

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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

Plaintiff,

- against -

STAGE DOOR MUSIC PRODUCTIONS, INC.,
THOMAS J. KERSHAW, STEVEN H. PAUL,
JOHN DOE No. 1 a/k/a "JACK HARRIS," and
JOHN DOE No. 2 a/k/a "ED LANG,"

Defendants.

Index No. 372-2010

RJI No.

Hon.

COMPLAINT

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. Stage Door Music Productions, Inc. ("Stage Door"), a Connecticut-based, 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. Stage Door has flouted New York State laws enacted to protect donors from unscrupulous fundraising practices, and has abused its privilege to solicit charitable contributions in this State. In clear violation of New York law, Stage Door solicitors, deceive donors by, among other things, pretending to be law enforcement officials. Stage Door solicitors completely disregard statutorily mandated disclosures that would reveal they are paid professional fundraisers, all in an effort to ensure that Stage Door maximizes the funds it collects and hence its own fees, which is up to eighty-five percent

of the funds it raises. Stage Door employs all manner of manipulative techniques, half-truths, and outright lies to coerce donations. For example, Stage Door solicitors leave messages claiming to be calling for the “sheriffs” on matters that are “confidential” and important, so the unnerved recipient of such messages will be sure to call them back, and tell donors that they are raising money for a sheriff’s association when in fact the client is a union of corrections officers.

2. Stage Door solicitors, who work on commission, routinely fail to disclose statutorily mandated information that would make donors aware that a paid professional fundraiser is soliciting them and not a law enforcement organization or charity.

3. According to Defendant Thomas J. Kershaw (“Kershaw”), the endeavor is furthered where potential donors believe a law enforcement organization is keeping a list of who donates, and who doesn’t. According to Kershaw, “[T]hey feel like we have a list, you know, of every business down there, who’s giving, and who isn’t.”

4. Although Stage Door’s solicitors are required by the Executive Law to disclose their status as paid fundraising professionals when placing solicitation calls on behalf of charitable organizations, Stage Door solicitors routinely omit this information, instead claiming to be “with” or calling directly “from” a law enforcement agency or client organization.

5. Stage Door solicitors also describe charitable programs of their clients in vague and unclear terms—such as “for the kids”—rather than providing a clear description as required by law.

6. Further, Stage Door solicitors are trained to falsely claim to be uncompensated volunteers for the agency or organization. Far from being volunteers,

Stage Door and its employees retain between seventy-five and eighty-five percent of all donations to its client organizations. For the years 2006 through 2008, Stage Door raised \$5,990,904 in New York, from which it was paid \$4,677,906.20 with only \$1,312,998.30, or twenty-two percent, going to its client organizations.

7. Stage Door takes no steps to ensure that its solicitors receive copies of the scripts for a client organization, much less follow them, and in practice the scripts are ignored. Instead, Defendant Kershaw and others encourage new solicitors to make up their own pitch, without regard for the disclosure requirements mandated by law.

8. Defendant Kershaw, as manager of the Albany call-center, coaches and encourages the other solicitors to use these fraudulent tactics in order to maximize their commissions. In Kershaw's own words, "The idea is to get them for as much as you possibly can. That's the main objective here. You know, the more money you sell them for, the more money you write, the more money you make."

9. During September 2009, an undercover investigator with the Office of the New York State Attorney General ("OAG") worked at Stage Door's Albany call-center where he collected evidence of the misleading and fraudulent tactics used by Stage Door's solicitors.

10. The Attorney General seeks to protect the public from Stage Door's fraudulent solicitation of money in the name of charity. Accordingly, the Attorney General brings this action in his capacity as the primary regulator of New York not-for-profits, including charitable solicitation activity, under Article 7-A of the Executive Law ("Exec. L."), as well as General Business Law ("Gen. Bus. L.") Section 349.

11. The Attorney General seeks a judgment (a) enjoining defendants, and all other persons acting or claiming to act on their behalf or in concert or participation with them, from soliciting charitable contributions from within the State of New York, or, from any location, soliciting charitable contributions from any persons, real or corporate, who are residents of the State of New York; (b) canceling Defendant Stage Door's New York registration as a professional fundraiser; (c) enjoining Defendant Kershaw from engaging in charitable solicitation based on his criminal record; (d) canceling or denying any professional solicitor registrations filed by the individual defendants; (e) awarding restitution, damages, and costs under Executive Law Article 7-A and Gen. Bus. L. § 349; (f) imposing upon Defendant Stage Door civil penalties in the amount of \$5,000 for each violation of Gen. Bus. L. § 349; and (g) granting such other and further relief as the Court deems just and proper.

