

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION

IN RE: :
: MISCELLANEOUS CASE
:
INFOCISION MANAGEMENT : FILE NO. _____
CORPORATION :

MATTER: Charitable solicitations conducted by InfoCision Management Corporation

ASSURANCE OF DISCONTINUANCE

Pursuant to the authority granted in the Ohio Charitable Organizations Act, R.C. § 1716.01 et seq., specifically, R.C. § 1716.16(C), Ohio Attorney General Mike DeWine (hereinafter “Attorney General”) accepts this Assurance of Discontinuance (hereinafter “Assurance”) from InfoCision Management Corporation (hereinafter “InfoCision”). The Attorney General and InfoCision, as parties to this agreement, acknowledge and agree that it is in their best interest and consistent with the best interests of the people of the State of Ohio to resolve the issues between them in the manner set forth herein. As part of this Assurance, the Attorney General and InfoCision stipulate as follows:

I. JURISDICTION AND VENUE

A. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 1716 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court.

II. FACTS

B. InfoCision has its principal place of business at 325 Springside Drive, Akron, Ohio, 44333.

- C. Since 1993, InfoCision has been conducting solicitation campaigns in Ohio. InfoCision conducts or has conducted phone and mail solicitations on behalf of various charitable organizations.
- D. InfoCision is a professional solicitor as defined in R.C. § 1716.01(J). Prior to soliciting in Ohio, a professional solicitor is required to register with the Attorney General pursuant to R.C. § 1716.07(A) and (B). InfoCision is currently, and at all times relevant hereto, has been registered as a professional solicitor in Ohio.

III. CONCLUSIONS OF THE ATTORNEY GENERAL

- E. The charitable solicitation activities of InfoCision in Ohio are the subject of this Assurance. Such activities are described in and regulated by the Ohio Charitable Organizations Act, R.C. § 1716.01 *et seq.*
- F. The Attorney General is the party charged with enforcing the Ohio Charitable Organizations Act. The Attorney General's Charitable Law Section investigated InfoCision's current solicitation activities.
- G. The Attorney General's conclusions, as contained in Paragraph H below, are the basis upon which this Assurance has been negotiated. However, this Assurance is the culmination of disputed claims and does not constitute an admission of any wrongdoing by InfoCision. InfoCision expressly denies the conclusions contained herein or that its conduct constitutes a violation of any federal, state, or local law. This matter was resolved between the parties without any actual proceedings being made. The use of the word 'conclusion' solely pertains to conclusions formed by the Attorney General and does not reflect any court determination in regard to the actions of InfoCision.

H. As a result of its investigation, the Attorney General has reason to believe that InfoCision is in violation of the Ohio Charitable Organizations Act as listed below in paragraphs one through twenty-nine. InfoCision states that the Attorney General's conclusions are the result of acts outside of InfoCision's control and/or the result of bona fide error.

1. R.C. § 1716.07(D)(1)(a): Failure to file a Solicitation Notice with the Attorney General prior to commencing eight solicitation campaigns on behalf of American Heart Association in 2008, American Institute for Cancer Research in 2009, American Life League in 2010, Ave Maria University in 2010, Faith & Freedom Coalition in 2009, and Foundation for Moral Law in 2003, 2004, and 2005;

2. R.C. § 1716.07(E): Failure to timely file with the Attorney General complete financial reports for fifty-one solicitation campaigns conducted by InfoCision on behalf of 9/11 Rescue Workers Foundation, Alzheimer's Disease & Related Disorders, American Cancer Society, American Diabetes Association, American Heart Association, American Lebanese Syrian Associated Charities dba St. Jude Children's Research Hospital, American Lung Association, Autism Spectrum Disorder Foundation, Inc., Catholic Relief Services – U.S. Catholic Conference, Christian Advocates Serving Evangelism, Citizens United, Coalition for a Conservative Majority, Concerned Women for America, Concerned Women for America Legislative Action Committee, Cooperative for Assistance and Relief Everywhere, Inc., Coral Ridge Ministries, Crohns & Colitis Foundation of America, Easter Seals, Faith and Freedom Coalition, Inc., Foundation for Moral Law, Helping America's Children Foundation, LeSEA Broadcasting, Leukemia & Lymphoma Society, March of Dimes Foundation, National Arbor Day Foundation, National Multiple Sclerosis Society, National Right to Life Committee, Ocean Conservancy, Open Doors with Brother Andrew, Point of View Ministries, Prison Fellowship

