

The Honorable Kathryn J. Nelson
Noted for Consideration: November 16, 2018, at 9:00 a.m.
With Oral Argument



STATE OF WASHINGTON
PIERCE COUNTY SUPERIOR COURT

STATE OF WASHINGTON

Plaintiff,

v.

FALLEN HERO BRACELETS, a Washington nonprofit corporation; THE BENJAMIN FOUNDATION, a Washington nonprofit corporation also d/b/a THE ROBERTS RIDGE FOUNDATION and THE CRAIG NOBLE FOUNDATION; MIDNIGHT COAL COMPANY LLC, a Washington limited liability company, also d/b/a 3CHARLIE.COM and KOPFJAGER ARMS; and MICHAEL ALEXANDER FRIEDMANN and JANE DOE FRIEDMANN, individually and as part of their marital community,

Defendants.

NO. 18-2-09903-5

~~PROPOSED~~ FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER OF PRELIMINARY
INJUNCTION

The State's Motion for Preliminary Injunction was heard in open court on November 16, 2018. The Plaintiff, State of Washington, was represented by David M. Horn, Senior Counsel. Defendants Friedmann, Fallen Hero Bracelets, The Benjamin Foundation, and Midnight Coal Company LLC were not represented. by _____ . The Court heard oral argument, reviewed the State's motion, its supporting declarations and their

1 attachments,

2 and papers filed by Defendant Friedman including a motion for
3 continuance and Declaration of Michael Friedman filed by

4 Defendants. Being familiar with the records and files herein, the Court hereby enters the
5 following Findings of Fact, Conclusions of Law, and Order. *against the Corporate Defendants*

6 I. FINDINGS OF FACT

7 1.1 Plaintiff is the State of Washington (the "State").

8 1.2 Defendants ~~Michael Alexander Friedmann (Friedmann)~~, Fallen Hero Bracelets,

9 The Benjamin Foundation, and Midnight Coal Company LLC (Defendants ~~Michael Alexander Friedmann~~)
10 reside or have their principal place of business in Pierce County and transact business or have
11 significant ties to Pierce County.) Friedmann resides and does business at 16011 3rd Avenue
12 Court East, Spanaway, Pierce County, Washington 98445.

13 1.3 Defendants Fallen Hero Bracelets and The Benjamin Foundation are Washington
14 nonprofit corporations. Defendant Midnight Coal Company LLC (Midnight Coal) is a
15 Washington limited liability Company.

16 1.4 Defendant Michael Alexander Friedmann ("Friedmann") ~~controls and operates~~
17 ~~all three corporate defendants, Fallen Hero Bracelets, The Benjamin Foundation, and Midnight~~
18 ~~Coals, and participated in all of the conduct of Defendants that is alleged in this Complaint.~~

19 1.5 Defendant Fallen Hero Bracelets, which sometimes does business as
20 3Charlie.com, maintains at least two websites from which it sells bracelets, hats, pins, engraved
21 bullets and other items by representing that proceeds will benefit veterans and veterans'
22 charitable organizations. Fallen Hero Bracelets' only director is Friedmann. Friedmann is
23 President, Chief Executive Officer, Chief Legal Officer, and Director of Fallen Hero Bracelets.
24 Fallen Hero Bracelets' principal place of business is 16011 3rd Avenue Court East, Spanaway,
25 Pierce County, Washington 98445.

26 1.6 Defendant The Benjamin Foundation, which sometimes does business as The

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continued.*

1 Roberts Ridge Foundation, is a Washington nonprofit corporation formed exclusively for
2 charitable purposes. Its website links to the website for Fallen Hero Bracelets. The Benjamin
3 Foundation claims that the Roberts Ridge Foundation, its d/b/a, is a Pararescue Organization that
4 raises money for the same veterans' causes as Fallen Hero Bracelets. ~~Friedmann formed a~~
5 ~~nonprofit corporation in 2003, changed its name several times, and finally changed the name~~
6 ~~again in 2011, this time to The Benjamin Foundation. He wrote that it was dedicated to "father's~~
7 ~~rights", particularly "the victimization of men and fathers through the abuse of process of~~
8 ~~domestic violence laws." Friedmann is President and one of two directors of The Benjamin~~
9 ~~Foundation.~~ The Benjamin Foundation's principal place of business is at 16011 3rd Avenue
10 Court East, Spanaway, Pierce County, Washington 98445.

11 1.7 Michael Friedmann currently resides in Spanaway, Washington. All actions
12 taken by either Defendant Michael Friedmann with respect to any of his business or nonprofits,
13 have been and are for the benefit of any marital community.

