

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

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<b>IN THE MATTER OF:</b>	)	
	)	
<b>CFS of Mississippi, LLC</b>	)	<b>Administrative Proceeding</b>
<b>165 Blackstone Circle</b>	)	<b>Number: LC-16-1866</b>
<b>Brandon, MS 39047</b>	)	
	)	
<i>Respondent</i>	)	

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**CONSENT ORDER**

The Charities Division of the Mississippi Secretary of State (“Division”), having the authority to administer and provide for the enforcement of all provisions of the Mississippi Regulation of Charitable Solicitations Act (“Act”), and CFS of Mississippi, LLC (“Respondent” or “CFS”) do hereby enter into this Consent Order in resolution of the following allegations by the Division of violations of certain provisions of the Act:

**I. FINDINGS OF FACT**

1. CFS is an entity that has been registered as a professional fund-raiser with the Division since July of 2014.

2. In October of 2014, the Division learned that CFS has previously held several fund-raising promotions since its registration for which the Division had not received the contracts as statutorily required. Therefore, on October 6, 2014, the Division contacted CFS via electronic mail and requested the contracts for the past promotions. Additionally, the Division verbally informed CFS that the contracts were due at least ten (10) days prior to the promotion. The Division received these contracts in periodic installments from November 5, 2014 to December 19, 2014.

3. On April 17, 2015, the Division learned that CFS had again held fundraising events without submitting the required contracts within the statutorily mandated time frame. The Division sent a letter to CFS reminding the organization of the statutory requirement that each contract should be submitted to the Division no later than ten (10) days prior to the event. This letter served as an official

warning to the organization and stated that if this requirement was not complied with from this point forward, the Division would move forward with administrative action against CFS.

4. In February of 2016, the Division learned that CFS held fundraising events again without submitting contracts to the Division within the ten (10) day statutory time frame. On February 9, 2016, the Division sent CFS a final notification reminding the organization of the statutory requirements for contract submission. Again, CFS was informed that immediate administrative action would be taken if all contracts were not submitted properly from that point forward.

5. On May 19, 2016, the Division received the contract for a fund-raising event to be held on behalf of Petal High School via electronic mail; however, the contract was missing the following statutorily required information:

- a. a statement of the charitable purpose for which the solicitation campaign is being conducted;
- b. a clear statement of the fees or rate which will be paid to the professional fundraiser; and
- c. the effective and termination dates of the contract and the date services will commence were not included on the document submitted.

6. Additionally, a basic internet search revealed that the event was scheduled to take place on May 21, 2016, thus meaning that the contract was not submitted within the ten (10) day statutorily mandated period of time.

7. The internet search also revealed that CFS hosted a fund-raising event for West Lauderdale High School on May 7, 2016. This contract was received by the Division on June 8, 2016, approximately one month after the promotion took place.

## **II. APPLICABLE LAW**

1. Miss. Code Ann. § 79-11-501(g) sets forth:

### **Definitions**

(g) "Professional fundraiser" means any person who for compensation or other consideration is retained by a charitable organization to solicit in or from this state contributions for

charitable purposes directly or in the form of payment for goods, services or admission to fund-raising events, whether such solicitation is performed personally or through his agents, servants or employees or through agents, servants or employees especially employed by or for a charitable organization who are engaged in the solicitation of contributions, the sale of goods or services or the production of fund-raising events under the direction of such person, or a person who plans, conducts, manages, carries on, advises or consults, whether directly or indirectly, in connection with the solicitation of contributions, sale of goods or services or the production of fund-raising events for or on behalf of any charitable organization, but does not qualify as a fund-raising counsel within the meaning of Sections 79-11-501 through 79-11-529, or who engages in the business of or holds himself out as independently engaged in the business of soliciting contributions for such purposes.

2. Miss. Code Ann. § 79-11-509(4) sets forth:

**Administrative remedies and penalties for a violation of the Charitable Solicitations Act.**

(4) 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;
- (b) Administratively dissolve or seek the judicial dissolution of a domestic corporation that is a charitable organization, or revoke the certificate of authority of a foreign corporation that is a charitable organization; or
- (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 paragraph (b) or (c) of this subsection, 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.

