

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
SECURITIES AND CHARITIES DIVISION**

IN THE MATTER OF:)	
)	
)	
BOB FORD CHRISTIAN GOLF)	Administrative Proceeding
FOUNDATION, INC.)	Number C-09-0306
601 Northbay Drive)	
Madison, Mississippi 39110)	
)	
Respondent)	

**SUMMARY CEASE AND DESIST ORDER AND NOTICE OF
INTENT TO IMPOSE ADMINISTRATIVE PENALTY**

COMES NOW Tanya G. Webber, Assistant Secretary of State for the Securities and Charities Division of the Mississippi Office of the Secretary of State (the "Division"), on behalf of Secretary of State C. Delbert Hosemann, Jr., and issues this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty against Respondent Bob Ford Christian Golf Foundation, Inc. ("BFCGF") for violating provisions of the Mississippi Charitable Solicitations Act ("Act"), Miss. Code Ann. Sections 79-11-501 *et. seq.* In support thereof the Division respectfully submits as follows:

JURISDICTION

The Act gives authority to the Secretary of State to regulate "charitable organizations" established for any voluntary health and welfare, benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental personnel, fire fighters, or other public safety organization, or any person employing in

any manner a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation and includes each local, county or area division within this state of such charitable organization, provided such local, county, or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization.

BFCGF is a Mississippi non-profit organization with the stated purpose to “provide free comprehensive golf clinics and exhibition services to primarily underprivileged underrepresented and economical disadvantaged youth and those who primarily may not otherwise afford the opportunity to be exposed to the game of golf.” In order to provide the free services, BFCGF solicited companies and individuals who contributed prizes, food, bleachers, clubs, and balls to help BFCGF accomplish its purpose. For this reason, BFCGF falls within the Act’s definition of “charitable organization.” BFCGF was also registered with the Division as a charitable organization before its registration expired and, therefore, has voluntarily submitted to jurisdiction and subjected itself to the regulatory authority of the Secretary of State.

FINDINGS OF FACT:

On May 20, 2009, the Division made its first attempt to contact the charity to perform a books and records examination of BFCGF. After making several attempts to conduct the charity to perform an onsite examination, records were finally submitted to the Division by BFCGF’s attorney on July 10, 2009. The information submitted did not include all of the requested items. As a result, an additional request was made for records not submitted. Those records have still not been submitted. Based on the records that

were submitted, however, a books and records examination was performed by the Division. The following violations of the Act and Rules were noted:

1. BFCGF is not registered with the Division to solicit contributions in the state of Mississippi as required by Miss. Code Ann. Section 79-11-503(1). Its registration expired on May 5, 2007.

2. BFCGF failed to notify the Division of material changes in its registration materials within thirty (30) days as required by Miss. Code Ann. Section 79-1-503(5). BFCGF failed to notify the Division of changes in its address, telephone number, and fax number.

3. BFCGF failed to maintain records of its solicitation activities in violation of Miss. Code Ann. Section 79-11-518 and Mississippi Charities Act Rule 213. Because of this violation, it could not be determined during the exam whether or not the contributions received had been used for BFCGF's charitable purpose. The exam indicated that BFCGF lacked receipts and invoices to support its solicitation activity. Moreover, solicitation records had not been maintained for three (3) years as required. Neither were board minutes being adequately maintained.

4. A fiduciary relationship is based on confidence, reliance, and trust in another. All officers, directors, and trustee of an organization are considered to be fiduciaries and are responsible for acting in a fiduciary capacity. As such they are required to act at all times for the sole benefit and interests of the organization. The Board of Directors of BFCGF has failed to act in this capacity in violation of Miss. Code Ann. Section 79-11-525.

APPLICABLE LAW

1. Miss. Code Ann. Section 79-11-501(a)(i) defines a charitable organization as either of the following:

(A) Any person determined by the Internal Revenue Service to be a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code; or

(B) Any person actually or purporting to be established for any voluntary health and welfare, benevolent, philanthropic, patriotic, educational, humane, scientific, public health, environmental conservation, civic, or other eleemosynary purpose or for the benefit of law enforcement personnel, fire fighters, or other public safety organizations, or any person employing in any manner a charitable appeal as the basis of any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation and includes each local, county or area division within this state of such charitable organization, provided such local, county or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization.

Based on the definitions above, BFCGF is a charitable organization subject to registration and regulation by the Division.

2. Pursuant to Miss. Code Ann. Section 79-11-503(1), every charitable organization which solicits or intends to solicit contributions shall be registered with the Secretary of State prior to any solicitation.

3. Miss. Code Ann. Section 79-11-503(5) further states that the Secretary of State shall be notified within thirty (30) days of any change in the information required to be furnished by the organization.

4. Miss. Code Ann. Section 79-11-518 requires that every charitable organization keep true and correct books and records of solicitation activities. Rule 213 of the Charities Act Rules further requires that books and records of the solicitation

activities be maintained for a period of at least three (3) years at the office of the charitable organization.

5. Miss. Code Ann. Section 79-11-525 states that every person who solicits, collects or expends contributions on behalf of a charitable organization or for a charitable purpose, or who conducts a charitable sales promotion, and every officer, director, trustee or employee of that person who is concerned with the solicitation, collection or expenditure of those contributions shall be considered a fiduciary and as acting in a fiduciary capacity.