14 1.8 The term "Defendants" refers collectively to ~~the~~ defendants as well as their
15 officers, agents, servants, employees, and representatives.

16 1.9 The Attorney General has authority under RCW 19.86.080 to prevent and restrain
17 violations of the Consumer Protection Act. The Attorney General has authority under RCW
18 19.09.340 to prevent and restrain violations of the Charitable Solicitations Act.

19 1.10 This Court has personal jurisdiction over Defendants under RCW 19.86.080 and
20 RCW 19.09.340. Defendants have submitted themselves to the jurisdiction of this Court by
21 engaging in the conduct set forth in this Complaint in the State of Washington, including in
22 Pierce County.

23 1.11 This Court has subject matter jurisdiction over this action pursuant to
24 RCW 19.86.080 and RCW 19.86.140.

25 1.12 Venue is proper in Pierce County pursuant to RCW 4.12.020 and RCW 4.12.025.
26 Defendants reside or maintain their principal places of business in Pierce County.

*only, Fallen Hero Bracelets,
Corporate The Benjamin Foundation,
and
Midnight
Crel Company LLC*

1 1.13 Defendant Michael Friedmann serves and has served as an officer or director of
2 the corporate defendants.

3 1.14 Since at least 2015, Defendants Friedmann and Fallen Hero Bracelets have
4 conducted charitable solicitations in Washington through their website,
5 www.fallenherobracelets.com (“the Website”), which offers for sale a variety of bracelets, hats,
6 badges, engraved bullets and other merchandise bearing names of service members, the names
7 or logos of military or patriotic organizations, or other military or patriotic themes. The Website
8 also asks for donations to Fallen Hero Bracelets.

9 1.15 The Website claims that sales of bracelets “support the following organizations
10 and foundations and funds: The Benjamin Foundation, The Roberts Ridge Foundation,
11 The Sgt. David Coullard Memorial Fund, SSG Matthew A. Pucino Memorial Foundation, LTD.,
12 The Green Beret Foundation, Intrepid Fallen Heroes Fund, Wounded Warrior Project,
13 Rolling Thunder, National Fallen Firefighters Association, The British Forces Foundation,
14 British Soldiers Fund, Stolen Valor, Canadian Fallen Heroes Foundation, Special Operations
15 Warrior Foundation, The Navy SEAL Foundation, 173rd ABN BDE National Memorial
16 Foundation, Mike Stokely Foundation, Inc., 82nd Airborne Division Association, 101st Airborne
17 Division Association, National Ranger Memorial Foundation, Inc., Lead The Way Fund, Inc.,
18 US Army Ranger Association, Lt. Scott F. Milley Ranger Foundation, National Law
19 Enforcement Officers Memorial Fund, Royal Marines Charitable Trust, The RCMP, Machine
20 Gun Preacher, USAF TACP Association, That Others May Live Foundation, Special Air Service
21 Regimental Association, The Mark Forester Foundation, FallenHeroes.org.uk,
22 AdamsHoofingHut.com, Washington State Patrol Troopers Association, National Association
23 of the 10th Mountain Division, 10th Mountain Division Association, British Police and Services
24 Canine Association, United States Police K-9 Association, Inc., Night Stalker Association, John
25 Faas Foundation, Chris Kyle Memorial Fund, Bootneck.org, Choose Life, [and] The Lone
26 Survivor Foundation.”

1 1.16 In fact, as of June 14, 2018, Fallen Hero Bracelets had not donated any money to
2 any of these organizations.

3 1.17 The Website also represents that purchases and donations would support a
4 program to provide trained service dogs to military veterans suffering from post-traumatic stress
5 disorder. In fact, Defendants have not provided any service dogs to any veterans.

6 1.18 The Website bears a logo for something called the "Business Bureau of America"
7 that says "A+ Rating" and "Accredited." The name resembles the name of the Better Business
8 Bureau, a legitimate, national nonprofit organization that provides reviews and ratings of
9 businesses and nonprofits across the country to make consumers and donors aware of the
10 reputation of businesses and nonprofits with which they might be considering doing business.
11 The logo bears a torch, as does the logo of the real Better Business Bureau.

