FILED

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PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT

STATE OF WASHINGTON, Plaintiff, v. VETERANS OF WESTERN WASHINGTON in its own name and doing business as, VWW, WESTERN WASHINGTON VETERANS, WWV, CHILDREN'S CANCER ALLIANCE, HOSPITALIZED CHILDREN'S SOCIETY, COALITION AGAINST DOMESTIC VIOLENCE, FAMILY SERVICES OF PUGET SOUND; ANY AFFILIATE OF VETERANS OF WESTERN WASHINGTON; ROBERT MELBOURNE SHAY, a/k/a R.M. FUKA, Owner and/or Secretary of Veterans of Western Washington, individually and as part of his marital community; MICHAEL JOSEPH SHAY, Owner and/or President of Veterans of Western Washington, individually and as part of his marital community; MARCELLO MANUEL GRANIEL, President of Veterans of Western Washington, individually and as part of his marital community, Defendants.	NO. 07 2 01894 6 COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF UNDER THE CONSUMER PROTECTION ACT AND THE CHARITABLE SOLICITATIONS ACT

The Plaintiff, State of Washington, by and through its attorneys Rob McKenna, Attorney General, and Shannon E. Smith, Senior Counsel, brings this action against the

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Defendants named herein. The State alleges the following on information and belief:

I. INTRODUCTION

1.1 The Plaintiff, State of Washington, brings this action pursuant to RCW 19.86, the Consumer Protection Act, and RCW 19.09, the Charitable Solicitations Act. Plaintiff seeks a permanent injunction, and other equitable relief, including civil penalties, restitution, and attorneys' costs and fees, based on violations of the Consumer Protection Act.

II. PLAINTIFF

2.1 The Plaintiff is the State of Washington.

2.2 The Attorney General is authorized to commence this action pursuant to RCW 19.86.080, RCW 19.86.140, and RCW 19.09.340.

III. DEFENDANTS

3.1 Defendant Veterans of Western Washington is an organization engaged in the business of soliciting and collecting charitable contributions for charitable or purportedly charitable purposes in the state of Washington. Veterans of Western Washington is also known as VWW, Western Washington Veterans, and VWW. Veterans of Western Washington has solicited charitable contributions under its own name and various other names, including, but not limited to Hospitalized Children's Society, Children's Cancer Alliance, Coalition Against Domestic Violence, and Family Services of Puget Sound. Veterans of Western Washington has conducted business from 18601 Highway 99, Suite 203, Lynnwood, Washington, 98037, and currently conducts business at 19707 64th Avenue, W., Suite 109, Lynnwood, Washington, 98036. Veterans of Western Washington also has used numerous Post Office Boxes in the state of Washington. From approximately July 26, 2002 until

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December 18, 2005, Veterans of Western Washington operated as a Washington non-profit corporation. From December 19, 2005 until present Veterans of Western Washington has been operating as a sole proprietorship, owned by Defendants Robert Melborne Shay and Michael Joseph Shay. Veterans of Western Washington was registered as a charitable organization with the Washington Secretary of State pursuant to RCW 19.09 from July 26, 2002 until October 26, 2004, at which time the Secretary of State canceled its registration.

3. 2 Defendant Robert Melbourne Shay, a/k/a R.M. Fuka, is an owner of Veterans of Western Washington since at least December 19, 2005, and as such, controls its policies, activities, and practices, including those alleged in this Complaint occurring on or after December 19, 2005. From at least July 26, 2002 through December 18, 2005, Defendant was corporate secretary of, and was a principal, manager, accountant, or otherwise involved in the day-to-day activities conducted by, Veterans of Western Washington and as such controlled its policies, activities, and practices, including those alleged in this Complaint occurring between July 26, 2002 and December 18, 2005. Defendant Robert Melbourne Shay resides at 22106 7th Street, S.W., Unit A, Edmonds, Washington, 98026. Defendant Robert Melbourne Shay is married to Nellie M. Shay and together they constitute a marital community. All actions taken by Defendant Robert Melbourne Shay as alleged in this Complaint are for the benefit of his marital community. Defendant resides in the state of Washington and transacts or has transacted business in the state of Washington.

3.3 Defendant Michael Joseph Shay is an owner of Veterans of Western Washington since at least December 19, 2005, and as such, controls its policies, activities, and practices, including those alleged in this Complaint occurring on or after December 19, 2005.

