

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

IN THE MATTER OF:)	
)	
)	
LAST CHANCE HORSE RESCUE)	Administrative Proceeding
33 Lake Hill)	Number C-09-0158
Byhalia, Mississippi 38611)	
)	
Respondent)	

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

COME NOW Tanya G. Webber, Assistant Secretary of State for the Securities and Charities Division of the Mississippi Office of the Secretary of State (“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 Last Chance Horse Rescue (“Last Chance”) 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” that is 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.

Last Chance is a Mississippi organization with the stated purpose to “help all abused, neglected, troubled or homeless horses”. Last Chance finds new homes for abused and neglected horses. While housing the horses before finding new homes for them, Last Chance solicits the public for hay, grain, gift certificates and monetary donations. For this reason and the fact that it has indicated that it has filed for a 501(c)(3) tax exempt status, Last Chance falls within the Act’s definition of “charitable organization” and is therefore subjected to the regulatory authority of the Secretary of State.

FINDINGS OF FACT

After receiving documentation that Last Chance was soliciting donations in the State of Mississippi, the Division first notified Respondent on April 24, 2009 that it must register with the Division. The Division mailed this letter by certified mail and Mr. John Gilles signed for the delivery. Last Chance failed to respond to this request. Therefore, on May 19, 2009, a second request was mailed to Last Chance notifying it that it was required to register with the Division since it was soliciting contributions in the state. Mr. Gilles once again signed for the delivery. Nevertheless, Last Chance is still not registered with the Division to solicit contributions in the State of Mississippi as required by Miss. Code Ann. Section 79-11-503(1).

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, Last Chance 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 79-11-509 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 one or more of 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) Administratively dissolve the charitable organization;

(c) Issue an order 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;

(d) 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 paragraph is incorporated herein by reference.

Last Chance is violating the Act by soliciting contributions without being registered with the Division despite several attempts by the Division to get the organization registered. Contribution is defined as the promise or grant of any money or property of any kind in value. *See* Miss. Code Ann. Sections 79-11-501(d)

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 against 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 11th day of December, 2009.

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

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