

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF MONROE

ANDREW M. CUOMO,  
Attorney General of the State of New York,  
on behalf of the People of the State of New York,

Index No. 751-2010

**COMPLAINT**

Plaintiff,

- against -

MARKETING SQUAD, INC., SCOTT DEAN,  
JACK DEAN, JOANNA LADELFA, RANDY  
BILESCHI, and JOHN DOE a/k/a "TODD,"

Defendants.

Andrew M. Cuomo, Attorney General of the State of New York, on behalf of the People of the State of New York, alleges the following against the above-captioned defendants.

**NATURE OF THE CASE**

1. Marketing Squad, Inc. ("Marketing Squad"), a for-profit professional fundraising firm, exploits the good intentions of New York residents by using fraudulent and deceptive means to raise millions of dollars in the name of charity. Under the management and control of its president, Scott Dean, Marketing Squad has brazenly flouted New York State laws enacted to protect donors from unscrupulous charitable fundraising practices and has abused its privilege to solicit charitable contributions in this State. Marketing Squad systematically misleads donors about how their donations will be used. It employs all manner of manipulative techniques, half-truths, and outright lies to ensure that Marketing Squad maximizes the funds it collects and hence its own fees, which is up to 85 percent of the funds it collects from the public.

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2. Marketing Squad's solicitors routinely fail to disclose statutorily mandated information that would make donors aware that a paid professional fundraiser is soliciting them and not a charity.

3. For instance, Marketing Squad's solicitors fail to comply with Executive Law requirements that they "clearly and unambiguously" state that the solicitation is being conducted by a professional fundraiser and that the solicitor is being paid to make the call. Instead, to induce giving, Marketing Squad's solicitors mislead donors into believing that the donors are dealing directly with a charity by claiming to be "with" or calling directly "from" the client charity. These deliberate misrepresentations confuse donors into believing they are supporting a charity directly, precisely what the statute was enacted to prevent.

4. Indeed, Marketing Squad discourages its solicitors from making the legally mandated disclosures. As part of its training process, Marketing Squad tells new solicitors to conceal their identity as paid professionals. In the words of one supervisor, "when you say 'Marketing Squad,' people don't like to give to fundraisers. So you wanna breeze by that."

5. To induce donations, Marketing Squad solicitors also make false and deceptive statements to mislead donors into believing that their contributions will support legitimate charitable programs. In reality, these programs often do not exist or are greatly exaggerated.

6. To perpetuate this fraud, Marketing Squad deceptively maintains multiple sets of scripts for solicitation calls: one version that is included in its contracts with charities and filed with the Attorney General and various embellished scripts that solicitors actually use to make calls to the public.

7. The Attorney General seeks to protect the public from Marketing Squad's fraudulent solicitation of charitable funds. Accordingly, the Attorney General brings this action

in his capacity as the primary regulator of New York not-for-profits and fundraising professionals under Article 7-A of the Executive Law ("Exec. L.") and General Business Law ("Gen. Bus. L.") § 349.

8. The Attorney General seeks a judgment (a) enjoining Defendants, and all other persons acting or claiming to act on its behalf or in concert or participation with them, from soliciting charitable contributions or memberships in the State of New York, or, from any location, soliciting charitable contributions or memberships from any persons, real or corporate, who are residents of the State of New York; (b) canceling Defendant Marketing Squad's New York registration as a professional fundraiser; (c) awarding restitution and damages under Exec. L. Article 7-A and Gen. Bus. L. § 349; (d) imposing upon Defendants civil penalties in the amount of \$5,000 for each violation of Gen. Bus. L. § 349; and (e) granting such other and further relief as the Court deems just and proper.

### **PARTIES**

9. The Attorney General is responsible for regulating the activities of professional fundraisers that solicit charitable funds in New York. Any person or business that plans to enter into a contract to raise money in New York on behalf of a charity is required to first register with the Attorney General. Registration consists of filing a Professional Fund Raiser Registration Statement, submitting an annual bond and paying a registration fee. Exec. L. §§ 172-d(12) & 173(1).