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From at least July 26, 2002 through December 18, 2005, Defendant was an officer or manager of Veterans of Western Washington and as such formulated, controlled, directed, approved, and participated in its policies, activities, and practices, including those alleged in this Complaint occurring between July 26, 2002 and December 18, 2005. Defendant Michael Joseph Shay has represented himself as "Founder/Director of Veterans of Western Washington." Defendant Michael Joseph Shay resides at 14015 61st Place W., No. A, Edmonds, Washington, 98026. Defendant Michael Joseph Shay is married to Melanie J. Shay and together they constitute a marital community. All actions taken by Defendant Michael Joseph Shay as alleged in this Complaint are for the benefit of his marital community. Defendant resides in the state of Washington and transacts or has transacted business in the state of Washington.

3.4 Defendant Marcello Manuel Graniel was President of Veterans of Western Washington from at least July 26, 2002 until December 18, 2005, and as such formulated, controlled, directed, approved, and participated in their policies, activities, and practices, including those alleged in this Complaint occurring between July 26, 2002 and December 18, 2005. From December 19, 2005 until at least March 31, 2006, Defendant Marcello Manuel Graniel was involved in the day-to-day affairs of Veterans of Western Washington, including, but not limited to soliciting Washington residents for charitable donations. Defendant Marcello Manuel Graniel transacted business in the state of Washington from at least October 12, 1998 until at least March 24, 2006. Defendant Marcello Manuel Graniel resides at 214 As Cepeda Road, Pulantat, Yona, Guam, 96921. His mailing address is P.O. Box 5814, Hagatna, Guam, 96932. Defendant Marcello Manuel Graniel is married to Jane Doe Graniel

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and together they constitute a marital community. All actions taken by Defendant Marcello Manuel Graniel as alleged in this Complaint are for the benefit of his marital community.

IV. JURISDICTION AND VENUE

4.1 The State files this complaint and institutes these proceedings under RCW 19.86, the Consumer Protection Act, and RCW 19.09, the Charitable Solicitations Act.

4.2 The Defendants or their agents have engaged in the conduct set forth in this complaint in Snohomish County and elsewhere in the state of Washington.

4.3 Venue is proper in Snohomish County pursuant to RCW 4.14.020.

V. NATURE OF TRADE OR COMMERCE

5.1 Defendants are now, and have been at all times relevant to this lawsuit, engaged in trade or commerce within the meaning of RCW 19.86.020 by directly or indirectly soliciting and collecting charitable contributions from the general public in the state of Washington.

5.2 Defendants have been at all times relevant to this action in competition with others engaged in similar business in the state of Washington.

VI. FACTS

6.1 Individual Defendants Robert Melbourne Shay, Michael Joseph Shay, and Marcello Manuel Graniel have a history of soliciting and collecting charitable contributions from the general public in the state of Washington. Prior to forming Veterans of Western Washington on July 26, 2002, the individual Defendants solicited charitable contributions under the name of Washington State Veterans League from approximately October 9, 1998 through approximately August 23, 2002. The Washington State Veterans League also solicited charitable contributions under the name "Veterans of Western Washington." The Washington

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Secretary of State canceled Washington State Veterans League's charitable organization registration on December 17, 2002.

6.2 Defendants have solicited and collected charitable contributions in the state of Washington under several different names. The Defendants registered the names "VWW," "Western Washington Veterans," and "WWV" with the Secretary of State as other names under which they would solicit charitable contributions. The Defendants solicited and collected charitable contributions under various names that Defendants did not register with the Secretary of State, including but not limited to "Children's Cancer Alliance," "Hospitalized Children's Society," "Coalition Against Domestic Violence," and "Family Services of Puget Sound."

6.3 The Defendants solicited and collected charitable contributions using the names and identification of other, registered charities, including, but not limited to Family Services of Puget Sound and Coalition Against Domestic Violence.

6.4 Veterans of Western Washington was registered as a charitable organization with the Secretary of State and thereby authorized to solicit charitable contributions in the state of Washington from July 26, 2002 until October 26, 2004, at which time the Secretary of State canceled Veterans of Western Washington's registration for failure to register all names under which it solicited charitable contributions. After the Secretary of State canceled Veterans of Western Washington's registration, the Defendants continued to solicit and collect charitable contributions through at least April of 2006.

