

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE
BUILDINGS 68 AND 69
CRANSTON, RI 02920

IN THE MATTER OF:

THOMAS J. GITY, SR.,

RESPONDENT.

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: DBR NO.: 09-S-0071
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**EMERGENCY ORDER TO CEASE AND DESIST UNREGISTERED
PROFESSIONAL FUNDRAISING**

Pursuant to R.I. Gen. Laws §§ 5-53.1-1 *et seq.*, the Solicitation by Charitable Organizations Act (“Act”) and 42-35-9, the Director (“Director”) of the Department of Business Regulation (“Department”) hereby issues this Emergency Order to Cease and Desist Unregistered Professional Fundraising (“Order”) to Thomas J. Gity Sr. (“Respondent Gity Sr.”) requiring Respondent or an authorized representative of the Respondent to cease and desist from engaging in any activities requiring registration pursuant to R. I. Gen. Laws § 5-53.1 *et seq.*

Upon receipt of a written request for a hearing within thirty (30) days of the date of this Order, a Hearing Officer will be appointed by the Director and the matter will be set down for hearing no less than ten (10) and no more than twenty (20) days from the date such request is received. The Director will promptly notify the Respondent Gity Sr. of the time and place for any hearing. If no hearing is requested and none is ordered by the Director, this Order shall become permanent thirty (30) days after entry and shall remain in effect unless or until it is modified or vacated by the Director or his successor.

The Director makes the following findings of fact and conclusions of law with respect to entry of this Emergency Order:

1. Respondent Gity Sr. is a Rhode Island resident residing at 143 Cleveland Street, West Warwick, RI. Respondent Gity Sr. was not licensed as a Professional Fundraiser or Professional Solicitor in the State of Rhode Island during the period from February 2000 to the present.
2. On February 8, 2000, Respondent Gity Sr. was convicted by the 3rd District of the Rhode Island State Court, upon his plea of nolo contendere, of one (1) count of embezzling funds that he had raised on behalf of six (6) Rhode Island charities, and was sentenced by the court to a ten (10) year suspended prison term, subject to probation and ordered to pay restitution of \$27,279.00.
3. On October 21, 2008, the Johnston Police Department investigated an alleged fraudulent charitable solicitation made by Focus Marketing Group (“FMG”), a Rhode Island registered Professional Fundraiser. The Johnston police report states that the officers spoke with Respondent Gity Sr. who identified himself as “Office Manager” for FMG. A criminal background check conducted by the Johnston Police on Respondent Gity Sr. revealed that he had several felony charges including “RICO, organized crime gambling, conspiracy, usuary [sic], embezzlement, forgery, and counterfeiting.”
4. The last registration application filed by FMG with the Department on April 14, 2008 did not list Respondent Gity Sr. as an employee.
5. The Department issued a letter on October 16, 2008, requesting FMG disclose all employees. FMG’s reply was received by the Department on November 30,

2008. In the response FMG's owner, Ronald Webster, stated that he had authorized Respondent Gity Sr. to act on his behalf in any and all decisions regarding FMG. Mr. Webster also stated "Tom does not get any compensation from Focus Marketing Group. Tom is not considered an employee of Focus Marketing Group, also Tom does not engage in any solicitation of funds or donations."

6. According to records received from FMG, on June 21, 2006 former FMG employee Scott Kettelle filed a complaint with the State of Rhode Island Department of Labor and Training (#2006-268) claiming unpaid wages. FMG's response letter dated July 7, 2006 states "Scott Kettelle is not an employee of Focus Marketing Group. Scott is a subcontractor hired by Tom & T.J. Gity, who are in turn hired subcontractors of Focus Marketing Group....This is a matter between Mr. Kettelle and the person he worked and was paid by, Mr. Gity." The reference in this document to "Tom" is a reference to Respondent Gity Sr.
7. On December 22, 2008 the Department issued an Emergency Order to Suspend Registration, DBR No. 08-S-0290, to FMG for violations of R. I. Gen. Laws § 5-53.1-7(1), (2), (3), (4), (5), (6), (8), and (10).
8. In response to the terms of the Emergency Order issued against FMG which requested that FMG identify its employees and their respective positions, the Department received a letter dated February 24, 2009, from FMG Attorney John S. Petrone that stated:

Tom Gity, Sr. was helping Mr. Webster operate the business due to Mr. Webster's failing health. Mr. Gity operated Focus Marketing Group's telemarketing call center as an independent contractor. As an independent

contractor, he would hire and fire telemarketers, contact clients, plan events. Focus Marketing Group did not have a signed contract with Mr. Gity.