10. The Attorney General maintains offices throughout New York State, including at 144 Exchange Boulevard, Rochester, New York.

11. Defendant Marketing Squad is a for-profit New York business corporation, with its principal office at 1166 Brooks Avenue, Rochester, New York 14624.

12. Marketing Squad's activities in New York have, at all relevant times, constituted those of a professional fund raiser as defined in Exec. L. § 171-a(4), that is, Marketing Squad was compensated to plan, manage or conduct charitable solicitations in New York State and it engaged solicitors to make such solicitations.

13. Marketing Squad has been registered with the Office of Attorney General ("OAG") as a professional fundraiser since 1996.

14. Defendant Scott Dean has been the president and an officer of Marketing Squad at all relevant times, and has executed on Marketing Squad's behalf its filings with the OAG. Dean's address as reported to the OAG is 2117 Buffalo Road, #178, Rochester, NY 14624.

15. Defendant Jack Dean (son of Scott Dean), is a professional solicitor at Marketing Squad, and a supervisor of other solicitors. His home address is [].

16. Defendant Joanna Ladelfa is a professional solicitor at Marketing Squad, and a supervisor of other solicitors. Her home address is [].

17. Defendant Randy Bileschi is a professional solicitor at Marketing Squad, and a supervisor of other solicitors. His home address is [].

18. Defendant JOHN DOE, a/k/a "Todd," is a professional solicitor at Marketing Squad, and a supervisor of other solicitors. His home address is [].

19. Defendant Scott Dean, as president, is ultimately responsible for overseeing all aspects of Marketing Squad's solicitations, including the hiring, training, and supervision of the individuals making solicitations on behalf of Marketing Squad's client charities.

20. Defendants Jack Dean, Ladelfa, Bileschi and John Doe a/k/a/ Todd all act as supervisors at Marketing Squad. They have directed other solicitors to disregard the disclosure requirements mandated by New York State law and to use materially false and misleading

misrepresentations regarding the charitable programs of the organizations for which they are calling, all in furtherance of the scheme to defraud described herein.

### **JURISDICTION AND VENUE**

21. The Attorney General brings this action on behalf of the People of the State of New York under Exec. L. Article 7-A and Gen. Bus. L. § 349.

22. Exec. L. Article 7-A, “Solicitation and Collection of Funds for Charitable Purposes” (*i.e.* §§ 171-a through 177) governs the solicitation activities of charities, including law enforcement support organizations, and their professional fundraisers.

23. Exec. L. § 175(2) authorizes the Attorney General to bring an action against persons acting for or on behalf of charitable organizations, including fundraising professionals, to address any violation of Exec. L. Article 7-A. In such an action, the Attorney General may seek injunctive relief to restrain the solicitation and collection of funds, cancel any registration statements filed with the Attorney General, seek restitution, and request any other relief the Court may deem proper.

24. Accordingly, this court has jurisdiction pursuant to Exec. L. Article 7-A, as well as under Gen. Bus. L. § 349, which authorizes the Attorney General to seek injunctive relief, restitution and civil penalties when a person or business engages in deceptive business practices.

25. Defendants transact business in the State of New York and are sufficiently present in the State of New York to be subject to suit in New York on any cause of action.

26. Venue is properly laid in this court under CPLR § 503 because the claims asserted are based on events occurring in Monroe County and Marketing Squad maintains offices and conducts business within Monroe County, which Scott Dean manages and directs and Jack Dean,

Ladelfa, Bileschi, and John Doe a/k/a/ Todd supervise, and the Attorney General maintains offices in Monroe County.

## **FACTS UNDERLYING ALL CAUSES OF ACTION**

### **Marketing Squad's Fundraising Activity**

27. Marketing Squad, which has been in operation since 1995, is engaged in fundraising activities in the State of New York. It raises money for its client charities by soliciting the public through telephone calls placed from its location at 1166 Brooks Avenue, Rochester, New York 14624. Once a donor makes a pledge, a solicitation letter is mailed to the donor to obtain the donation.

