

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE BUSINESS  
REGULATION AND ENFORCEMENT DIVISION**

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<b>IN THE MATTER OF:</b>	)	
	)	<b>Administrative Proceeding</b>
<b>PEARL/RANKIN FRATERNAL ORDER OF POLICE</b>	)	<b>Number: C-03-0318</b>
	)	
<b>406 North Bierdeman Road</b>	)	
<b>Pearl, Mississippi 39208</b>	)	
	)	
<i>Respondent</i>	)	

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**CONSENT ORDER**

**I. Introduction**

Finding it appropriate in the public interest, the Business Regulation and Enforcement Division of the Office of the Secretary of State of Mississippi (hereinafter "Division"), on behalf of the Secretary of State, having the authority to administer the Mississippi Charitable Solicitations Act, Miss. Code Ann. §§79-11-501 to 79-11-529 (Rev. 2001) (hereinafter "Act"), and Respondent PEARL/RANKIN FRATERNAL ORDER OF POLICE (hereinafter "FOP") do hereby enter into this Consent Order (hereinafter "Order"). This Order settles all of the Division's allegations of violations of the Act as to FOP as contained in the SUMMARY CEASE AND DESIST ORDER AND NOTICE OF INTENT TO IMPOSE ADMINISTRATIVE PENALTY affixed hereto as "Exhibit A" and incorporated herein by reference.

**II. Agreement**

THEREFORE, in consideration of a final resolution of the matters set forth in "Exhibit A," the Division and FOP hereby agree and stipulate to the following:

1. FOP is a charitable organization registered with the State of Mississippi whose address is 406 North Bierdeman Road, City of Pearl, Mississippi 39208.
2. FOP acknowledges and consents to the jurisdiction of the Secretary of State as to all matters and parties herein.
3. FOP contracted with Area Benefits, Inc., (hereinafter "ABI") to conduct a solicitation campaign in the State of Mississippi. While ABI acted as a professional fund-raiser on behalf of FOP in the State of Mississippi, ABI has never been registered as such with the Division in violation of Miss. Code Ann. §79-11-513.
4. On or about November 3, 2003, with the knowledge and consent of FOP, ABI established and operated a phone room at 5537 Highway 80 East, City of Pearl, Rankin County, Mississippi 39208, for the purpose of soliciting contributions from Mississippi residents for the benefit of FOP. FOP's conduct is violative of Miss. Code Ann. §79-11-519(4)(e) (Rev. 2001), prohibiting charitable organizations from using the services of an unregistered professional fund-raiser.
5. Pursuant to Miss. Code Ann. §79-11-503(h) (Rev. 2001), every charitable organization which solicits or intends to solicit contributions must file a registration statement that shall contain "[t]he names and addresses of any professional fund-raisers or fund-raising counsel who are acting or have agreed to act on behalf of the organization." FOP failed to file the required

registration statement in violation of Miss. Code Ann. §79-11-503(h) (Rev. 2001).

6. The Division shall impose and FOP agrees to pay a penalty in the amount of one thousand dollars (\$1,000.00). The penalty shall be due and payable to the “Mississippi Secretary of State” upon execution of this Consent Order.
7. In addition, FOP shall pay one thousand two hundred and fifty dollars (\$1,250.00) representing a portion of the expenses incurred by the Division during the Division’s lawful investigation into FOP’s conduct. The payment for a portion of the Division’s expenses shall be due and payable to the “Mississippi Secretary of State” upon execution of this Consent Order.
8. FOP shall within sixty (60) days from the execution of this Order send, via U.S. Mail, a letter to each and every Mississippi resident who made a contribution as a result of ABI’s solicitations. The letter shall detail FOP’s conduct and express said organization’s sincere apologies to the contributors. The Division will provide FOP with a list of all Mississippi contributors of which it is aware. The letter must be submitted and approved by the Division before it is sent to the contributors.
9. FOP agrees neither to employ, nor execute a contract with any professional fund-raiser or fund-raising counsel at any time within five (5) years from the execution of this Order. After the five (5) year period from the execution of this Order and before FOP executes a contract with any professional fund-raiser or fund-raising counsel, FOP must submit to the Division a letter naming the professional fund-raiser or fund-raising counsel that FOP desires

to employ. The Division shall have a period of ten (10) days from receipt of the letter in order (1) to identify any potential violations of the Act that may arise in the event FOP determines to employ the particular professional fundraiser or fund-raising counsel; or (2) to raise any other objections that the Division may have regarding FOP's proposed professional fundraiser or fund-raising counsel.