PARTIES

12. The Attorney General is responsible for regulating charitable activity in New York, including charitable solicitation activities conducted by professional fundraisers. Any person who plans to enter into a contract to raise money in New York on behalf of a charitable organization is required to first register with the Attorney General by filing a Professional Fund Raiser Registration Statement, an annual bond and a registration fee. Exec. L. §§ 172-d(12) & 173(1).

13. The Attorney General maintains offices in Albany, New York and at various locations throughout New York State.

14. Defendant Stage Door is a Connecticut corporation, with its principal office at 567 Watertown Avenue, Waterbury, Connecticut. Its President is Robert

Donato. Stage Door has registered annually with the State of New York as a professional fundraiser since July 31, 1985. Stage Door first registered with the Department of State to do business in New York as a foreign corporation on August 21, 1991.

15. Stage Door operates call-centers in multiple locations in New York State, including Albany, Fulton, and Middletown. Stage Door also has an office in Lehigh Acres, Florida. It is registered with the OAG as a professional fundraiser pursuant to Article 7-A of the Executive Law.

16. Defendant Kershaw manages the Albany, New York call-center, which is run from his home. Kershaw is a resident of Albany County, New York. He lives at 57 Ahl Avenue, Albany, New York. Kershaw first registered with the OAG as a professional solicitor in December 2006. Kershaw's most recent registration statement, received by the OAG on December 28, 2009, has not been accepted by the OAG because it contains a false statement regarding his criminal history.

17. Kershaw has been convicted of at least seven crimes, including petit larceny, possession of stolen property, possession of a forged instrument, malicious injury to property and fraud and impersonation.

18. Defendant Steven H. Paul ("Paul") is employed as a solicitor at Stage Door's Albany call-center. Defendant Paul first registered with the OAG on October 19, 2009. Paul lives at 4 Jo Ann Court, Colonie, New York 12205. When soliciting charitable contributions on behalf of Stage Door, Paul uses the fake name Glen Miller.

19. Defendants John Doe No.1 and John Doe No. 2 are employed as solicitors at the Albany call-center. Defendant John Doe No. 1 uses the fake name of Jack Harris.

He also sometimes stays overnight in the basement of the call center. Defendant John Doe No. 2 uses the fake names Ed Lang and Ed Nelson.

JURISDICTION AND VENUE

20. The Attorney General brings this action on behalf of the People of the State of New York under Exec. L. Article 7-A and General Business Law (“Gen. Bus. L.”) Article 22-A.

21. Article 7-A of the Executive Law (§ 171-a *et seq.*), governs the solicitation activities of charitable organizations and their professional fundraisers.

22. 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 Executive Law 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.

23. Accordingly, this Court has jurisdiction pursuant to Executive Law Article 7-A, as well as under General Business Law § 349, which authorizes the Attorney General to seek injunctive relief, restitution and civil penalties when a person or business engages in deceptive business practices.

24. Venue is properly laid in this Court under CPLR § 503(a) and (c) because, *inter alia*, some of the claims asserted are based on events occurring at Stage Door’s call-center located in Albany County; Defendant Kershaw maintains his residence in Albany County; and the Attorney General maintains offices in Albany County.

FACTS UNDERLYING ALL CAUSES OF ACTION

Background – Stage Door’s Operations

25. Stage Door is engaged in fundraising activities in the State of New York on behalf of various charitable organizations. Its fundraising activities include telephone calls and letter campaigns to New York residents and businesses.

26. As of its most recent registration statement filed with the OAG, for the period September 1, 2009 through August 31, 2010, Stage Door reported over thirty contracts with charitable organizations for services including the solicitation of persons located in New York State.

27. Nearly all of the contracts that Stage Door most recently reported to OAG are with law enforcement support organizations, with the balance being with other public safety organizations such as firefighter and ambulance worker associations.

28. Law enforcement support organizations are considered “charitable organizations” as defined by Exec. L. §§ 171-a(1) & 11, and hence are required to register and file annual reports with the OAG when they solicit contributions from sources beyond their membership.

29. Defendant Stage Door raises money by means of telephone calls and letter mailings from its three locations in New York and from one call-center in Florida.

30. Individual professional solicitors working for Stage Door place telephone calls to businesses and/or individuals to solicit funds. Once a business donor makes a pledge, or agrees to purchase advertising space in a journal, Stage Door’s practice is to dispatch a courier to the place of business to retrieve the donation within a day or so of the pledge.

31. Pursuant to contracts with its client organizations, Stage Door typically receives between seventy-five and eighty-five percent of the gross receipts of each fundraising campaign as its fee. Stage Door solicitors earn a twenty-five percent commission on the contributions that they secure.