28. Marketing Squad contracts with about sixteen charities, including veteran support organizations, volunteer firefighter organizations, and civic organizations.

29. The contracts provide that Marketing Squad is to retain between 75 and 85 percent of the gross proceeds of the fundraising campaigns. Marketing Squad has reported to the Office of the Attorney General ("OAG") that it has raised about \$5.8 million in donations over the past three years, keeping on average more than 82% of the funds it raises annually.

30. The individual solicitors working for Marketing Squad are incentivized to maximize donations in that they are eligible to earn a commission of 10 percent on donations they bring in.

31. As set forth below, not all of Marketing Squad's professional solicitors have registered with OAG, as required by Article 7-A of the Executive Law.

32. Veterans of Foreign Wars Department of New York ("VFW") and New York State Jaycees are two of the entities under contract with Marketing Squad.

*Veterans of Foreign Wars Department of New York*

33. VFW is a charitable organization whose charitable purpose, according to its IRS Form 990 filed with the OAG for fiscal year ending June 30, 2008, is to “promote fraternal, patriotic, historical and educational services to current or honorably discharged members of the armed forces who reside in New York State and have served their Country in any foreign war, insurrection or expedition.”

34. Under its current fundraising contract with the charity, dated August 7, 2008, Marketing Squad is to retain 80 % of gross proceeds of the first \$100,000 collected and 85% of any monies it raises over \$100,000. It agrees to provide a minimum of \$5,000 to VFW each year.

*New York State Jaycees*

35. New York State Jaycees, formerly known as the New York Junior Chamber of Commerce, Inc., a charitable organization whose purpose, according to its Certificate of Incorporation, is to “create and foster the growth and development of young men’s civic organizations in the State of New York, to inculcate in the individual membership of such organizations a spirit of genuine Americanism and civic interest and to provide them with opportunities for personal development and achievement and an avenue for intelligent participation by young men through constructive channels toward a greater America and develop true friendship and understanding among young men of all nations.”

36. Under a fundraising contract with New York State Jaycees that covered a three-year period ending September 30, 2009, Defendant Marketing Squad retained 80 % of the gross proceeds collected. It agreed to provide the New York State Jaycees a minimum of \$30,000 during each year of the contract. Under Marketing Squad’s current contract with the New York

State Jaycees, Marketing Squad is entitled to receive 80% of the gross proceeds collected, but the amount that the Jaycees retains has been reduced to \$20,000 annually.

### **Marketing Squad's Scheme to Defraud**

37. Marketing Squad routinely disregards New York State laws on registration and disclosure that protect donors from unscrupulous fundraising practices.

### ***Failure to Disclose Status as Paid Professional Fundraiser***

38. Article 7-A of the Executive Law requires professional fundraisers to disclose certain information to help donors make informed decisions before giving. These disclosures, among other things, ensure transparency by making donors fully aware that the solicitation is being made not by a charity but by a professional fundraiser who is profiting off the transaction.

39. Executive Law § 174-b(3) requires that professional solicitors “clearly and unambiguously” disclose in any solicitation (i) the name of the professional fundraiser, (ii) that the solicitation is being conducted by a professional fundraiser, (iii) the name of the individual professional solicitor making the call, and (iv) the fact that the individual is receiving compensation for making the call.

40. To induce donors to give, however, Marketing Squad solicitors routinely fail to make the statutorily required disclosures. As a result, donors are led to believe they are speaking to a charity directly—and not to a paid professional fundraiser.

41. In fact, Marketing Squad solicitors routinely introduce themselves in a manner that deceptively suggests they work directly for the charity, typically by stating that they are “at,” “with,” or “from” the organization. For example, when calling targets, they have introduced themselves as “Jack calling *at* the VFW” or “Jack over with the VFW,” and as “Randy calling *from* the VFW.”