Ministries, Smile Train, Inc., United States Fund for UNICEF, and U.S. English, Inc. during the years 2005, 2006, 2008, 2009, 2010, and 2011;

3. R.C. § 1716.07(F): A charitable organization did not have sole control of all withdrawals from the bank account where contributions from the solicitation campaigns were deposited during campaigns on behalf of Foundation for Moral Law in 2004 and 2005;
4. R.C. § 1716.08(B)(1)(a): Failure to notify one potential donor during two separate phone solicitations that InfoCision was acting as a professional solicitor during a campaign on behalf of American Cancer Society in August and November of 2009;
5. R.C. § 1716.08(B)(1)(a): Failure to notify potential donors at the point of solicitation, during a phone call and on pledge forms, that InfoCision was acting as a professional solicitor during a campaign on behalf of American Diabetes Association in May of 2010;
6. R.C. § 1716.08(B)(1)(a): Failure to notify one potential donor at the point of solicitation that InfoCision was acting as a professional solicitor during a campaign on behalf of American Diabetes Association in August of 2011;
7. R.C. § 1716.08(B)(1)(a): Failure to notify one potential donor at the point of solicitation that InfoCision was acting as a professional solicitor during a campaign on behalf of American Heart Association in October of 2008;

8. R.C. § 1716.08(B)(1)(a): Failure to notify twenty potential donors at the point of solicitation that InfoCision was acting as a professional solicitor during a campaign on behalf of American Institute for Cancer Research in 2008 and 2009;
9. R.C. § 1716.08(B)(1)(a): Failure to notify four potential donors at the point of solicitation that InfoCision was acting as a professional solicitor during a campaign on behalf of Foundation for Moral Law in 2004 and 2005;
10. R.C. § 1716.08(B)(1)(a): Failure to notify potential donors at the point of solicitation the name of the professional solicitor as it is on file with the Attorney General on pledge forms during a campaign on behalf of American Diabetes Association in May of 2010;
11. R.C. § 1716.08(B)(1)(a): Failure to notify twenty-one potential donors at the point of solicitation the name of the professional solicitor as it is on file with the Attorney General during a campaign on behalf of American Diabetes Association in August of 2011;
12. R.C. § 1716.08(B)(1)(a): Failure to notify four potential donors at the point of solicitation the name of the professional solicitor as it is on file with the Attorney General during a campaign on behalf of Foundation for Moral Law in 2004 and 2005;
13. R.C. § 1716.08(B)(1)(b): Failure to disclose to one potential donor during two separate phone solicitations the address of the charitable organization, on behalf of which the contributions collected will be used, during a campaign on behalf of American Cancer Society in August and November of 2009;

14. R.C. § 1716.08(B)(1)(b): Failure to disclose to potential donors at the point of solicitation, during a phone call and on pledge forms, the address of the charitable organization, on behalf of which the contributions collected will be used, during a campaign on behalf of American Diabetes Association in May of 2010;
15. R.C. § 1716.08(B)(1)(b): Failure to disclose to one potential donor at the point of solicitation the address of the charitable organization, on behalf of which the contributions collected will be used, during a campaign on behalf of American Diabetes Association in August of 2011;
16. R.C. § 1716.08(B)(1)(b): Failure to disclose to one potential donor at the point of solicitation the address of the charitable organization, on behalf of which the contributions collected will be used, during a campaign on behalf of American Heart Association in October of 2008;
17. R.C. § 1716.08(B)(1)(b): Failure to disclose to twenty potential donors at the point of solicitation the address of the charitable organization, on behalf of which the contributions collected will be used, during a campaign on behalf of American Institute for Cancer Research in 2008 and 2009;
18. R.C. § 1716.08(B)(1)(b): Failure to disclose to four potential donors at the point of solicitation the address of the charitable organization, on behalf of which the contributions collected will be used, during a campaign on behalf of Foundation for Moral Law in 2004 and 2005;
19. R.C. § 1716.08(B)(2): Failure to inform two potential donors during three separate phone solicitations, upon request, of the percentage of the gross revenue, as stated in

the contract between InfoCision and a charitable organization, that a charitable organization will receive as a benefit from a solicitation campaign during campaigns on behalf of American Heart Association in October of 2008 and American Cancer Society in August and November of 2009;