6. Miss. Code Ann. Section 79-11-509 states that whenever it appears to the Secretary of State that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, he may, in his discretion, seek the following remedies in addition to other remedies authorized by law:

(a) Issue a cease and desist order, with or without a prior hearing against the person or persons engaged in the prohibited activities, directing them to cease and desist from further illegal activity; or

(b) Issue an order in the case of a registered charity, professional fund-raiser or solicitor, or other person who violated this chapter, imposing an administrative penalty up to a maximum of Twenty-five Thousand Dollars (\$25,000.00) for each offense, each violation to be considered as a separate offense in a single proceeding or a series of related proceedings;

(c) For the purpose of determining the amount or extent of a sanction, if any, to be imposed under subparagraph (b) of this section, the Secretary of State shall consider, among other factors, the frequency, persistence and willfulness of the conduct constituting a violation of this chapter or a rule promulgated thereunder or an order of the Secretary of State, the number of persons adversely affected by the conduct, and the resources of the person committing the violation.

CONCLUSIONS OF LAW

The previous paragraphs are incorporated herein by reference.

BFCGF has violated, and is violating, the Act in the following ways:

1. **Soliciting contributions without being registered with the Division.** BFCGF was registered with the Division from 2006-2007. However in 2007, the registration expired. Nevertheless, BFCGF has continued to solicit contributions. Contribution is defined as the promise or grant of any money or property of any kind in value. *See* Miss. Code Ann. Sections 79-11-503(1)
2. **Failure to notify the Division of changes in the registration material on file.** When trying to contact the organization to schedule an examination of BFCGF's books and records, several unsuccessful attempts were made to contact the organization. The organization's address, telephone number, and fax number supplied to the Division were no longer accurate. *See* Miss. Code Ann. Sections 79-11-503(5)
3. **Failure to maintain proper books and records.** BFCGF has failed to maintain receipts or documentation of income, expenses and indebtedness. The records are so unorganized that the receipts and expenses regarding the charitable solicitation activities can not be documented and explained. In several instance, the charity lacked receipts and documentation to support financial transactions that were made. Income from events was not documented. As a result, the Division could not determine whether or not the contributions received had been used for the organization's charitable purpose. *See* Miss. Code Ann. Section 79-11-518 & Mississippi Charities Act Rule 213.
4. **Violation of fiduciary duties.** Every person who solicits, collects or expends contributions on behalf of a charitable organization or for a charitable purpose, or who

conducts a charitable sales promotion, and every officer, director, trustee or employee of that person who is concerned with the solicitation, collection or expenditure of those contributions shall be considered a fiduciary and as acting in a fiduciary capacity. Each member of the Board of Directors had a fiduciary duty to BFCGF and this duty was breached when no one could provide all of the records of the organization and adequately explain and document the income, receipts, and expenses of the organization. *See* Miss. Code Ann. Section 79-11-525.

NOTICE OF INTENDED ACTIONS

The previous paragraphs are incorporated herein by reference. As provided in Miss. Code Ann. Section 79-11-509, the Secretary of State intends to take the following action:

A. Order Respondent to Cease and Desist from further illegal activity in the state of Mississippi.

B. Impose an administrative penalty of up to Twenty-Five Thousand Dollars (\$25,000.00) for each offense of the Respondent—with each violation to be considered a separate offense in a single proceeding—taken in violation of Miss. Code Ann. Sections 79-11-501 *et. seq.*

This order shall remain in effect until further directive of the Secretary of State.

PUBLIC INTEREST

The actions taken and proposed to be taken herein by the Secretary of State are in the public interest and are consistent with the purposes set forth in Miss. Code Ann. Sections 79-11-501, *et. seq.*

AMENDMENTS

The Division reserves the right to amend this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty.

RIGHT TO AN ADMINISTRATIVE HEARING

An administrative hearing may be requested in this matter. NOTICE is hereby given that Respondent has thirty (30) days from the date of receipt of this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty to provide written notice of its request for an administrative hearing to Tanya G. Webber, Assistant Secretary of State, Securities and Charities Division, Office of the Secretary of State, Post Office Box 136, 700 North Street, Jackson, Mississippi 39205-0136.

If such hearing is requested, written notice of the date, time and place of such hearing, as well as a designation of the Hearing Officer, will be provided to all parties via certified mail, return receipt requested. Respondent may appear at the hearing with or without the assistance of counsel. Respondent will have the right to cross-examine witnesses and present testimony, evidence and argument relating to the matters contained herein. Upon request, subpoenas may be issued for the attendance of witnesses and for the production of books and papers on Respondent's behalf.

In the event such written notice for a hearing is not received within thirty (30) days, a FINAL CEASE AND DESIST ORDER AND ORDER IMPOSING ADMINISTRATIVE PENALTY may be entered in this proceeding without further notice.

ORDER

IT IS, THEREFORE, ORDERED AND ADJUDGED, pursuant to the authority set forth in Miss. Code Ann. Sections 79-11-501 *et. seq.*, that Respondent shall immediately CEASE AND DESIST FROM ANY FURTHER ILLEGAL ACTIVITY IN, OR ORIGINATING FROM, the State of Mississippi in connection with solicitations of charitable contributions.

ISSUED, this, the 10th day of November, 2009.

C. DELBERT HOSEMANN, Jr.
Secretary of State
State of Mississippi

By:



TANYA G. WEBBER
Assistant Secretary of State
Securities and Charities Division

CERTIFICATE OF SERVICE

I, Tanya G. Webber, do hereby certify that I have this day mailed a true and correct copy of the above and foregoing document, via certified mail postage pre-paid, to the following:

Bob Ford Christian Golf Foundation, Inc.
c/o Bob or Joycelyn Ford
601 Northbay Drive
Madison, MS 39110

Jacqueline Bracey
1702 Wilson St.
Jackson, MS 39202

DeLisa Manuel
6745 Siwell Rd., Ste. 204
Jackson, MS 39202

This the 10th day of November, 2009.



TANYA G. WEBBER
Assistant Secretary of State
Securities and Charities Division