10. FOP is prohibited from providing any future professional fundraiser or any of the professional fundraiser's employees, with any type of card, pamphlet, letter, circular, badge, pendant, sticker, or any other item representing (1) that the professional fundraiser or any of the professional fundraiser's employees are police officers, sheriffs, or members of FOP; or (2) that the professional fundraiser's employees bear any name other than that of the professional fundraiser employee's legal name; or (3) that the professional fundraiser or any of the professional fundraiser's employees are identified and/or associated with any entity or organization except that of the professional fundraiser.
11. FOP agrees to cooperate and assist the Division and/or any other government agency in any investigation, either civil, criminal or administrative in nature, into ABI's conduct. FOP agrees to comply with the Division's requests for any documents, testimony, affidavits, or any other items relating to the Division's lawful investigation into ABI's conduct.

12. This Consent Order is in resolution of the matters contained in "Exhibit A."

Thus, any matters in "Exhibit A" will not be used as a basis for action by the Division against FOP except as set forth in Paragraph III *infra*.

13. FOP admits to the violations of the Mississippi Charitable Solicitations Act stated in "Exhibit A" and herein and agrees to comply with the provisions of the Act in the future.

### **III. Other Considerations**

1. FOP is aware of its right to a hearing on this matter at which it may be represented by counsel, present evidence and cross-examine witnesses. FOP hereby irrevocably waives the right to such a hearing.
2. FOP understands that the entry of this Order represents the settlement of regulatory claims by the Division against FOP only and does not, in any way, restrict or affect the rights or causes of action, if any, of any Mississippi residents who have sustained losses as a result of FOP's actions.
3. It is understood and agreed that the Division retains all rights available to it and that this Order is merely a settlement of those matters set forth in "Exhibit A." The Division specifically retains all rights to take such other and further action that it may deem necessary due to the discovery of additional violations of the Act by FOP, other than those specific violations detailed and alleged in "Exhibit A."
4. In the event FOP fails to comply with any of the agreements, stipulations or undertakings set forth herein, or should any other governmental entity take action against FOP, either civil, criminal or administrative, which results

in an order or judgment being issued adversely to FOP regarding the facts detailed in "Exhibit A," FOP recognizes such action will constitute a violation of this order and it shall thereby knowingly and voluntarily waive any right to notice and to an administrative hearing and also waive any right to separately stated findings of fact and conclusions of law to which it may have otherwise had a right regarding the matters contained in "Exhibit A." The Secretary of State may, in his discretion enter an Order of Revocation/Denial of Registration and an Order Imposing Administrative Penalty and same will automatically become final and enforceable against FOP with respect to such matters.

5. As to such final order, FOP hereby willingly, knowingly and voluntarily waives its right to any appeal.
6. This Consent Order shall remain in full force and effect from the date of execution of this Order by the Secretary of State or his duly appointed representative.
7. The SUMMARY CEASE AND DESIST ORDER AND NOTICE OF INTENT TO IMPOSE ADMINISTRATIVE PENALTY affixed hereto as "Exhibit A" and incorporated herein by reference shall be deemed to be lifted upon execution of this Consent Order.

### **III. Acknowledgement**

The parties acknowledge that they have read this Consent Order in its entirety and fully understand the rights, terms and obligations of each contained herein and they have

been vested with the express authority to enter into this Order. The parties further acknowledge that they have not been threatened or otherwise coerced into entering into this Consent Order.

The undersigned hereby acknowledge and agree to the terms and conditions of the foregoing Consent Order by written consent.

ERIC CLARK  
Secretary of State

By: \_\_\_\_\_

  
JAMES O. NELSON, II  
Assistant Secretary of State

Date: \_\_\_\_\_

4/30/2004

PEARL/RANKIN FRATERNAL ORDER OF POLICE

By: \_\_\_\_\_

  
(Sign Name)

Jimmie Lynn Cannon  
(Print Name)

PRESIDENT  
(Title)

Date: \_\_\_\_\_

4-30-04

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE  
BUSINESS REGULATION AND ENFORCEMENT DIVISION**

IN THE MATTER OF: )  
 )  
 Pearl / Rankin Fraternal Order of Police ) **Administrative Proceeding**  
 ) **Number: C-03-0318**  
 )  
 406 North Bierdeman Road )  
 Pearl, Mississippi 39208 )  
 )  
 *Respondent* )

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

The SECRETARY OF STATE OF MISSISSIPPI, by and through the undersigned designated representative, hereby issues this Summary Cease and Desist Order and Notice of Intent to impose an administrative penalty against PEARL/RANKIN FRATERNAL ORDER OF POLICE (hereafter "PRFOP") and in support hereof, states the following.

**I. JURISDICTION.**

1. The Secretary of State is vested with the regulation of charitable organizations that solicit contributions or donations in the state of Mississippi pursuant to the Mississippi Charitable Solicitations Act codified at Miss. Code Ann. §79-11-501, *et seq.* (Rev. 2001) (hereafter "Act"). Respondent PRFOP is a charitable organization as defined by Miss. Code Ann §79-11-501(a)(i) (Rev. 2001), to-wit:

- (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...