20. R.C. § 1716.14(A)(2): Misleading one potential donor as to a material fact regarding a charitable solicitation regarding the volunteer status of an InfoCision employee in relation to a campaign on behalf of American Diabetes Association in May of 2010;
21. R.C. § 1716.14(A)(2): Misleading one potential donor as to a material fact regarding a charitable solicitation when an InfoCision caller represented that fundraising costs were less than what was set forth in a contract between InfoCision and a charitable organization during a campaign on behalf American Diabetes Association in August of 2011;
22. R.C. § 1716.14(A)(2): Misleading one potential donor as to a material fact regarding a charitable solicitation when an InfoCision caller stated she worked for the American Diabetes Association during a campaign in August of 2011;
23. R.C. § 1716.14(A)(2): Misleading one potential donor as to a material fact regarding a charitable solicitation when a paid employee of InfoCision stated to a potential donor multiple times that she worked as a volunteer for InfoCision and did not receive any compensation in relation to a campaign on behalf of American Heart Association in October of 2008. This employee was terminated by InfoCision based on her conduct;

24. R.C. § 1716.14(A)(2): Misleading potential donors as to a material fact regarding a charitable solicitation by including in its scripts the statement “all funds raised go directly to our client” during a campaign on behalf of Foundation for Moral Law in 2004 and 2005 when the charity could not access the funds raised;
25. R.C. § 1716.14(A)(2): Misleading potential donors as to a material fact regarding a charitable solicitation by directing donors during a campaign on behalf of Foundation for Moral Law in 2004 and 2005 to mail donations to a P.O. Box located in the city of the charity’s headquarters before immediately transferring the funds to a P.O. Box in the state where InfoCision is located, implying that donations were sent to the charity when the charity could not access the funds raised;
26. R.C. § 1716.14(A)(8): Representing to a potential donor that a charitable organization will receive a percentage of the gross revenue from a solicitation campaign that is greater than that set forth in a contract between InfoCision and a charitable organization during a campaign on behalf of the American Diabetes Association in August of 2011;
27. R.C. § 1716.14(A)(8): Representing to two potential donors during three separate phone solicitations that a charitable organization will receive a percentage of the gross revenue from a solicitation campaign that is greater than that set forth in a contract between InfoCision and a charitable organization during campaigns on behalf of American Heart Association in October of 2008 and American Cancer Society in August and November of 2009;
28. R.C. § 1716.14(A)(8): Representing that a charitable organization will receive a percentage of the gross revenue from a solicitation campaign that is greater than that

set forth in the contract between InfoCision and a charitable organization during campaigns on behalf of American Institute for Cancer Research in 2007, 2008, and 2009, and Foundation for Moral Law in 2004; and

29. R.C. § 1716.14(A)(11): Failure to provide complete and timely payments of the proceeds from solicitation campaigns to Easter Seals in 2008 and United States Fund for UNICEF in 2009.

IV. ASSURANCE

- I. InfoCision asserts that it has continually complied with the requirements of Chapter 1716 of the Ohio Revised Code. Nevertheless, InfoCision hereby agrees to abide by the statutory requisites set forth in Chapter 1716 of the Ohio Revised Code in the course of soliciting charitable contributions from Ohio residents. In particular, with respect to each solicitation campaign it conducts by oral or written means, InfoCision agrees to fully comply with the following:
 1. InfoCision agrees to file completed Solicitation Notices prior to the commencement of solicitation campaigns with the Attorney General's office;
 2. For a period of two (2) years after the effective date of this Assurance, InfoCision agrees to submit a copy of a sample script and sample pledge form to the Attorney General prior to the commencement of each solicitation campaign it conducts;
 3. InfoCision agrees to timely file its solicitation campaign financial reports according to the time limits prescribed in R.C. § 1716.07(E);

