full payment of the amount of eighteen thousand dollars (\$18,000) in compliance with the terms and conditions of this Settlement Agreement, C4C is excused from further proceedings relating to these violations.

2. The terms of this Settlement Agreement apply to any and all claims, known or unknown, that were or might have been brought against C4C for alleged violations of the Tennessee Do-Not-Call Solicitation Law and regulations occurring prior to the date of this Settlement Agreement.
3. The TRA and C4C agree and acknowledge that this Settlement Agreement is the result of a compromise and shall not be construed as an admission by C4C of any wrongdoing on its part or on the part of its predecessors, successors, assigns, agents, parents, subsidiaries, affiliates, officers, directors, employees or shareholders. C4C expressly denies that it committed any knowing violations of Tennessee's Do-Not-Call statutes and TRA rules.
4. C4C agrees that its representative will participate telephonically or in person at the Authority Conference at which the Directors consider this Settlement Agreement.

5. In the event of any failure on the part of C4C to comply with the terms and conditions of this Agreement, the Authority reserves the right to re-open this matter. Any costs incurred in enforcing the Settlement Agreement shall be paid by C4C.
6. If any clause, provision or section of this Settlement Agreement for any reason is held to be illegal or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Settlement Agreement and this Settlement Agreement shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.
7. This Settlement Agreement represents the entire agreement between the parties, and there are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Settlement Agreement, which are not fully expressed herein or attached hereto.

Lisa Cooper / jcc  
Lisa Cooper  
Chief, Consumer Services Division  
Tennessee Regulatory Authority

December 18, 2009  
Date

Fred Healey  
Signature

FRED HEALEY  
Print Name

C.F.O.  
Print Title

12/14/09 Date