12 1.19 In fact, the real Better Business Bureau has not awarded an A+ rating or an
13 accreditation to Fallen Hero Bracelets. In fact, the real Better Business Bureau gives an F rating
14 to FallenHeroBracelets.com. In fact, the real Better Business Bureau posts on its website the
15 following warning to consumers about FallenHeroBracelets.com:

16 Pattern of Complaints

17 On July 28, 2017, BBB recognized a pattern of complaints from
18 consumers regarding delivery and customer service issues.
19 Complaints allege that consumers purchased product(s) from
20 Fallen Hero Bracelets and didn't receive their product(s) after 1-5
21 months. Consumers allege when contacting the company they are
22 told the delay was due to personal reasons. Also, consumers allege
23 the company is rude and uses profanity when contacted.

24 On August 3, 2017, Fallen Hero Bracelets responded to BBB.
25 The company communicated to BBB that it does not see a pattern
26 in its BBB complaints. Also, the company has denied consumer
allegations.

As of May 18, 2018, BBB has determined the pattern of
complaints still exist.

1.20 The Website also claims in large letters that customers will receive "7 to 14 day

1 processing on all orders” while it states in smaller print that there is a “35 day lead time on
2 engraved bracelets,” “3 to 6 week lead time on hats and shirts when out of stock. Business days
3 only!”, and “processing does not include production or shipping time frames.”

4 1.21 The Website makes other dubious claims: that there have been “over 1,223,218
5 sales worldwide”; that “We offer a 100% consumer satisfaction guarantee”; and “Up to 47 dozen
6 shirts an hour. Quick turn around.”

7 1.22 In fact, when consumers order merchandise from Defendants, Defendants often
8 do not deliver that merchandise to consumers until they complain, or do not deliver it for several
9 weeks or even months. Consumers who complain to government agencies or the real BBB are
10 subjected to a number of harsh reactions from Defendants. Defendants write profanity-laced
11 letters and emails to the consumers. Defendants tell the agencies that the consumers are lying.
12 Defendants file claims against complaining consumers in small claims court for amounts
13 sometimes exceeding \$1000. Defendants claim the consumers owe Defendants money, and
14 report them to collection agencies, sometimes multiple collection agencies. When consumers
15 attempt to exercise their chargeback rights under the Fair Credit Billing Act, 15 U.S.C. Sections
16 1601 et seq., Defendants retaliate by seeking to block chargebacks. Defendants also post the
17 names of complaining consumers on a website Defendants created, www.wallofshame.us, that
18 refers to the consumers by name and describes these consumers in coarse, crude, and profane
19 language.

20 1.23 In correspondence with consumers, Friedmann sometimes refers to himself as
21 “Chief Legal Officer” of Fallen Hero Bracelets. This has the tendency and capacity to mislead
22 consumers into believing Friedmann is a lawyer. In fact, Friedmann does not have a law degree
23 and has never been licensed to practice law.

24 1.24 Defendants also maintain another website, www.3charlie.com, that provides links
25 to www.fallenherobracelets.com, displays the fake BBB logo and A+ rating, asks for donations,
26 and claims that purchases help support The Roberts Ridge Foundation “and 40 other veteran and

1 law enforcement organizations in four countries.” The name “3charlie.com” is another fictitious
2 name for Fallen Hero Bracelets.

3 1.25 Finally, Defendants operate a for-profit corporation, The Midnight Coal
4 Company, LLC, (Midnight Coal), which is listed on a government website as a federally licensed
5 firearms dealer, and hosts its own website, www.kopfjagerarms.com, under the names Midnight
6 Coal Company, Kopfjager Arms, and Tier One Tactical. This website asserts that the firm’s
7 “primary client base” is “special operations units and law enforcement.” The website offers
8 “more than one million firearms” for sale and claims that “A portion of every sale is donated to
9 the Roberts Ridge Foundation and Fallen Hero Bracelets to help them in their effort to honor
10 and remember our fallen heroes.” The website also asks for donations to Fallen Hero Bracelets.

11 1.26 Defendants are not registered as charitable organizations with the Secretary of
12 State. Fallen Hero Bracelets and The Benjamin Foundation have filed optional registrations
13 claiming they are exempt from registration because no one gets paid. It is not true that no one
14 gets paid by these organizations, and they are required to register properly as charitable
15 organizations.

16 1.27 Friedmann has registered at least 39 websites and continues to create new
17 corporations. Friedmann was served with the State’s Complaint in July 2018 but most or all of
18 the violations have continued.

19 II. CONCLUSIONS OF LAW

20 2.1 The Court has jurisdiction over the persons and entities and the subject matter at
21 issue in this case.

22 2.2 Pierce County is the appropriate venue for this action.

23 2.3 Plaintiff State of Washington has a clear legal and equitable right to enforce the
24 Charitable Solicitations Act and the Consumer Protection Act, and to seek preliminary injunctive
25 relief.