4. InfoCision will not take any action or contract with a charitable organization or third-party under terms which would prevent a charitable organization from having sole control over all withdrawals from bank accounts where contributions from solicitation campaigns are deposited;
5. InfoCision agrees to clearly and conspicuously disclose at the point of solicitation a statement that the solicitation is being conducted by a “professional solicitor” and agrees to include this disclosure in scripts for charitable campaigns;
6. InfoCision agrees to clearly and conspicuously disclose at the point of solicitation the name of the professional solicitor as it is on file with the Attorney General and agrees to include this disclosure in scripts for charitable campaigns;
7. InfoCision agrees to clearly and conspicuously disclose at the point of solicitation the address of the charitable organization for which it solicits and agrees to include this disclosure in scripts for charitable campaigns;
8. If requested by a potential donor, InfoCision agrees to disclose the percentage of gross revenue, as stated in the contract between InfoCision and a charitable organization, that the charitable organization will receive as a benefit from a charitable solicitation campaign and agrees to include this disclosure in scripts for charitable campaigns;
9. InfoCision agrees not to mislead potential donors as to material facts regarding charitable solicitations, including, but not limited to, misrepresenting to potential donors that callers work as volunteers when they are actually paid employees, that callers are employees or volunteers of a charitable organization, and that a charitable

organization will receive all donated funds or will have possession of these funds when those statements are inaccurate;

10. InfoCision agrees not to represent directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue from a solicitation campaign that is greater than that set forth in the contract between InfoCision and the charitable organization;
11. InfoCision agrees that it will provide complete and timely payments to charitable organizations of the proceeds from solicitation campaigns;
12. InfoCision agrees to continue using its current audio recording system to tape telephone solicitation calls made by InfoCision employees to determine whether InfoCision employees are complying with R.C. Chapter 1716. If they are not complying, InfoCision agrees to take corrective action immediately. InfoCision agrees to maintain the recordings in the ordinary course of this business process. InfoCision agrees that in the event the Attorney General receives a complaint about a specific solicitation call and InfoCision has a recording of the call to the complainant, InfoCision will provide the recording to the Attorney General upon request. InfoCision agrees to affirmatively investigate the complaint and to take appropriate remedial action to respond to the complaint. InfoCision further agrees to cooperate in any means possible and as required by law with the Attorney General regarding a complaint about InfoCision received by the Attorney General. The Attorney General agrees to provide a copy of all complaint forms received by the Attorney General concerning solicitation activities of InfoCision to InfoCision upon request. This paragraph shall not limit the Attorney General's authority to request recordings from InfoCision under Revised Code Section 1716.15; and

13. InfoCision agrees to fully comply with all registration requirements as stated in Chapter 1716 of the Revised Code.
- J. InfoCision shall pay the sum of seventy-five thousand dollars (\$75,000.00) to the Office of the Ohio Attorney General. InfoCision shall pay thirty-seven thousand and five-hundred dollars (\$37,500.00) immediately upon execution of this Assurance by delivering to the Office of the Attorney General, Charitable Law Section, at 150 East Gay Street, 23rd Floor, Columbus, Ohio, 43215, Attn: Diane Oates, a certified check or money order in this amount, made payable to Treasurer, State of Ohio. After this initial payment, InfoCision will pay seven-thousand and five-hundred dollars (\$7,500.00) to the Attorney General's Office on the first of each month for five (5) consecutive months. The total sum shall be distributed by the Attorney General for charitable purposes.
- K. InfoCision shall submit recordings of solicitation calls to the Attorney General on a monthly basis starting on the date that this Assurance is signed and continuing for one year. The monthly submissions shall consist of no fewer than fifteen (15) recorded calls by InfoCision to Ohio residents on behalf of charitable organizations. The calls shall have been made during the month prior to their submittal to the Attorney General.
- L. InfoCision agrees that this Assurance of Discontinuance is made in lieu of prosecution of a civil action based upon the conclusions set forth herein.
- M. InfoCision agrees that any evidence of a violation of Paragraphs I(1) through I(13) of this Assurance shall be prima facie evidence of a violation of Chapter 1716 of the Ohio Revised Code and any rule adopted thereunder in any subsequent action or proceeding brought by the Attorney General, as provided in R.C. § 1716.16(C).