42. Indeed, Marketing Squad supervisors encourage solicitors to conceal the fact that they are professional fundraisers being paid by Marketing Squad. At a training session for new solicitors, a Marketing Squad representative told solicitors, including an undercover investigator from the OAG who obtained employment at Marketing Squad, that “when you say Marketing Squad, people don’t like to give to fundraisers. So you wanna breeze by that.”

43. On another occasion, a Marketing Squad supervisor told an OAG undercover investigator to conceal the fact that she was being compensated, in blatant disregard of the Executive Law’s requirement that a solicitor must affirmatively disclose that he or she is being compensated for conducting the solicitation. Instead, the OAG investigator was told to use the ambiguous term “retained”:

“Do not say Marketing Squad is being compensated as a professional fundraiser. You do not need to say ‘professional fundraiser.’”

44. This behavior deliberately disguises Marketing Squad’s role in the fundraising campaign in direct violation of the requirements of Exec. L. § 174-b(3).

#### ***Failure to Refer to Financial Reports***

45. To further its fraudulent scheme to mislead donors, and to prevent donors from making informed decisions before giving, Marketing Squad solicitors purposefully fail to disclose that financial information about a charity is available from the charity and the Attorney General, as required by Exec. L. § 174-b(1). Doing so would expose the fact that donors are not speaking to a charity, but rather to a professional fundraiser.

46. Marketing Squad solicitors calling on behalf of VFW and New York State Jaycees, for example, do not disclose this information to donors.

47. In fact, Marketing Squad staff instructs its solicitors not to make the required disclosures.

48. One trainer emphatically told solicitors not to read the part of the script that advises donors how to obtain financial information about the charity. She directed their attention to the last sentence of the sixth paragraph of the VFW script, and read: "Upon request you can obtain a copy the last financial report by writing to the Attorney General or calling 1-800..." and then said:

*"Never read that. Only if somebody doesn't believe you. If somebody doesn't believe what you're saying, if somebody's giving you a hard time. If somebody wants a phone number, there's where you get it. 1-800-321-9220. ... Do not read that with a sale. Just end, okay? Don't read that with a sale."*

49. The 800 number referenced in the script is actually a number for Marketing Squad – not the VFW.

50. Not only does Marketing Squad completely ignore the Executive Law's mandate to tell donors how they can get financial information about a charity, Marketing Squad even refuses to mail out information about a charity when a potential donor requests it, unless the donor agrees to first make the contribution. By sending information about a charity only *after* a donor agrees to contribute, Marketing Squad is undermining the very bases of New York's statutory scheme that are intended to help donors make informed decisions *before* giving to a charity.

### **Unregistered Solicitors**

51. Professional solicitors are required to register with the Attorney General pursuant to Exec. L. § 173-b. The Executive Law prohibits professional fundraisers from employing unregistered solicitors. Exec. L. § 174(3).

52. The OAG undercover investigator was never instructed or required to register as a professional solicitor prior to starting work as a solicitor at Marketing Squad.

53. The OAG's undercover investigator observed Defendants Ladelfa and Bileschi placing calls to potential donors and acting as professional solicitors. At the time of the undercover investigation, neither of those individuals was registered with the OAG as a professional solicitor for Marketing Squad.

54. Moreover, the number of existing solicitors, as well as new hires, observed by the OAG undercover investigator during her time at the Marketing Squad call center is significantly greater than the number of Marketing Squad solicitors registered with the OAG at that time.

55. Thus, on information and belief, Marketing Squad employs unregistered professional solicitors, in violation of Exec. L. § 174(3).

### **Misrepresentations Regarding Charities and Charitable Programs**

56. Not only does Marketing Squad ignore the statutory requirements governing professional fundraisers, Marketing Squad exploits the good intentions of sympathetic New Yorkers by making vague, misleading and false statements regarding the charitable programs for which it is purportedly raising money.