3. Miss. Code Ann. § 79-11-515(1) states:

**Contracts; filing with Secretary of State**

(1) All contracts entered into between professional fund-raisers or fund-raising counsel and charitable organizations shall be in writing and a true and correct copy of such contract shall be filed by the professional fund-raiser or fund-raising counsel who is a party thereto with the Secretary of State at least ten (10) days prior to the performance by the professional fund-raiser or fund-raising counsel of any service. The contract must be signed by two (2) authorized officials of the charitable organization, one (1) of whom must be a member of the organization's governing body, and the authorized contracting officer for the professional fund-raiser or fund-

raising counsel. True and correct copies of such contracts shall be kept on file in the offices of the charitable organization and the professional fund-raiser or fund-raising counsel during the term thereof and until the expiration of a period of three (3) years subsequent to the date the solicitation of contributions provided for therein actually terminates. The contract shall contain all of the following provisions:

- (a) The legal name and address of the charitable organization as registered with the Secretary of State, unless that charitable organization is exempt from registration;
- (b) A statement of the charitable purpose for which the solicitation campaign is being conducted;
- (c) A statement of the respective obligations of the professional fund-raiser or fund-raising counsel and the charitable organization;
- (d) A clear statement of the fees or rate which will be paid to the professional fund-raiser or fund-raising counsel;
- (e) The effective and termination dates of the contract and the date services will commence with respect to the solicitation in this state of contributions for a charitable organization;
- (f) For fund-raising counsel, a statement that the fund-raising counsel will not at any time have custody and control of contributions;
- (g) A statement that the charitable organization exercises control and approval over the content and volume of any solicitation; and
- (h) Any other information required by the rules of the Secretary of State.

### III. RESOLUTION

NOW, THEREFORE, it is hereby agreed as follows:

1. Respondent admits to the jurisdiction of the Division as to all matters herein under the authority of the Act.
2. Respondent agrees that it will henceforth submit all contracts for every fund-raising event no later than ten (10) days prior to performance by CFS, as required by Miss. Code Ann. § 79-11-515(1).
3. Respondent agrees that each contract submitted from this point forward will include the following information, as mandated in Miss. Code Ann. § 79-11-515(1)(a)-(h):
  - a. The legal name and address of the charitable organization;
  - b. A statement of the charitable purpose for which the solicitation campaign is being conducted;
  - c. A statement of the respective obligations of CFS and the charitable organization;
  - d. A clear statement of the fees or rate that will be paid to CFS;

- e. The effective and termination dates of the contract and the dates the services will take place; and
- f. A clear statement that the charitable organization exercises control and approval over the content and volume of any solicitation.

4. Respondent agrees to resubmit the contract for the event held for Petal High School on May 21, 2016, with all required information upon execution of this Order. To comply with the law, Respondent will add the following information to this contract:

- a. A statement of charitable purpose for the event;
- b. A clear statement of the fees or rate that was paid to CFS; and
- c. The effective and termination dates of the contract and the date services took place.

5. Respondent will comply with all provisions of the Act as currently in effect or as may be subsequently amended.

6. The Division shall impose an administrative penalty upon Respondent in the amount of One Thousand Dollars (\$1,000.00). Respondent shall remit payment to the Division, payable to "Mississippi Secretary of State," upon execution of this Order.

7. Respondent acknowledges that it has read this Consent Order in its entirety and fully understands the rights, terms, and obligations contained herein.

8. Respondent is aware of its right to a hearing at which it may be represented by counsel, present evidence, and cross-examine witnesses. Respondent hereby irrevocably waives its right to such a hearing.

9. A willful failure to comply with any of the terms, conditions or obligations of this Order will result in Respondent being deemed to be in violation of a lawful order made pursuant to the Act and, therefore, subject to the penalties available under the Act.

10. This Consent Order contains the entire understanding between the parties. Furthermore, the parties herein represent that they have read each provision, understand each provision, and agree to each provision herein.

**IV. OTHER MATTERS**

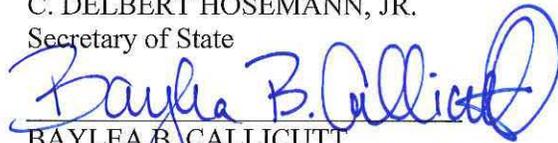
In the event that Respondent fails to comply with the provisions of this Order, the Division may, without notice to the Respondent, unilaterally rescind this Order and institute any legal or administrative proceedings it deems appropriate including, but not limited to, proceedings to address the matters set forth herein.

WHEREFORE, the undersigned hereby acknowledges and agrees to the terms and conditions of the foregoing Order by written consent.

THIS, the 29 day of June, 2016.

C. DELBERT HOSEMANN, JR.  
Secretary of State

By:



BAYLEA B. CALLICUTT  
Staff Attorney  
Charities Division

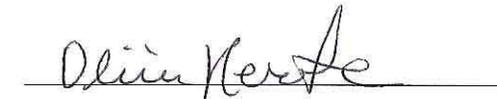
Date:

June 30, 2016

The undersigned agent for CFS of Mississippi, LLC, acknowledges that he has been lawfully vested with the authority to enter into this Consent Order on behalf of the Respondent.

CFS of Mississippi, LLC

By:



Title:

owner

Date:

6/29/16

Baylea B. Callicutt, MSB #105063  
Office of the Secretary of State  
Charities Division  
125 Congress Street  
Post Office Box 136  
Jackson, Mississippi 39205-0136