- N. In the event that InfoCision fails to comply with any filing requirement or deadline contained in R.C. Chapter 1716, InfoCision is liable for and shall pay stipulated penalties in accordance with the following schedule for each failure to comply:
1. For each day of each failure to comply with a filing requirement or deadline as required in R.C. § 1716.07(B), (C), (D) and (E), from one (1) to thirty (30) days past due, InfoCision is liable for and shall pay twenty-five dollars (\$25.00) per day for each requirement or deadline not met;
 2. For each day of each failure to comply with a filing requirement or deadline as required in R.C. § 1716.07(B), (C), (D) and (E), from thirty-one (31) to sixty (60) days past due, InfoCision is liable for and shall pay fifty dollars (\$50.00) per day for each requirement or deadline not met; and
 3. For each day of each failure to comply with a filing requirement or deadline as required in R.C. § 1716.07(B), (C), (D) and (E), over sixty (60) days past due, InfoCision is liable for and shall pay one-hundred dollars (\$100.00) per day for each requirement or deadline not met.
- O. In the event that InfoCision fails to comply with any mandatory disclosure requirements as required in R.C. § 1716.08(B) while soliciting on behalf of a charitable organization, InfoCision is liable for and shall pay one-hundred dollars (\$100.00) for each instance of a mandatory disclosure not made.
- P. Any payment required to be made under paragraphs N and O of this Assurance shall be made by delivering to the Office of the Attorney General, Charitable Law Section, at 150 East Gay Street, 23rd Floor, Columbus, Ohio 43215, Attn: Chief of the Charitable Law Section, a certified check or money order, made payable to Treasurer, State of Ohio for the appropriate amount within thirty (30) days from the date of the failure to comply. The payment of the stipulated penalty shall be accompanied by a letter briefly describing

the type of violation, deadline or requirement not met and the date upon which the violation occurred. This payment shall be distributed by the Attorney General for charitable purposes.

- Q. The payment of stipulated penalties by InfoCision and the acceptance of such stipulated penalties by the Attorney General shall not be construed to limit the Attorney General's authority to seek additional relief pursuant to R.C. Chapter 1716, including civil penalties under R.C. § 1716.16, or to otherwise seek judicial enforcement of this Assurance, for the same violation for which a stipulated penalty was paid or for other violations.
- R. InfoCision agrees that any matter closed by the acceptance of this Assurance of Discontinuance may be reopened at any time by the Attorney General for further proceedings in the public interest based upon any violation of the terms of this Assurance or upon the discovery of evidence not known or anticipated by the parties hereto. Absent a violation of this Agreement or the discovery of evidence not known or anticipated by the parties hereto at the time of signing, the matters contained herein cannot be used as a basis of any future action by the Attorney General.

V. RETENTION OF JURISDICTION

- S. This Court shall retain jurisdiction of this action for the purpose of enforcing this Assurance.

VI. AUTHORITY TO ENTER INTO THE ASSURANCE

- T. Each signatory for InfoCision represents and warrants that he/she has been duly authorized to sign this document and so bind InfoCision to all terms and conditions thereof.

VII. ACKNOWLEDGEMENTS

- U. InfoCision acknowledges that it has been given ample opportunity to be advised by legal counsel as to the meaning and effect of each provision of this Assurance of Discontinuance and that it has elected of its own free will and accord to enter into this Assurance.
- V. The Attorney General and InfoCision hereby agree that this Assurance of Discontinuance is binding upon the successors and assignees of all parties hereto and that this Assurance of Discontinuance constitutes the entire agreement and understanding of the parties.

CERTIFICATION

Each individual signing below represents that he or she is authorized and directed to sign this Assurance of Discontinuance on behalf of the party represented and further represents that he or she has the requisite authority to bind the party on behalf of whom they are signing.

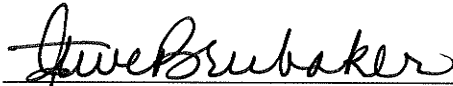
WHEREFORE, the undersigned have executed this Assurance of Discontinuance this 17th day of April, 2012.

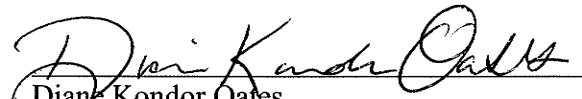
INFOCISION MANAGEMENT
CORPORATION

MIKE DEWINE
ATTORNEY GENERAL OF OHIO

BY:

BY:


Name: Steve Brubaker
Title: Chief of Staff


Diane Kondor Oates
Associate Assistant Attorney General
Charitable Law Section
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