26 2.4 Plaintiff is likely to prevail in its claims that:

(Fallen Hero Bracelets, The Benjamin Foundation, and
Midnight Coal Company LLC)

1 a. Defendants have made false, misleading, and deceptive statements in
2 charitable solicitations, and in the course of business, to induce consumers to donate to
3 or purchase merchandise from Fallen Hero Bracelets, in violation of both
4 RCW 19.09.100(15) of the Charitable Solicitations Act and RCW 19.86.020 of the
5 Consumer Protection Act. Such misrepresentations have included, but are not limited to:

- 6 i) That purchases and donations will benefit the 40 charitable
7 organizations listed above in paragraph 1.15;
8 ii) That Fallen Hero Bracelets is accredited by and has received an
9 A+ rating from the real Better Business Bureau;
10 iii) That Fallen Hero Bracelets will provide trained service dogs to
11 veterans suffering from post-traumatic stress disorder;
12 iv) That Fallen Hero Bracelets provides 7 to 14 day processing on all
13 orders; and
14 v) That Fallen Hero Bracelets guarantees "100% consumer
15 satisfaction."
16 vi) That Defendant Friedmann is "Chief Legal Officer" of Fallen
17 Hero Bracelets and has extensive experience in law, which tends
18 to make consumers think he is a lawyer;

19 b. Defendants have also violated RCW 19.86.020 of the Consumer
20 Protection Act by engaging in unfair and abusive practices toward their customers,
21 including retaliating against them for filing complaints or initiating chargebacks by suing
22 them, turning them over to collection agencies, threatening to sue them or turn them over
23 to collection agencies, and posting their names on www.wallofshame.us where
24 Defendants call them vulgar, disparaging names and seek to hold them up to public
25 ridicule.

26 c. Defendants used "an identical or deceptively similar name, symbol,
statement, or emblem so closely related or similar that its use would confuse or mislead
the public" by using the name "Business Bureau of America" and a symbol like that of
the real Better Business Bureau without permission from the real Better Business Bureau.

1 This violates RCW 19.09.230 of the Charitable Solicitations Act which, pursuant to
2 RCW 19.09.340, constitutes violations of per se violations of the Consumer Protection
3 Act, RCW 19.86.

4 d. Defendants maintain and have maintained websites that solicit
5 contributions and purchases from the general public. Defendants have failed to include
6 on the Website and other websites the disclosures required by RCW 19.09.100(1) and
7 (4). Specifically, Defendants have failed to disclose: (a) the published toll-free number
8 and website of the Secretary of State's Office so the donor may call to obtain additional
9 financial and other information; (b) the city of the principal place of business of the
10 charity; and (c) the entity's registration status. This conduct violates RCW 19.09.100(1)
11 and (4) which, pursuant to RCW 19.09.340, constitute violations of the Consumer
12 Protection Act, RCW 19.86.020.

13 e. Beginning in 2015 and continuing up to the present, Defendants solicited
14 and collected charitable contributions from the general public in the State of Washington
15 through appeals to charitable causes without being properly registered as a charitable
16 organization with the Secretary of State. This conduct violates RCW 19.09.065(1), .075,
17 .081, and .085 and, pursuant to RCW 19.09.340, constitutes violations of the Consumer
18 Protection Act, RCW 19.86.020. Defendants were required to register as charitable
19 organizations from 2015 to the present, but have not done so.

20 2.5 Defendants' actions create a well-grounded fear that Defendants will continue to
21 violate the law and invade the public's legal and equitable rights.

22 2.6 The Defendants actions are causing and will continue to cause actual and
23 substantial injury to members of the public.

24 2.7 The State is not required to post a security bond pursuant to CR 65(c).
25
26

III. ORDER

1 This matter having come before the Court, and the Court having heard oral argument and
2 reviewed the papers on file, and having made the foregoing findings of fact and conclusions of law,
3 and being fully advised in the premises, the Court hereby GRANTS the State's Motion for
4 Preliminary Injunction and ORDERS as follows:

5 Defendants ~~Michael Alexander Friedmann~~², Fallen Hero Bracelets, The Benjamin
6 Foundation, Midnight Coal Company LLC, ^(Defendants) their officers, agents, servants, employees and
7 attorneys, and all those who are in active concert or participation with them who shall receive actual
8 notice of this order by personal service or otherwise, are HEREBY ENJOINED AND
9 RESTRAINED for the duration of this case as follows:

- 10 1. Defendants shall file registrations with the Secretary of State as charitable
11 organizations for each calendar year since each organization was created, and
12 shall file with the Secretary of State a financial report for each year since each
13 entity was created, and until those documents are properly filed with and accepted
14 by the Secretary of State, Defendants shall immediately cease and desist from
15 conducting charitable solicitations in Washington by either taking down their
16 websites or ensuring that each and every one of them is devoid of any solicitation
17 for helping military veterans, military personnel, law enforcement personnel,
18 fathers engaged in custody battles, children, families, scholarships, providing
19 guide dogs to injured veterans, any nonprofit organization, or any other charitable
20 purpose;
- 21 2. Defendants shall not communicate, via website, email, letter, telephone, text
22 message, advertisement whether print or digital, or any other medium, any
23 statement or image that is false, misleading or deceptive in the course of soliciting
24 contributions or selling goods or services, whether or not the statement is part of
25 a charitable solicitation, including without limitation all statements and images
26

1 that are identified as deceptive in this Order, including in the Findings of Fact and
2 Conclusions of Law, and including those listed below, even if this means
3 disabling their websites until such statements have been removed from all of
4 them:

- 5 a. That purchases or donations will benefit any or all of the 40 charitable
6 organizations listed above in paragraph 1.15, or any other charitable
7 organization whose written permission has not been obtained by
8 Defendants;
- 9 b. That any Defendant is accredited by and has received an A+ rating from
10 the real Better Business Bureau or the fake Business Bureau of America;
- 11 c. That any Defendant will provide trained service dogs to veterans suffering
12 from post-traumatic stress disorder;
- 13 d. That any Defendant provides 7 to 14 day processing on all orders;
- 14 e. That any Defendant guarantees "100% consumer satisfaction;" and
15 f. That Defendant Friedmann is "Chief Legal Officer" of any Defendant or
16 any other organization, and has extensive experience in law, or any other
17 words that have a tendency and capacity to deceive consumers into
18 thinking that Mr. Friedmann is a lawyer.

19 3. Defendants shall immediately and unequivocally withdraw, disavow, dismiss
20 with prejudice, and cancel whatever action or actions Defendants may have taken
21 to seek damages or other payment from any customer or to prevent that customer
22 from exercising his or her chargeback rights under federal law, and shall refrain
23 from engaging in any practice identified as abusive or unfair or deceptive in this
24 Order, including in the Findings of Fact and Conclusions of Law;

25 4. Defendants shall immediately remove all the names of human beings from its
26 website, www.wallofshame.us, and shall refrain from posting any names on any
similar website in the future;

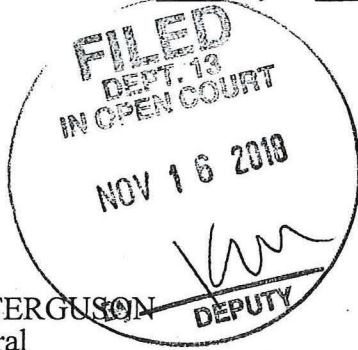
5. Defendants shall within ten days contact each and every customer they have sued,
sent to collections, or threatened to sue or send to collections, or whose chargeback

1 they have denied or attempted to deny, and inform that person in writing that
2 Defendants now unequivocally withdraw, disavow, dismiss with prejudice, and
3 cancel whatever action or actions Defendants may have taken to seek damages or
4 other payment from that person or to prevent that person from exercising his or her
5 chargeback rights under federal law, and shall within ten days after that provide a
6 copy of each such communication to the attorney for the State in this matter;

7 6. Defendants shall within 20 days provide a copy of each communication from them
8 to a customer, as described in the preceding paragraph, to the attorney for the State
9 of Washington in this matter; and

10 7. Defendants shall cease and desist from, and refrain from engaging in, any practice
11 that violates the Charitable Solicitations Act or the Consumer Protection Act as
12 described in the papers filed by the State in this matter.

13 DATED this 16th day of November, 2018.



THE HONORABLE KATHRYN NELSON

17 Presented by:

18 ROBERT W. FERGUSON
19 Attorney General

Copy Received, Notice of Presentation
Waived:

20

21 DAVID M. HORN, WSBA #13514
22 Senior Counsel
23 Attorneys for State of Washington

(did not appear)

24 MICHAEL A. FRIEDMANN *
25 Pro Se and for Defendants ~~Fallen Hero~~
26 ~~Bracelets, The Benjamin Foundation, and~~
~~Midnight Coal Company, LLC~~

23 *
24 Counsel for
25 Defendants ~~Fallen Hero Bracelets,~~
26 ~~the Benjamin Foundation and~~
~~Midnight Coal Company withdrew prior to the motion being~~
~~heard.~~