32. Stage Door's Albany call-center is located at Kershaw's home in a suburban area of Albany County. In addition to Kershaw, there are approximately three other solicitors who are supervised by him; the exact number may vary. Stage Door's solicitors in its Albany call-center are paid in cash, without receiving a 1099 or W-2 tax statement.

33. Solicitors place calls from the basement of Kershaw's home. Kershaw conducts Stage Door business, including telephone solicitation for Stage Door, in an upstairs room. Kershaw regularly descends into his basement to socialize with the other solicitors and to monitor their activities.

Certain Stage Door Clients

34. Stage Door's client law enforcement support organizations include the Saratoga County Sheriff's Officers Association ("SCSOA") and the Columbia County Correction Officer's Local #3828 ("Correction Officer's Local 3828"). SCSOA and Correction Officer's Local 3828 are both registered with OAG as charitable organizations.

Saratoga County Sheriffs Officers Association

35. SCSOA is the fundraising arm of the Saratoga County Deputy Sheriffs Benevolent Association ("SCDSBA"), a union of corrections officers and other employees of the Saratoga County Sheriff's Department. According to its Certificate of

Incorporation, the primary purpose of SCSOA is “to provide financial assistance and support for the union currently known as the [SCDSBA] representing employees of the Saratoga County Sheriffs Department in corrections, criminal justice and law enforcement.” The board of SCSOA shares at least two directors with the board of SCDSBA, including the same president.

36. Stage Door has conducted fundraising campaigns for SCDSBA or its affiliate, SCSOA, since at least 2003. In March 2005, the Attorney General filed a petition against SCDSBA with this Court for injunctive relief to stop SCDSBA from using the term “deputy sheriff” in its fundraising campaigns. In August of that year, this Court agreed with the Attorney General and issued a Decision and Order that found that solicitations using that term “would have a capacity to deceive or create an atmosphere conducive to fraud,” because the association had not represented any deputy sheriffs for over ten years. *Spitzer v. Stack*, No. 7884-88, slip op. at 2 (Sup. Ct. Albany County 2005). Stage Door was the professional fundraising company used by SCDSBA during that time.

37. The Decision and Order in *Spitzer v. Stack* enjoined the SCDSBA from using any solicitations using the term “deputy sheriff” or any similar phrase. After the Decision and Order in that case was issued, Richard Azzara, a Stage Door Executive Producer, contacted the OAG and asked for a copy of the Order. The Decision and Order was faxed and mailed to Charles Donato, Stage Door’s lawyer, in August 2005.

38. Stage Door’s current fundraising contract with SCSOA covers the period September 10, 2007 through March 9, 2011. Under the contract, Stage Door and SCSOA are joint venturers for the purpose of “publishing a journal promoting [SCSOA].” Stage

Door is responsible for arranging promotion of the journal, and “arranging for the sale and distribution of advertising of the journal,” including a telemarketing campaign. Stage Door raises funds for SCSOA by selling advertising space in the “journal.”

39. The contract provides that Stage Door is to receive seventy-five percent of gross receipts, with SCSOA retaining twenty-five percent (or a guaranteed minimum ranging from zero to \$10,000, depending on the year). According to the last interim statement filed with OAG, for the contract year that ended September 9, 2009, Stage Door collected \$84,966 in monetary contributions and received \$63,679.50 as its fundraising fee, while the net amount to SCSOA was \$21,241.50. (The difference was reported by Stage Door as miscellaneous expenses.)

Columbia County Correction Officer’s Local #3828

40. Correction Officer’s Local 3828 is a law enforcement support organization whose primary purpose, according to its most recent filing with the OAG, is “member services.” It also lists “charitable contributions to community organizations” as one of its purposes.

41. Stage Door’s most recent fundraising contract with Correction Officer’s Local 3828 on file with the OAG covers the period October 10, 2008 to March 31, 2010. Under the contract, Stage Door and Correction Officer’s Local 3828 were joint venturers for the purpose of “publishing a journal promoting [Correction Officer’s Local 3828].” Stage Door was responsible for arranging promotion of the journal, and “arranging for the sale and distribution of advertising of the journal,” including a telemarketing campaign. Stage Door raises funds for Correction Officer’s Local 3828 by selling advertising space in the “journal.”

42. Under its contract with Correction Officer's Local 3828, Stage Door is to be paid eighty-five percent of the gross receipts resulting from its solicitation efforts, with the Correction Officer's Local 3828 receiving 15% of gross receipts (or a guaranteed minimum of \$10,000). According to the last interim statement filed with OAG, for the contract year that ended October 9, 2009, Stage Door collected \$34,620 in monetary contributions and was paid \$29,427 as its fundraising fee, while the net amount to Correction Officer's Local 3828 was \$5,193.00. According to the terms of the contract, the guaranteed minimum of \$10,000 applies to the entire term. At the conclusion of the contract term, the amount of revenue retained by the Correction Officer's Local 3828 may be adjusted, if necessary, to meet the greater of the guaranteed minimum 15% of the total gross.