57. Marketing Squad accomplishes its goal by manipulating scripts and maintaining an environment that awards deceptive practices.

58. In an affront to anyone that has been impacted by cancer, Marketing Squad solicitors make emotional appeals to fund cancer programs that simply do not exist.

59. In soliciting funds for the New York State Jaycees, Marketing Squad solicitors deceptively suggest that they are calling from the charity itself – often using the terms “we” and “our” in reference to the charity—and then egregiously mislead donors into believing that donations will help cancer patients and their families:

- (a) “This year ...*we're supporting prostate and breast cancer as well*. I haven't talked to anyone ...that hasn't been touched by cancer in one way or another. Um, especially myself. I've had an aunt that died of brain cancer. Um, I have an uncle that had prostate cancer. I just found out yesterday that he's got spots all over his lungs. Yes, ma'am. And I have another uncle that died from lung cancer. My fiancé is in remission for lymphoma.”
- (b) “This year *we're supporting prostate and breast cancer as well*....I have an uncle right now that found out yesterday that he has spots on his lungs.”
- (c) “For the very first time the New York Jaycees are supporting people who are *suffering from breast cancer*.”
- (d) “Thanks to the fine folks like yourself who are supporting *prostate and breast cancer* ...”
- (e) “The big focus this year for the Jaycees is on *cancer research and treatment*.”
- (f) “*We're funding research and treatment for cancer*, with a focus on prostate and breast cancer.”

60. In testimony before the OAG, the president of the New York State Jaycees confirmed that it does not financially support or operate any programs involving research for breast cancer or prostate cancer, or for the support of people suffering from those diseases.

61. Marketing Squad solicitors also claim that the New York State Jaycees provide or support an impressive array of other charitable services for worthy causes, such as support for food pantries, support for terminally ill children, and youth anti-smoking programs:

- (a) "I'm representing the Chenango County [unintelligible] of the New York State Jaycees....It's like – I phrase it almost like four organizations rolled into one. We provide support for the food pantry in Chenango County, too many kids are going to bed with stomach aches, not from sickness but from hunger....They also provide [unintelligible] encouragement to kids who are terminally ill ....this program called the JAYS, the acronym for Jaycees Against Youth Smoking. It's for middle school and high school aged kids."
- (b) "Really, the Jaycees are five organizations rolled into one. We're fighting for research and treatment, supporting folks who already have cancer, beefing up the food pantries, helping kids quit smoking."
- (c) "We're also providing support for the food pantries because a lot of children are going to bed hungry...."
- (d) "Far too many children are going to bed hungry in Onondaga County..."

62. In fact, these purported charitable programs are a complete fabrication on the part of Marketing Squad and its solicitors. As confirmed in testimony before the OAG, the New York State Jaycees does not support food pantries in Chenango County (or anywhere else), does not provide any support for terminally ill children, and does not operate any youth anti-smoking

programs. Indeed, the Jaycees do not use the funds raised by Marketing Squad to support or operate any charitable programs.

63. Rather, funds raised by the New York State Jaycees (after Marketing Squad takes its share) are used to pay for members of the Jaycees to attend conventions and pay administrative expenses.

64. Nonetheless, Marketing Squad directs its solicitors to aggressively pitch the Jaycee's imaginary causes to donors using false and misleading statements, including such statements as:

- (a) "Jaycees is an organization for kids with cancer...also they do prostate and breast cancer -- also food pantries for inner city kids."
- (b) "The biggest things to drive home are providing support to kids who are sick or suffering from terminal illness or focusing on research for breast and prostate cancer."
- (c) "You really have to sound like you care. That's the hardest part. . . . modify your voice to where you don't sound like you're reading it, like you truly care, like there's a sense of urgency, like your life is on the line."
- (d) "Really drive home the point about breast and prostate cancer."
- (e) "Do you still have your Voice for the Children script? Remember this back page right here? I use this still. I just change the words to fit the campaign."