6.5 After the Secretary of State canceled Veterans of Western Washington's registration as a charitable organization on October 26, 2004, Defendants misrepresented to

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Washington consumers that Veterans of Western Washington, Children's Cancer Alliance, and Hospitalized Children's Society were registered as charitable organizations with the Secretary of State.

6.6 On May 31, 2005, pursuant to RCW 19.09.410, the Attorney General's Office served a subpoena duces tecum requesting answers to interrogatories and production of documents on Veterans of Western Washington, Robert Melbourne Shay, Michael Joseph Shay, and Marcello Manuel Graniel. In that subpoena, the Attorney General's Office requested copies of certain books and records of Veterans of Western Washington. In response to the subpoena, Defendants Robert Melbourne Shay and Michael Joseph Shay stated under penalty of perjury that they had no such records.

VII. FIRST CAUSE OF ACTION
(Conducting Charitable Solicitations Without Registering With the Secretary of State)

7.1 Plaintiff realleges Paragraphs 1.1 through 6.6 and incorporates them herein as if set forth in full.

7.2 On numerous occasions from October 26, 2004 through at least April of 2006, the Defendants solicited and collected charitable contributions from the general public in the state of Washington without being registered as a charitable organization with the Secretary of State.

7.3 The conduct described in paragraphs 7.1 through 7.2 violates the Charitable Solicitations Act, specifically RCW 19.09.065; 19.09.100(12), (15), (16), (18). Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are *per se* violations of the Consumer Protection Act, RCW 19.86.

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VIII. SECOND CAUSE OF ACTION
(Misrepresenting That Charities Are Registered With the Secretary of State)

8.1 Plaintiff realleges Paragraphs 1.1 through 7.3 and incorporates them herein as if set forth in full.

8.2 In written solicitation material they distributed to Washington consumers, the Defendants misrepresented, directly or by implication, that Veterans of Western Washington, Children's Cancer Alliance, and Hospitalized Children's Society were registered with the Secretary of State under Registration No. 9940.

8.3 Defendants did not register Children's Cancer Alliance or Hospitalized Children's Society as charitable organizations with the Secretary of State, nor did they register Children's Cancer Alliance or Hospitalized Children's Society as subsidiary organizations pursuant to RCW 19.09.095. Defendants misrepresented, directly or by implication, that Children's Cancer Alliance and Hospitalized Children's Society were registered with the Secretary of State.

8.4 Defendant Veterans of Western Washington was registered with the Secretary of State under Registration No. 9940 until October 26, 2004, when the Secretary of State canceled that registration. Defendants continued to misrepresent, directly or by implication, that Veterans of Western Washington was registered with Secretary of State after its registration was canceled on October 26, 2004.

8.5 The conduct described in paragraphs 8.1 through 8.4 violates the Charitable Solicitations Act, specifically RCW 19.09.100(12), (16), (18). Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are *per se* violations of the Consumer Protection Act, RCW 19.86.

ATTORNEY GENERAL OF WASHINGTON
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8.6 Notwithstanding RCW 19.09.340, the conduct described in paragraphs 8.2 through 8.4 has the capacity to mislead a substantial number of consumers and constitutes unfair or deceptive acts or practices in trade or commerce, and unfair methods of competition in violation of RCW 19.86.

IX. THIRD CAUSE OF ACTION
(Soliciting Charitable Contributions Under the Names of Other Entities)

9.1 Plaintiff realleges Paragraphs 1.1 through 8.6 and incorporates them herein as if set forth in full.

9.2 In written solicitation material they distributed to Washington consumers, Defendants solicited and collected charitable contributions under the names, Secretary of State Registration numbers, Employer Identification Numbers (EIN), and Unified Business Identifier (UBI) numbers of "Handicapped Children's Services" and "Family Services of Puget Sound." Handicapped Children's Services and Family Services of Puget Sound were not affiliated with Defendants. Defendants did not have the consent of Handicapped Children's Services or Family Services of Puget Sound to solicit or collect charitable contributions on their behalf or under their names.

9.3 The conduct described in paragraph 9.2 violates the Charitable Solicitations Act, specifically RCW 19.09.100(12), (16), (18), and 19.09.230. Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are *per se* violations of the Consumer Protection Act, RCW 19.86.