Stage Door is Engaged in a Scheme to Defraud

43. In their attempts to collect contributions on behalf of SCSOA, Correction Officer's Local 3828 and others, Stage Door solicitors routinely make false and misleading statements designed to deceive and coerce donors into making contributions. Stage Door routinely disregards New York State laws on registration and disclosure that are designed to protect donors from unscrupulous fundraising practices. Instead, solicitors working for Stage Door are trained to conceal their identities and the fact that they are paid solicitors working for a paid professional fundraiser.

Stage Door and its Solicitors Fail to Disclose Their Status as Fundraising Professionals

44. 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 from the transaction.

45. Executive Law Section 174-b(3) requires that professional solicitors “clearly and unambiguously” disclose in any solicitation (i) the name of the professional fundraiser, (ii) the fact that the solicitation is being conducted by a professional fundraiser, (iii) the name of the individual professional solicitor as on file with the OAG and (iv) the fact that the solicitor is receiving compensation for making the call. Stage Door’s solicitors routinely fail to make these disclosures.

46. Stage Door solicitors blatantly disregard these Executive Law disclosure requirements, concealing the fact that they are paid solicitors working for a paid, professional fundraiser.

47. Stage Door solicitors not only hide the fact that they are compensated professionals, but go so far as to falsely tell the party being solicited that they are serving as uncompensated volunteers. Defendants Paul and John Doe No. 2 regularly claim to be volunteers, even though this is patently false.

48. John Doe No. 2 said to a new solicitor, “It’s none of their business whether you get paid or not or anything else. Just tell ‘em you’re a volunteer for the Local and the Local’s in Columbiaville. That’s where we’re calling from, Columbiaville.” In fact, this solicitor was located in Albany, over twenty-five miles north of Columbiaville and in a different county.

49. Disregarding their obligation under the Executive Law to provide potential donors with their true names as on file with the Attorney General, Stage Door solicitors use aliases in order to further deceive the public. According to Kershaw, he uses a

different name because: “the reason is, like, especially with Albany, we do two or three deals in the same county. Okay? And if you call somebody up and you sell them for, say, Albany County Sheriffs and then you call the guy back for the New York Law Convention, he’s gonna say ‘Geez, aren’t you the same guy that called me for this?’ You know what I mean?”

50. Kershaw’s use of fake names to confuse the public is precisely the harm the Executive Law seeks to avoid by requiring that solicitors state their actual name on file with the OAG.

Stage Door Uses Misnomers for Charities to Increase Donations

51. Executive Law Sections 172-d(2) and 173-b(2) prohibit solicitors from using misleading or deceptive words while engaging in solicitations of charitable contributions.

52. When placing solicitation calls, Stage Door solicitors routinely misstate the names of the organizations for which they are calling. For example, when calling for SCSOA, Stage Door solicitors introduce themselves as calling with the “Saratoga County Sheriffs,” rather than its true name, the “Saratoga County Sheriffs Officers Association.” This is an especially egregious violation of the Executive Law given Stage Door’s notice of the Decision and Order in *Spitzer v. Stack* in which SCSOA’s affiliate was found to have been misleading donors by using the phrase “deputy sheriff.”

53. Similarly, in their solicitation calls for Correction Officer’s Local 3828, Stage Door solicitors refer to the group as the “Columbia County Sheriffs,” rather than its true name, the “Columbia County Correction Officers Local #3828.” In that case, the name “Sheriffs” is not even in the name of the law enforcement support organization.

54. This practice of giving incorrect and/or abbreviated names for law enforcement support organizations deceives the public by giving it the impression that members of the Saratoga or Columbia County Sheriff's Department are actually calling. New Stage Door solicitors are trained and encouraged to use these fraudulent and deceptive techniques.

***Stage Door Solicitors Pretend to be
Employees of Law Enforcement Agencies***

55. Professional fundraisers and professional solicitors are absolutely prohibited from representing that they are police officers or employees of any law enforcement agency. Exec. L. §§ 172-d(2); 173-b(2); and 175(2)(h).

56. Stage Door solicitors routinely use language suggesting that they work as a sheriff or directly for the sheriff's department, for example, introducing themselves to prospective donors by saying their (fake) name and they are "with" the Sheriff's Department.

