

OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
CHARITIES DIVISION

IN THE MATTER OF :)	
)	Administrative Proceeding
)	Number: LC-13-0682
BIT BY BIT EQUINE)	
3127 Greenfield Road, Lot 364)	
Pearl, Mississippi 39208)	
)	
<u>Respondent</u>)	

**CEASE AND DESIST ORDER AND
ORDER IMPOSING ADMINISTRATIVE PENALTY**

The SECRETARY OF STATE OF MISSISSIPPI, by and through the undersigned designated representative, hereby issues this Cease and Desist Order against BIT BY BIT EQUINE and further gives notice of his intent to impose an administrative penalty and in support hereof, states the following.

I. JURISDICTION

The Secretary of State is vested with the regulation of charitable organizations that solicit donations in the State of Mississippi pursuant to Miss. Code Ann. §79-11-501, *et seq.* (Rev. 2009). Bit by Bit is a charitable organization as defined by Miss. Code Ann. §79-11-501(a)(i) (Rev. 2009), to-wit:

(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.

Bit by Bit is a charitable organization as defined by the Act, and is subject to the Secretary of State's regulatory authority. Therefore, the Secretary of State finds that he has jurisdiction over the subject matter and the parties herein.

II. FINDINGS OF FACT

1. On October 25, 2010, documents were filed with the Business Services Division of the Secretary of State's Office incorporating Bit by Bit as a non-profit corporation. While Bit by Bit is currently incorporated as a nonprofit organization, no paperwork has been filed registering Bit by Bit as a charity organization to solicit donations in the State of Mississippi.
2. On January 10, 2013, the Charities Division of the Secretary of State's Office (hereinafter, "Division") received a call indicating that Bit by Bit was soliciting contributions. A check of the records revealed that Bit by Bit was not registered with the Division to solicit contributions as required by Miss. Code Ann. §79-11-503(1) (Rev. 2009).
3. The Division also determined that Bit by Bit was soliciting contributions via Facebook.
4. On January 11, 2013, the Division mailed a letter to Bit by Bit indicating that it would need to register if it was soliciting contributions in the State of Mississippi. Bit by Bit was to respond to the letter by January 18, 2013.
5. Having received no response to the January 11th letter, the Division sent a second letter to Bit by Bit on February 14, 2013.
6. On February 15, 2013, the Division received a call from Lisa Reyes, one of the

Incorporators and Mother of Stephanie Barnes. Ms. Barnes is the Director of Bit by Bit. Ms. Reyes indicated that she would have Ms. Barnes give the Division a call. Ms. Reyes also gave the Division a new address for Ms. Barnes.

7. On March 20, 2013, the Division sent a third letter to Bit by Bit. This letter was sent to the new address given to the Division by Ms. Reyes.

8. Still receiving no response, the Division hand delivered another copy of the letter, registration forms, and exemption forms to Ms. Barnes at her home.

9. On June 4, 2013, the Division issued a Summary Cease and Desist Order against Bit by Bit for soliciting contributions without being registered or exempted with the Division. This Order was mailed by certified mail.

10. On June 26, 2013, the Division received a call from Ms. Barnes indicating that she had received the Order and that she would submit the exemption forms to the Division by July 26, 2013.

11. On July 23, 2013, the Division received another call from Ms. Barnes requesting guidance on completing the exemption forms. Ms. Barnes indicated that she would mail the exemption forms the next day.

12. To date, the Division still hasn't received any registration or exemption forms from Bit by Bit.

13. Nevertheless, on October 1, 2013, in the *Rankin Ledger*, an article was published about Bit by Bit. This article was soliciting contributions on behalf of Bit by Bit even though Bit by Bit is not properly registered or exempted with the Division to solicit contributions.

14. This article was published after the Cease and Desist Order was issued by the

Division ordering Bit by Bit to cease soliciting contributions in the State of Mississippi.

III. CONCLUSIONS OF LAW

15. According to Miss. Code Ann. §79-11-503(1) (Rev. 2009), every charitable organization which solicits or intends to solicit contributions shall file with the Secretary of State a registration statement and pay a filing fee of Fifty Dollars (\$50.00). Bit by Bit has failed to file a registration statement and is, therefore, in violation of this provision.

16. Bit by Bit has solicited donations as defined by Miss. Code Ann. § 79-11-501(j) (Rev. 2009) during the period of non-registration. Bit by Bit is in violation of the Act and is, therefore, subject to the provision of Miss. Code. Ann. § 79-11-509 (Rev. 2009), including the issuance of a cease and desist order with or without a prior hearing and imposition of an administrative penalty by the Secretary of State.

IV. CEASE AND DESIST

As provided in Miss. Code Ann. §79-11-509(4) (Rev. 2009), the Secretary of State hereby orders Bit by Bit Equine to immediately **CEASE AND DESIST** soliciting charitable contributions in and from the State of Mississippi as defined by Miss. Code Ann. §79-11-501 (Rev. 2009). This order shall remain in effect until further order of the Secretary of State.

V. NOTICE OF INTENDED ACTION

Please note that the Secretary of State intends to take the following additional action:

1. Impose an administrative penalty of \$2,500.00 against Bit by Bit. This amount is based on the multiple attempts to get Bit by Bit to register with the Division, its continuing solicitation activities despite not being registered or exempted with the Division, and its refusal to comply with the law and Order after being notified. Pursuant to the law, the Division can

impose up to \$25,000.00 for each violation of Miss. Code Ann. §79-11-501 (Rev. 2009) through §79-11-529 (Rev. 2009).

2. The imposition of an administrative penalty shall become effective thirty (30) days after receipt of this Notice unless a request for an administrative hearing is received by the Secretary of State before the expiration of said thirty (30) days.

VI. RIGHT TO ADMINISTRATIVE HEARING

An administrative hearing may be requested in this matter. Any such request shall be made, in writing, to Tanya G. Webber, Assistant Secretary of State, Charities Division, Post Office Box 136, Jackson, MS 39205, within thirty (30) days from the date of receipt of this Order.

If an administrative hearing is requested, written notice of the date, time, and place, will be given to all parties by certified mail, return receipt requested. Said notice will also designate a Hearing Officer.

VII. PUBLIC INTEREST

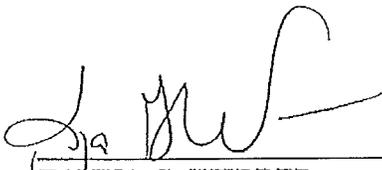
The actions taken and proposed to be taken herein by the Secretary of State are in the public interest and are consistent with the purposes set out in Miss. Code. Ann. §79-11-501, *et seq.* (Rev. 2009).

VIII. RIGHT TO AMEND

The Secretary of State hereby reserves the right to amend this Cease and Desist Order and Order Imposing Administrative Penalty.

SO ISSUED, this the 14th day of October, 2013.

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

BY: 
TANYA G. WEBBER
Assistant Secretary of State
Charities Division
Mississippi Secretary of State's Office

CERTIFICATE OF SERVICE

I, Kim Anderson, do here by certify, that I have this day, personally hand-delivered a true and correct copy, of the Cease and Desist Order and Order Imposing Administrative Penalty to the following:

Bit by Bit Equine
3127 Greenfield Road, Lot 364
Pearl, MS 39208

This the 15 day of October, 2013.

Kim Anderson 10/15/13
KIM ANDERSON
Examiner
Charities Division

Received by: Stephanie Wilson
Print Name: Stephanie Wilson
Date: _____

Witness by: James Loome
Print Name: James Loome
Date: Oct. 15, 2013