9. The representation described in paragraph 8 above is inconsistent with FMG's representation in paragraph 5 above and it appears that Respondent Gity Sr. is attempting to shield his identity and compensation with respect to professional fundraising activities to circumvent registration and criminal background investigation requirements of R.I. Gen. Laws §§ 5-53.1-1 *et seq.* and 42-14-14.
10. The facts described above constitute a pattern of engaging in prohibited activity in violation of registration requirements of R.I. Gen. Laws § 5-53.1-1 *et seq.*
11. On December 5, 2008 the American Cancer Society's Rhode Island office ("ACS") notified the Department that they had received six (6) complaint calls regarding phone solicitations on behalf of ACS. ACS learned that Ed Pires, president of Save Cash Here, a consultant working with them, had hired FMG through a contract negotiated by Respondent Gity Sr. to solicit for ACS without the knowledge, authorization and/or approval of ACS. On December 4, 2008, ACS issued a cease and desist letter to the Ed Pires and Respondent Gity Sr. ACS was not aware of, nor ever authorized a Rhode Island fundraising campaign with Respondent Gity Sr. or FMG.
12. The unauthorized solicitation activities by Respondent Gity Sr. described herein constitute a violation of R.I. Gen. Laws §5-53.1-7(2) (which prohibits "[e]ngaging in any illegal or fraudulent act, device, scheme, artifice to defraud or obtain money by means of false pretenses or representation in connection with any

solicitation for charitable purposes or any solicitation or collection of funds for a charitable organization.”).

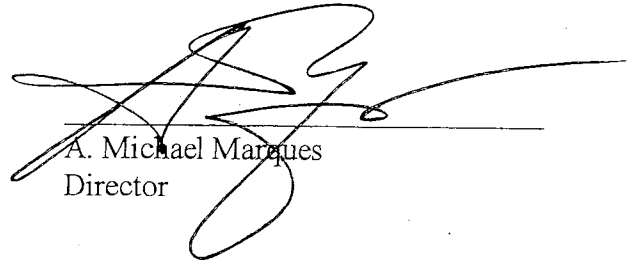
13. The potential solicitation of the public by an individual without authority to solicit on behalf of the identified charities as well as the apparent solicitation by Respondent Gity Sr. without authority to act on behalf of these charities constitutes a threat to the potential contributors and legitimate charities and requires emergency action pursuant to R.I. Gen. Laws § 42-35-14(c).

THEREFORE, based on the above facts, the Director hereby finds that Respondent Gity Sr.’s actions as detailed above constitute serious violations that are a threat to the public interest and that the public health, safety, or welfare imperatively require emergency action, therefore it is hereby ORDERED that:

1. Respondent Gity Sr. shall immediately cease and desist from engaging in any activity pursuant to R.I. Gen. Laws § 5-53.1-1 *et seq.*
2. Respondent Gity Sr. shall within two (2) business days provide a list of all pending solicitations, donors and charities as well as a list of all funds collected in Rhode Island with the donor, solicitor, charity, and amount forwarded to charity clearly itemized. The itemization should include names, addresses, phone or other contact information of the donor, solicitor, and registered charity.
3. Respondent Gity Sr. shall within two (2) business days identify any and all individuals (with their names, addresses, and telephone numbers) acting on his behalf in any capacity in Rhode Island.

4. Respondent Gity Sr. shall within two (2) business days provide all bank statements for any and all bank accounts related to his professional fundraising activities.
5. Respondent Gity Sr. shall within two (2) business days provide the Department with an accounting of all monies: (i) collected by Respondent on or after the date of this Emergency Order; and (ii) expected to be received and/or disbursed by Respondent with regard to any activity conducted by Respondent. Said Accounting shall detail the name and address of the individual/entity from whom monies are received and/or disbursed; Said monies shall be deposited in a separate escrow account to be established and shall not disburse any funds from said account without the written approval of the Department.
6. Respondent Gity Sr. shall cooperate fully with the Department in fulfilling the terms of this Emergency Order including, but not limited to: (i) providing all information requested by the Department promptly; and (ii) providing the Department with access to any and all records to ensure that all unauthorized funds are returned in accordance with a process established by the Department, and pending fundraising is transitioned and completed promptly without harm to the public.
7. This Emergency Order to Cease and Desist Unregistered Professional Fundraising by Respondent Gity Sr. shall be published in the *Providence Journal* said cost for publication to be paid by Respondent Gity Sr.

Dated this 18th day of March 2009.



A. Michael Marques
Director

CERTIFICATION

I hereby certify that a copy of this Emergency Order was mailed to Respondent by regular and certified mail, return receipt requested, on March 19, 2009 at the following address:

Mr. Thomas J. Gity Sr.
143 Cleveland Street
West Warwick, RI 02893

Bridgette Rodriguez