57. Solicitors have used the following phrases when making fundraising calls on behalf of SCSOA:

- "This is Ed Nelson *with* the Saratoga County Sheriffs";
- "Jack Harris, Saratoga County Sheriffs";
- "I'm Jack Harris *with* the Saratoga County Sheriffs";
- "This is Jack Harris *with* the Saratoga County Sheriffs";
- "This is Glen Miller calling, Saratoga County Sheriffs";
- "Tell her that it's Glen Miller, Saratoga County Sheriff";
- "My name is Glen Miller, and I'm *with* the Saratoga County Sheriffs";
- "Hi, this is Glen Miller *of* the Saratoga County Sheriffs"; and

- “I’m *with* the Saratoga County Sheriffs.”

These introductions mislead the public by creating the impression that the caller is from the Saratoga County Sheriff’s Department.

58. This pattern is repeated with solicitations on behalf of the Correction Officer’s Local 3828. When calling on behalf of Correction Officer’s Local 3828, Stage Door solicitors regularly introduce themselves as follows:

- “This is Ed Lang *with* the Columbia County Sheriffs”;
- “Jack Harris giving a call *with* the Columbia County Sheriffs”;
- “Hey there, Jack Harris giving a call *with* the Columbia County Sheriffs”;
- “This is Glen Miller, Columbia County Sheriffs” and
- “I’m *with* the Columbia County Sheriffs” (emphasis added).

59. New solicitors are coached to introduce themselves and to leave messages in misleading and fraudulent ways, such as pretending to be employees of law enforcement agencies in order to get the attention of the potential donor. A new solicitor was advised that in order to get through to the right person at a business, “I tell ‘em it’s confidential . . . That’s how I get around the secretaries.” As an alternative, he was told, “Then there’s the other way where you tell ‘em your name and you tell ‘em you’re calling from the Saratoga County Sheriffs, okay, and then, you know, they think it’s real important, you know? ... And then they call back.”

60. Stage Door solicitors also suggest to potential donors that the “sheriffs” keep track of complaints about a business when determining who will be privileged enough to receive a call soliciting journal contributions: “I’m with the Saratoga County Sheriffs, and you were referred to us as having given [inaudible]... all the people they

know and all the businesses that helped, and your name popped up and ah and ah it was a very good result, and uh, you know, no complaints etc. and things like that, the last thing the sheriffs want are complaints, so I wanted to give you a call.”

61. Kershaw told our undercover investigator that Stage Door’s solicitors are able to make people feel that the Sheriff’s Department keeps a list of who donates and who doesn’t: “And they feel like, you know, ‘Well, Mr. G[____]’, if you call up [inaudible] the Sheriff’s department so to speak, well, the Sheriff’s department has a list of everybody and uh, who’s gonna say yes and who gonna . . . you know what I mean? . . . what I’m saying is, the people when you call ’em, and they feel like we have a list, you know, of every business down there, who’s giving and who isn’t.”

62. In fact, the Sheriff’s Department is not keeping any such list. Rather, Stage Door infers that such list exists to further the scheme to deceive by, in this instance, creating an air of intimidation.

***Stage Door’s Solicitors Fail to inform Potential Donors
of the Availability of the Financial Reports of Stage Door’s Clients***

63. In furtherance of its fraudulent scheme to deceive and mislead donors, Stage Door solicitors do not tell donors that the latest financial report filed by the client charitable organization is available from the organization and the Attorney General, as required by Exec. L. § 174-b(1).

64. Stage Door solicitors calling on behalf of SCSOA and Correction Officer’s Local 3828, for example, do not disclose this information to donors. During their training, new solicitors are not told about this requirement. The OAG’s undercover investigator was never instructed to disclose this information when making solicitation calls.

65. In response to questions about finances, Stage Door’s solicitors are trained to be evasive. In training, Kershaw and others encourage solicitors to dismiss any questions they receive regarding the amount of funds that go to the charitable cause, and to claim that they have no knowledge of how those arrangements are made, rather than advise the person of the availability of financial reports.

66. One solicitor was giving advice to a new solicitor: “And they want to know how much-sometimes you get ‘how much of this goes to the kids?’ Okay, and so forth. Ma’am, all I know is that your check is made out to Columbia County Sheriffs-” Kershaw interrupts and says “All the money is directly deposited into the account. The way it’s broken down from that point, that’s a little above me . . .”

67. At no time did Kershaw tell the solicitors they are required to advise donors that financial information is available from the charity or from the Attorney General. Doing so would expose the fact that donors are not speaking to a charitable organization, but rather to a professional fundraiser.

Stage Door Employs Unregistered Solicitors

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

69. The OAG undercover investigator was never instructed or required to register as a professional solicitor prior to starting work as a solicitor at Stage Door.