65. Scripts given to solicitors for calls on behalf of the New York State Jaycees remind solicitors to mention the various fictional programs. A script distributed to Marketing Squad solicitors and obtained by the OAG undercover investigator reads:

“The JC’S would like to thank everyone for their support last time. The proceeds for the 1st time will support prostate and breast cancer, but Jaycees chapters are also providing support for food pantrys [sic].”

66. Marketing Squad’s scheme to defraud donors continues with its solicitations for the VFW.

67. VFW is a significant revenue generator for Marketing Squad. According to Defendant Ladelfa, “everybody gives to the Vets -- VFW means Very Fat Wallets to our company.”

68. Marketing Squad obtains those funds, however, through false, misleading and exaggerated statements about charitable programs purportedly carried out by the VFW. For example, Marketing Squad solicitors have stated:

(a) “We do a number of programs ...for our local vets...one being our Heroes

Welcome Home Program we do at the airport. We welcome home our local vets coming back home from overseas. Regardless of their condition, we are going to be providing them with transportation from the airport back home....We are also providing for the troops that are over there ... sending fruit baskets and phone cards for the local vets....”

(b) “The VFW each year oversees fruit baskets and phone cards...also helping out veterans benefits and also taking care of their medical care ... ”

69. As with the Jaycees, the programs described simply do not exist. After learning of the claims being made by Marketing Squad solicitors, the OAG contacted the VFW. The VFW confirmed that it does not run a “Welcome Home” program or provide transportation to veterans. Nor does it fund fruit baskets, phone cards, or medical care for veterans.

### **Filing Sham Scripts to Deceive Attorney General and the Public**

70. In furtherance of its scheme to defraud the public, Marketing Squad deceptively maintains two sets of scripts: one version that is included in its contracts with charities and filed with the Attorney General and a second, embellished version that Marketing Squad provides its solicitors to make calls to the public.

71. Upon information and belief, the scripts submitted to the OAG are sham scripts, prepared in an attempt to give the appearance that Marketing Squad complies with the disclosure requirements of the Executive Law.

### **Misrepresentations Regarding Percentage of Funds Going To Charity**

72. Marketing Squad solicitors are instructed to use “rebuttals” that mislead donors about the percentage of their donation the charity would receive, suggesting that VFW and New York State Jaycees receive 85% and 80% of donated funds when in reality they receive only 15% and 20%, respectively.

73. For example, a Marketing Squad trainer used the VFW rebuttal script to instruct solicitors how to deceive donors about the percentage the charity would receive. She said [reading from the VFW Rebuttals Q&A script] :

‘It would be great if the VFW could get 100% of the proceeds but it’s actually 85–15 due to fundraising expenses, such as \$12,000 per month in postage, \$6,000 per month in phone bills, not to mention the cost of printed materials. If the postmaster and the phone company could donate their services to charities the percentage would be a lot better than 85%. (Do not pause.)’ [Stops reading from script] Keep going. If you stop they’re going to question you more.”

74. Marketing Squad deliberately uses such vague and ambiguous language that serves no purpose other than to deceive and mislead the public in clear violation of the Executive Law.

### **FIRST CAUSE OF ACTION**

#### **Scheme to Defraud – Exec. L. § 172-d(2) (Against Marketing Squad and All Individual Defendants)**

75. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

76. Defendants, and those acting in concert or participation with them or under their direction or control, have violated Exec. L. § 172-d in that they have engaged in a fraudulent scheme in connection with charitable solicitations, including but not limited to: (a) obtaining money by false pretenses and representations; (b) soliciting charitable contributions using false and materially misleading statements about the intended uses of donated funds; (c) failing to disclose their status as paid professional solicitors; (d) using solicitation scripts that deviate in material respects from those filed with the Attorney General; and/or (e) training others to ignore the disclosure requirements of the Executive Law and to use false and materially misleading statements about the intended uses of donated funds.