9.4 Notwithstanding RCW 19.09.340, the conduct described in paragraph 9.2 has the capacity to mislead a substantial number of consumers and constitutes unfair or deceptive acts or practices in trade or commerce, and unfair methods of competition in violation of

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Consumer Protection Division
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RCW 19.86.

X. FOURTH CAUSE OF ACTION
(Failure to Make Required Disclosures on Solicitation Material)

10.1 Plaintiff realleges Paragraphs 1.1 through 9.4 and incorporates them herein as if set forth in full.

10.2 In written solicitation material they distributed to Washington consumers, the Defendants failed to clearly and conspicuously disclose in the body of the solicitation material that the Defendants' notice of solicitation is on file with the Secretary of State and that the potential donor could obtain additional financial disclosure information from the Secretary of State at the Secretary of State's published number.

10.3 The conduct described in paragraph 10.2 violates the Charitable Solicitations Act, specifically RCW 19.09.100(1), (16), (18). Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are *per se* violations of the Consumer Protection Act, RCW 19.86.

10.4 Notwithstanding RCW 19.09.340, the conduct described in paragraph 10.2 has the capacity to mislead a substantial number of consumers and constitutes unfair or deceptive acts or practices in trade or commerce, and unfair methods of competition in violation of RCW 19.86.

XI. FIFTH CAUSE OF ACTION
(Failure to Maintain Books and Records)

11.1 Plaintiff realleges Paragraphs 1.1 through10.4 and incorporates them herein as if set forth in full.

11.2 Defendants are required to maintain accurate, current, and readily available books and records at their usual business location for three years after the effective period to

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which the documents relate. Defendants have failed to keep such records.

11.3 The conduct 11.2 violates the Charitable Solicitations Act, specifically RCW 19.09.200(1). Pursuant to RCW 19.09.340, violations of the Charitable Solicitations Act are *per se* violations of the Consumer Protection Act, RCW 19.86.

XII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, State of Washington, prays for relief as follows:

12.1 That the Court adjudge and decree that the defendant has engaged in the conduct complained of herein.

12.2 That the Court adjudge and decree that the conduct complained of constitutes violations of the Charitable Solicitations Act, RCW 19.09 and violations of the Consumer Protection Act, RCW 19.86.

12.3 That the Court issue a permanent injunction enjoining and restraining the Defendants, and their owners, representatives, successors, assigns, officers, agents, servants, employees, and all other persons acting or claiming to act for, on behalf of, or in active concert or participation with the Defendants, from engaging or continuing to engage in charitable solicitations in the state of Washington.

12.4 That the Court issue a permanent injunction enjoining and restraining Defendants Robert Melbourne Shay, Michael Joseph Shay, and Marcello Manuel Graniel from registering or attempting to register any entity as a charitable organization in the state of Washington; and from managing, controlling, providing accounting services for, obtaining or seeking employment with, or volunteering with any registered or unregistered charitable organization in the state of Washington.

ATTORNEY GENERAL OF WASHINGTON
Consumer Protection Division
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12.5 That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to two thousand dollars ($2,000) per violation against the Defendant for each and every violation of RCW 19.09 and 19.86 caused by the conduct complained of herein.

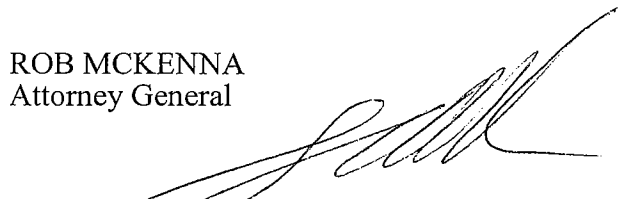
12.6 That the Court make such orders pursuant to RCW 19.86.080 as it deems appropriate to provide for restitution to consumers of money or property acquired by the defendant as a result of the conduct complained of herein.

12.7 That the Court make such orders pursuant to RCW 19.86.080 to provide that the plaintiff, State of Washington, have and recover from the defendant the costs of this action, including reasonable attorneys' fees.

12.8 For such other relief as the Court may deem just and proper.

DATED: Sept 19, 2006.

ROB MCKENNA
Attorney General



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