70. In addition, the OAG’s undercover investigator observed Defendants Paul, John Doe No. 1 and John Doe No. 2 placing calls to potential donors and acting as professional solicitors. At the time, Defendant Paul was not registered as a professional

solicitor with the OAG. He did not register as a professional solicitor until October 12, 2009, after Stage Door received an investigatory subpoena from the OAG. The OAG has no record of registration by Stage Door solicitors with the names of Jack Harris, Ed Lang, or Ed Nelson, the names used by John Doe No. 1 and John Doe No. 2.

71. In sum, Stage Door has employed at least four unregistered solicitors in violation of Exec. L. § 174(3).

Stage Door's Solicitors Fail to Provide Clear Description of Programs

72. Exec. L. § 174-b(2) requires solicitations to include a "clear description" of the charitable programs that the donor's funds will support. Instead, Stage Door's solicitations contain only broad, vague statements regarding the charitable programs purportedly carried out by its clients. For example, solicitors refer vaguely to programs "for the kids," saying "we're the only department that deals with the kids on this level." When asked what this vague description meant, one of Stage Door's solicitors acknowledged that it meant "absolutely nothing."

Stage Door and Kershaw Made Material False Statements in Filings with the OAG

73. Executive Law Section 172-d(1) prohibits fundraising professionals from making any material statement which is untrue in any registration statement or other documents filed with the OAG.

False Scripts

74. Stage Door has papered over its misleading solicitation tactics by filing false scripts with the Attorney General. These scripts bear no resemblance to the solicitations actually used by its solicitors.

75. For example, the “sales pitch sheets” for SCSOA telephone calls that Stage Door filed with the OAG together with the SCSOA contract indicate that the solicitor will identify himself or herself by name, and tell the potential donor that he or she is “a paid caller with Stage Door Music Productions, Inc.” In fact, the Stage Door solicitors’ practice is to omit that description.

76. The “sales pitch sheets” for SCSOA also indicate that the solicitor will state that “A copy of the last annual report filed by the organization can be obtained by writing to them . . . or from the Office of the Attorney General.” In practice, however, Stage Door solicitors do not make any reference to SCSOA’s annual report.

77. Similarly, the “sales pitch sheets” for Correction Officer’s Local 3828 telephone calls that the Correction Officer’s Local 3828 filed with the OAG together with the Correction Officer’s Local 3828 contract indicate that the solicitor will identify himself or herself by name, and tell the potential donor that he or she is “a paid caller with Stage Door Music Productions, Inc.” In fact, Stage Door solicitors’ practice is to omit that description.

78. The “sales pitch sheets” for Correction Officer’s Local 3828 also indicate that the solicitor will state that “A copy of the last annual report filed by the organization can be obtained by writing to them . . . or from the Office of the Attorney General.” In practice, however, Stage Door solicitors do not make any reference to Correction Officer’s Local 3828’s annual report.

79. Although Stage Door has filed solicitation scripts with the Attorney General that comply with some of the disclosure requirements, new solicitors are not provided with copies of those scripts. Instead, Kershaw and others encourage new solicitors to

develop their own ad hoc sales pitches, which omit the disclosures required by the Executive Law.

80. Kershaw tells new solicitors, “It’s a simple business. You have to be you. And you’ll hear these guys what they say on the phone; they all get to the same ending and the same point, but nobody says the same thing.”

81. When Kershaw helped the OAG undercover investigator draft a handwritten script to use in connection with solicitation calls on behalf of the Columbia County Correction Officers Local 3828, Kershaw advised him to say that the organization was a sheriffs organization, rather than a correction officers association. He further counseled the new solicitor to say he was calling “from” the organization. Thus, the script directs him to say that he was “Calling from Columbia County Sheriffs Local 3828.”

82. The hand-written script for the Correction Officer’s Local 3828 telemarketing campaign that Kershaw helped the OAG investigator draft for use at the Albany call-center did not contain the mandatory disclosures that were included in the script filed with the OAG for this campaign.

Failure to Disclose Criminal History

83. Pursuant to Executive Law Section 175(3), an individual may be enjoined from engaging in solicitation if he has been convicted of a felony or misdemeanor involving the misappropriation of the money or property of another, and has not received an executive pardon or a certificate of good conduct from the parole board. Such convictions are required to be reported on the professional solicitation registration form filed with the Attorney General.

84. Kershaw has been convicted of at least seven crimes, including petit larceny, possession of stolen property, possession of a forged instrument, malicious injury to property and fraud and impersonation.

85. In response to the question on his Professional Solicitor Registration Statements for the years 2006 - 2009, "Has the Registrant ever been convicted of or pleaded guilty to a felony or misdemeanor involving the misappropriation or misuse of the money or property of another?", Kershaw falsely represented that he had no such convictions or guilty pleas.

86. Stage Door also falsely represented in its Professional Fundraiser Registration Statements filed with the OAG that it had no agents or representatives with such convictions, when it should have disclosed Kershaw's criminal convictions.