The Secretary of State, therefore, finds that he has jurisdiction over the subject matter and the parties herein.

## II. FINDINGS OF FACT

2. PRFOP is a charitable organization registered with the State of Mississippi whose last know address is 406 North Bierdeman Road, Pearl, Mississippi, 39208.

3. PRFOP contracted with Area Benefit, Inc. (hereafter "ABI") to conduct a solicitation campaign in the State of Mississippi. At the time PRFOP entered this contract with ABI, ABI was not registered with the Secretary of State.

4. On or about November 3, 2003, ABI established and operated a phone room at 5537 Highway 80 East, City of Pearl, Rankin County, Mississippi, 39208 for the purpose of soliciting contributions from Mississippi residents for the benefit of PRFOP.

5. At the time of issuance of this order ABI was not registered with the Secretary of State, and has never been registered with the State of Mississippi as a professional fund-raiser as required by the Act. Miss. Code Ann. §79-11-513 (Rev. 2001).

## III. CONCLUSIONS OF LAW

6. Pursuant to Miss. Code Ann. §79-11-503(h) (Rev. 2001), every charitable organization which solicits or intends to solicit contributions must file a registration statement that shall contain "[t]he names and addresses of any professional fund-raisers or fund-raising counsel who are acting or have agreed to act on behalf of the organization."

7. As provided in Miss. Code Ann. §79-11-501(g) (Rev. 2001), a professional fund-raiser 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 . . ."

8. Pursuant to Miss. Code Ann. §79-11-513 (Rev. 2001), “[n]o person shall act as a professional fund-raiser or fund-raising counsel for a charitable organization before he has registered with the Secretary of State...”

9. Pursuant to Miss. Code Ann. §79-11-519(4)(e) (Rev. 2001), charitable organizations are prohibited from using the services of an unregistered professional fund-raiser.

10. Pursuant to Miss. Code Ann. §79-11-509(4) (a) (Rev. 2001), the Secretary of State may issue a cease and desist order against the person or persons engaged in prohibited activities directing them to cease and desist from further illegal activity.

#### **IV. SUMMARY CEASE AND DESIST**

11. As provided in Miss. Code Ann. §79-11-509(4) (a) (Rev. 2001) the Secretary of State hereby summarily orders the Respondent to immediately **CEASE AND DESIST** all illegal activities in and from the State of Mississippi, specifically, to immediately **CEASE AND DESIST** using ABI and any and all other unregistered professional fund-raisers as defined by Miss. Code Ann. §79-11-501 (Rev. 2001). 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:

12. Impose an administrative penalty of up to \$25,000.00 for each violation of the Act.

13. 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**

14. An administrative hearing may be requested in this matter. Any such request shall be made in writing to the Secretary of State, through James O. Nelson, II, Assistant Secretary of

State, Post Office Box 136, Jackson, Mississippi 39205 within thirty (30) days from the date of receipt of this Summary Cease and Desist Order and Notice of Intent.

15. 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 request requested.

#### VII. PUBLIC INTEREST

16. 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 the Act.

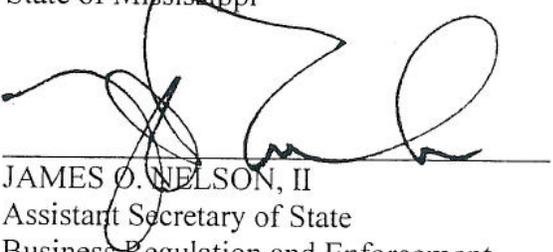
#### VIII. RIGHT TO AMEND

17. The Secretary of State hereby reserves the right to amend this Summary Cease and Desist Order and Notice of Intent to Impose Administrative Penalty.

SO ISSUED, this the 21<sup>st</sup> day of November, 2003.

ERIC CLARK  
Secretary of State  
State of Mississippi

BY:

  
\_\_\_\_\_  
JAMES O. NELSON, II  
Assistant Secretary of State  
Business Regulation and Enforcement

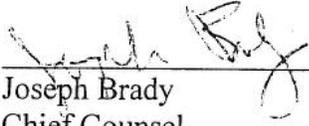
Prepared and Submitted by:  
NATHAN THOMAS  
Senior Attorney  
Mississippi Secretary of State's Office  
Post Office Box 136  
Jackson, Mississippi 39205  
(601) 359-6366

**CERTIFICATE OF SERVICE**

I, Joseph Brady, do hereby certify that I have this day mailed via United States Certified Mail, postage pre-paid, a true and correct copy of the Summary Cease and Desist Order and Notice of Intent to the following:

Pearl / Rankin Fraternal Order of Police  
406 North Bierdeman Road  
Pearl, Mississippi 39208

This the 24<sup>th</sup> day of November, 2003.

  
\_\_\_\_\_  
Joseph Brady  
Chief Counsel