77. Defendant Marketing Squad is vicariously liable for the actions of its solicitors, and Defendant Scott Dean, as president, and Defendants Jack Dean, Ladelfa, Bileschi, John Doe a/k/a/ Todd, as supervisors, are responsible for overseeing their conduct.

78. Accordingly, as authorized by Exec. L. § 175(2), Defendant Marketing Squad and Defendants Scott Dean, Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd should be enjoined from the solicitation and collection of charitable funds and Marketing Squad's registration as professional fundraiser should be cancelled.

## **SECOND CAUSE OF ACTION**

### **Employment of Unregistered Professional Solicitors – Exec. L. § 174(3) (Against Marketing Squad)**

79. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

80. Defendant Marketing Squad employs unregistered professional solicitors, in violation of Exec. L. § 174(3).

81. Accordingly, as authorized by Exec. L. § 175(2), Defendant Marketing Squad should be enjoined from the solicitation and collection of charitable funds and Marketing Squad's registration as a professional fundraiser should be cancelled.

## **THIRD CAUSE OF ACTION**

### **Acting as Unregistered Professional Solicitors – Exec. L. § 174(3) (Against Marketing Squad and Defendants Ladelfa and Bileschi)**

82. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

83. Defendant Marketing Squad employs or has employed unregistered professional solicitors, in violation of Exec. L. § 174(3), including Ladelfa and Bileschi.

84. Accordingly, as authorized by Exec. L. § 175(2), Defendant Marketing Squad and Defendants Ladelfa and Bileschi should be enjoined from the solicitation and collection of charitable funds and Marketing Squad's registration as a professional fundraiser should be cancelled.

#### **FOURTH CAUSE OF ACTION**

##### **Material False Statement in Professional Fundraiser Registration – Exec. L. § 175(2)(d) (Against Marketing Squad and Scott Dean)**

85. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

86. Defendants Marketing Squad and Scott Dean willfully filed false solicitation scripts with the Attorney General, in submissions signed and certified as truthful by Scott Dean, that differ from the solicitations actually made.

87. Consequently, Defendants Marketing Squad and Scott Dean made false filings to the OAG, in violation of Exec. L. § 172(d)(1).

88. Accordingly, as authorized by Exec. L. § 175(2), Defendants Marketing Squad and Scott Dean should be enjoined from the solicitation and collection of charitable funds and Scott Dean's registration as professional fundraiser should be cancelled.

#### **FIFTH CAUSE OF ACTION**

##### **Failure to Clearly Describe Programs and Activities – Exec. L. § 174-b(2) and § 175(2) (Against Marketing Squad and All Individual Defendants)**

89. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

90. Marketing Squad and those acting in concert or participation with it, have violated Exec. L. § 174-b(2) in that they fail to provide a clear description of the programs and activities for which they have solicited contributions and for which the charity has expended or will expend contributions, and fail to include a statement that a person may obtain such a description from the charity. Instead, they provide program descriptions that are false and misleading.

91. Defendant Marketing Squad is vicariously liable for the actions of its solicitors and Defendant Scott Dean, as President, and Defendants Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd, as supervisors, are responsible for overseeing their conduct.

92. Accordingly, as authorized by Exec. L. § 175(2), Defendant Marketing Squad and Defendants Scott Dean, Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd should be enjoined from the solicitation and collection of charitable funds and Marketing Squad's registration as a professional fundraiser should be cancelled.

### **SIXTH CAUSE OF ACTION**

#### **Failure to Disclose Professional Fundraiser Name and Professional Status – Exec. L. § 174-b(3)(a) and § 175(2) (Against Marketing Squad and All Individual Defendants)**

93. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

94. In its telephone solicitation calls, Marketing Squad solicitors fail to clearly and unambiguously disclose that Marketing Squad is a professional fundraiser, in violation of Exec. L. § 174-b(3)(a).

95. Defendant Marketing Squad is vicariously liable for the actions of its solicitors and Defendant Scott Dean, as President, and Defendants Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd, as supervisors, are responsible for overseeing their conduct.