FIRST CAUSE OF ACTION

Scheme to Defraud – Exec. L. § 172-d(2) (Against Stage Door, Kershaw, Paul and John Doe Nos. 1 and 2)

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

88. Defendants, and those acting in concert or participation with them or under their direction or control, have violated Executive Law § 172-d by engaging in a fraudulent scheme in connection with charitable solicitations, including but not limited to: (a) obtaining money by false pretenses and representations; (b) falsely holding themselves out to the public as being employees of, members of, or volunteers with law enforcement agencies or groups, and engaging in related deceptive practices to entice donations to law enforcement support organizations; (c) misidentifying or modifying the

names of charitable organizations for which they are calling; (d) failing to disclose their status as paid solicitors, or Stage Door's involvement in the fundraising campaign; and (e) providing vague descriptions of the programs and activities sponsored by the organizations.

89. Stage Door is vicariously liable for the actions of its solicitors.

90. Accordingly, defendants are liable for damages caused by their conduct and should be enjoined from the solicitation and collection of charitable funds in New York and defendants' registrations as fundraising professionals should be canceled or denied.

SECOND CAUSE OF ACTION

Failure to Disclose Professional Fundraiser's Name and Professional Status Exec. L. § 174-b(3)(a) and § 175(2) (Against Stage Door, Kershaw, Paul and John Doe Nos. 1 and 2)

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

92. In its telephone solicitation calls, Stage Door solicitors fail to clearly and unambiguously disclose the fact that the fundraising campaign is being conducted by Stage Door, a professional fundraiser, in violation of Executive Law § 174-b(3)(a).

93. Stage Door is vicariously liable for the actions of the solicitors in its employ and Kershaw is vicariously liable for the actions of solicitors under his supervision.

94. Accordingly, as authorized by Exec. L. § 175(2), defendants are liable for damages caused by their conduct and should be enjoined from the solicitation and collection of charitable funds in New York and defendants' registrations as fundraising professionals should be canceled or denied.

THIRD CAUSE OF ACTION

**Failure to Disclose Professional Solicitor Name and Paid Status
Exec. L. § 174-b(3)(b) and § 175(2)
(Against Stage Door, Kershaw, Paul and John Doe Nos. 1 and 2)**

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

96. In their telephone solicitation calls, Stage Door'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, in violation of Exec. L. Section 174-b(3)(b).

97. Stage Door is vicariously liable for the actions of the solicitors in its employ and Kershaw is vicariously liable for the actions of solicitors under his supervision.

98. Accordingly, as authorized by Exec. L. § 175(2), defendants are liable for damages caused by their conduct and should be enjoined from the solicitation and collection of charitable funds in New York and defendants' registrations as fundraising professionals should be canceled or denied.

FOURTH CAUSE OF ACTION

**Falsely claiming to be employees of law enforcement agency
Exec. L. § 173-b(2) and § 175(2)(h)
(Against Stage Door, Kershaw, Paul and John Doe Nos. 1 and 2)**

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

100. Stage Door solicitors represent to members of the public that they are employees of law enforcement agencies, in violation of Exec. L. § 175(2)(h)(i), as incorporated by Exec. L. § 173-b.

101. Stage Door is vicariously liable for the actions of the solicitors in its employ and Kershaw is vicariously liable for the actions of solicitors under his supervision.

102. Accordingly, defendants are liable for damages caused by their conduct and should be enjoined from the solicitation and collection of charitable funds in New York and defendants' registrations as fundraising professionals should be canceled or denied.

FIFTH CAUSE OF ACTION

Failure to Clearly Describe Programs – Exec. L. § 174-b(2) and § 175(2) (Against Stage Door, Kershaw, Paul and John Doe Nos. 1 and 2)

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

104. In its telephone solicitations, Stage Door solicitors fail to provide a clear description of the programs and activities for which it has requested and for which the charity has expended or will expend contributions, and fails to include a statement that a person may obtain such a description from the charity, in violation of Executive Law § 174-b(2).

105. Stage Door is vicariously liable for the actions of the solicitors in its employ and Kershaw is vicariously liable for the actions of solicitors under his supervision.

106. Accordingly, as authorized by Exec. L. § 175(2), defendants are liable for damages caused by their conduct and should be enjoined from the solicitation and collection of charitable funds in New York and defendants' registrations as fundraising professionals should be canceled or denied.

SIXTH CAUSE OF ACTION

Failure to Refer to Financial Reports – Exec. L. § 174-b(1) and § 175(2) (Against Stage Door, Kershaw, Paul and John Doe Nos. 1 and 2)

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

108. In its telephone solicitations on behalf of charitable organizations, Stage Door 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 Executive Law § 174-b(1).

109. Stage Door is vicariously liable for the actions of the solicitors in its employ and Kershaw is vicariously liable for the actions of solicitors under his supervision.

110. Accordingly, as authorized by Exec. L. § 175(2), defendants are liable for damages caused by their conduct and should be enjoined from the solicitation and collection of charitable funds in New York and defendants' registrations as fundraising professionals should be canceled or denied.

SEVENTH CAUSE OF ACTION

Employment of Unregistered Professional Solicitors – Exec. L. § 174(3) (Against Stage Door)

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

112. Stage Door employs professional solicitors who are not registered with the OAG, in violation of Executive Law § 174(3).

113. Accordingly, Stage Door is liable for damages caused by its conduct and should be enjoined from the solicitation and collection of charitable funds in New York and Stage Door's registration as professional fundraiser should be canceled.

EIGHTH CAUSE OF ACTION

**Material False Statement in Registration Statement
Exec. L. §§ 172-d(1) & 175(2)(d)
(Against Stage Door)**

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

115. When filings its contracts for Correction Officer's Local 3828 and SCSOA fundraising campaigns with the Attorney General, Defendant Stage Door has filed scripts that purport to represent the language that its solicitors will use when making telephone calls on behalf of those organizations. In practice, Stage Door solicitors are not even provided with the prepared scripts, and instead use language that is inconsistent in material respects with the scripts and with the disclosure requirements of the Executive Law.

116. In addition, Stage Door falsely represented in its Professional Fundraiser Registration Statements that none of its agents or representatives have a criminal history involving the misappropriation or misuse of the money or property of another, when it should have disclosed Kershaw's convictions.

117. Accordingly, Stage Door is liable for damages caused by its conduct and should be enjoined from the solicitation and collection of charitable funds in New York and Stage Door's registration as professional fundraiser should be canceled.

NINTH CAUSE OF ACTION

**Material False Statement in Registration Statement
Exec. L. §§ 172-d(1) & 175(2)(d)
(Against Kershaw)**

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

119. For the years 2006 - 2009, Defendant Kershaw made material false statements in his Professional Solicitor Registration Statements, in violation of Executive Law § 175(2)(d), in that he falsely stated that he had never been convicted of or pleaded guilty to a felony or misdemeanor involving the misappropriation or misuse of the money or property of another.

120. Accordingly, Kershaw is liable for damages caused by his conduct and should be enjoined from the solicitation and collection of charitable funds in New York and his 2009 Professional Solicitor Registration Statement should be denied.

TENTH CAUSE OF ACTION
For an Injunction Based on Criminal History
Exec. L. § 175(3)
(Against Kershaw)

121. Pursuant to Exec. L. § 175(3), the Attorney General may seek an injunction to prohibit persons convicted of certain crimes from soliciting charitable contributions in the State of New York.

122. Defendant Kershaw has been convicted of seven crimes, including petit larceny, possession of stolen property, possession of a forged instrument, malicious injury to property and fraud and impersonation. These crimes involve “the misappropriation, misapplication or misuse of the money or property of another” within the meaning of § 175(3).

123. Kershaw has not received executive pardon for the above described crimes and has not received a certificate of good conduct from the parole board.

124. Kershaw has been and currently is engaged in the solicitation of charitable contributions in the State of New York.

125. Pursuant to Exec. L. § 175(3), Kershaw should be permanently enjoined from engaging in charitable solicitations in New York for a contribution to any charitable organization.

ELEVENTH CAUSE OF ACTION

Deceptive Acts or Practices – Gen. Bus. L. § 349 (Against Stage Door, Kershaw, Paul and John Does Nos. 1 and 2)

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

127. Defendants' actions described herein constitute deceptive acts and practices that are declared unlawful under General Business Law § 349.

128. As authorized by General Business Law § 349(b) Stage Door should be enjoined from the solicitation and collection of charitable funds, and its registration as a professional fundraiser should be canceled.

129. As authorized by General Business Law § 350-d, Stage Door 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 defendants as follows:

A. Enjoining defendants, and all other persons acting or claiming to act on their behalf or in concert or participation with them, from soliciting charitable contributions from within 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 Stage Door's New York registration as a professional fundraiser;
- C. Enjoining Defendant Kershaw from engaging in charitable solicitation based on his criminal history;
- D. Canceling or denying any professional solicitor registrations filed by the individual defendants;
- E. Awarding restitution, damages, and costs under Executive Law Article 7-A and Gen. Bus. L. § 349, in an amount to be determined at trial;
- F. Imposing upon defendants civil penalties in the amount of \$5,000 for each violation of Gen. Bus. L. § 349; and

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

Dated: Albany, New York
January 19, 2010

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