96. Accordingly, as authorized by Exec. L. § 175(2), Defendant Marketing Squad and Defendants Scott Dean, Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd should be enjoined from the solicitation and collection of charitable funds and Marketing Squad's registration as professional fundraiser should be cancelled.

## **SEVENTH CAUSE OF ACTION**

### **Failure to Disclose Professional Solicitor Name and Paid Status – Exec. L. § 174-b(3)(b) and § 175(2) (Against Marketing Squad and All Individual Defendants)**

97. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

98. Marketing Squad has violated Exec. L. § 174-b(3)(b) in that Marketing Squad's solicitors fail to clearly and unambiguously disclose their names as on file with the Attorney General and the fact that they are receiving compensation for conducting the solicitation.

99. Defendant Marketing Squad is vicariously liable for the actions of its solicitors and Defendant Scott Dean, as President, and Defendants Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd, as supervisors, are responsible for overseeing their conduct.

100. Accordingly, as authorized by Exec. L. § 175(2), Defendant Marketing Squad and Defendants Scott Dean, Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd should be enjoined from the solicitation and collection of charitable funds and Marketing Squad's registration as professional fundraiser should be cancelled.

## **EIGHTH CAUSE OF ACTION**

### **Failure to Refer to Financial Reports – Exec. L. § 174-b(1) and § 175(2) (Against Marketing Squad and All Individual Defendants)**

101. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

102. In its telephone solicitations on behalf of charitable organizations, Marketing Squad's solicitors fail to include a statement that a person may obtain a copy of the organization's last financial report from either the organization or from the Attorney General, in violation of Exec. L. § 174-b(1).

103. Defendant Marketing Squad is vicariously liable for the actions of its solicitors, and Defendant Scott Dean, as President, and Defendants Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd, are responsible for overseeing their conduct.

104. Accordingly, as authorized by Exec. L. § 175(2), Defendant Marketing Squad and Defendants Scott Dean, Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd should be enjoined from the solicitation and collection of charitable funds and Marketing Squad's registration as professional fundraiser should be cancelled.

### **NINTH CAUSE OF ACTION**

#### **Deceptive Acts or Practices – Gen. Bus. L. § 349 (Against Marketing Squad and Scott Dean)**

105. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

106. Marketing Squad's conduct described herein constitutes deceptive acts and practices that are declared unlawful under Gen. Bus. L. § 349.

107. As authorized by Gen. Bus. L. § 349(b), Defendant Marketing Squad should be enjoined from the solicitation and collection of charitable funds, and its registration as professional fundraiser should be cancelled.

108. As authorized by Gen. Bus. L. § 350-d, Defendant Marketing Squad should be ordered to pay civil penalties of \$5,000 for each of its deceptive practices, in a total amount to be determined at trial.

### **PRAYER FOR RELIEF**

Plaintiff demands judgment against Defendant as follows:

A. Enjoining Defendant Marketing Squad, and all other persons acting or claiming to act on its behalf or in concert or participation with it, from transacting business within the State

of New York, relating to the solicitation of charitable contributions or memberships, or, from any location, soliciting charitable contributions from any persons, real or corporate, who are residents of or do business in the State of New York.

B. Canceling Defendant Marketing Squad's New York registration as a professional fundraiser;

C. Enjoining Defendants Scott Dean, Jack Dean, Ladelfa, Bileschi, and John Doe a/k/a/ Todd from soliciting charitable contributions from the public, or acting as a professional fundraiser or professional solicitor, either in his or her individual capacity or through a corporate capacity, and canceling any fundraiser or solicitor registrations in his or her name or signed by such person;

D. Awarding restitution and damages under Exec. L. Article 7-A and Gen. Bus. L. § 349, in an amount to be determined at trial;

E. Imposing upon Defendant civil penalties in the amount of \$5,000 for each violation of Gen. Bus. L. § 349; and

F. Granting such other and further relief as is just and proper.

Dated: January 19, 2010  
New York, New York

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