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VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL,

Plaintiff,

v.

VIETNOW NATIONAL HEADQUARTERS, INC.,
an Illinois corporation,

JOSEPH A. LEWIS,
an individual,

STEVEN RUCKI,
an individual,

DARRELL GILGAN,
an individual,

JOHN W. BATES,
an individual,

MICHAEL V. BOORSMA,
an individual,

JOHN A. DAVIS,
an individual,

BERNARD SPENCER,
an individual,

EDWARD BANACH, JR.,
an individual,

RICHARD SANDERS,
an individual,

JAMES M. STEPANEK,
an individual,

CIVIL ACTION NO. CL17-5644-

TERRY BUSCHER,
an individual,
JOHN C. AUGUSTYNOWICZ,
an individual,
GARY EISENHOWER, SR.,
an individual,
and
HERBERT L. HOLDERMAN,
an individual,

Defendants.

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COMPLAINT

The Plaintiff, Commonwealth of Virginia (the “Commonwealth”), by, through, and at the relation of its Attorney General, Mark R. Herring, brings this action against the Defendants, VietNow National Headquarters, Inc., Joseph A. Lewis, Steven Rucki, Darrell Gilgan, John W. Bates, Michael V. Boorsma, John A. Davis, Bernard Spencer, Edward Banach, Jr., Richard Sanders, James M. Stepanek, Terry Buscher, John C. Augustynowicz, Gary Eisenhower, Sr., and Herbert L. Holderman (together “VietNow”), pursuant to the Virginia Solicitation of Contributions (“VSOC”) law, Virginia Code §§ 57-48 through 57-69. The Commonwealth prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

JURISDICTION AND VENUE

1. The Circuit Court of the City of Richmond has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513, and 57-59(D).
2. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c)

because some or all of the acts to be enjoined are, or were, being done in the City of Richmond. Venue is permissible in this Court pursuant to Virginia Code § 8.01-262(4) because portions of the cause of action arose in the City of Richmond.

3. The Defendants transacted business in Virginia through soliciting or obtaining contributions from Virginia residents, including in the City of Richmond.

4. At all relevant times, the Defendants have purposefully availed themselves of this forum.

5. The Defendants have agreed to execute a Consent Judgment that is acceptable to the Commonwealth.

PARTIES

6. The Plaintiff is the Commonwealth of Virginia, by, through, and at the relation of Mark R. Herring, Attorney General of Virginia.

7. VietNow National Headquarters, Inc. is a corporation organized under the laws of the State of Illinois, with its principal place of business in Rockford, Illinois.

8. Joseph A. Lewis, Steven Rucki, Darrell Gilgan, John W. Bates, Michael V. Boorsma, John A. Davis, Bernard Spencer, Edward Banach, Jr., Richard Sanders, James M. Stepanek, Terry Buscher, John C. Augustynowicz, Gary Eisenhower, Sr., and Herbert L. Holderman are directors and officers of VietNow National Headquarters, Inc.

FACTS

9. Upon information and belief, VietNow used solicitation scripts which indicated that portions of funds solicited would be used in specific states, when in fact VietNow did not intend to direct funds toward those states.

10. Upon information and belief, VietNow used solicitation scripts containing

representations that funds would be used to assist veterans, including in some instances providing medical facilities and treatment to individuals with Post-Traumatic Stress Disorder, Gulf War Syndrome, and those affected by the chemical Agent Orange, when VietNow did not provide or offer such medical assistance or treatment. Moreover, any spending on such programs was *de minimis*. Money raised using these scripts was diverted to other uses.

11. VietNow listed no contractors receiving more than \$100,000 in Part VII, Section B of the 2014 Internal Revenue Service Form 990 filed as part of its annual registration with the Virginia Department of Agriculture and Consumer Services Office of Charitable and Regulatory Programs. Upon information and belief, VietNow used no fewer than six independent contractors receiving more than \$100,000 in compensation.

CAUSE OF ACTION

12. The Plaintiff realleges and incorporates herein by reference the matters set forth in Paragraphs 1 through 11 above.

13. VietNow National Headquarters, Inc. is or was during all relevant times a “charitable organization” which held itself out to be organized or operated for “charitable purpose[s],” and “solicit[ed]” or obtained “contribution[s]” solicited from the public as those terms are defined in the VSOC law.

14. Joseph A. Lewis, Steven Rucki, Darrell Gilgan, John W. Bates, Michael V. Boorsma, John A. Davis, Bernard Spencer, Edward Banach, Jr., Richard Sanders, James M. Stepanek, Terry Buscher, John C. Augustynowicz, Gary Eisenhower, Sr., and Herbert L. Holderman individually directed, controlled, approved, or participated in the acts and practices of VietNow National Headquarters, Inc., including those acts and practices that are the subject of this Complaint.


15. As alleged in paragraphs 9 through 11, VietNow used false and misleading telemarketing solicitation scripts, diverted charitable funds donated for a specific purpose, and submitted false and inaccurate financial statements to the Virginia Department of Agriculture and Consumer Services Office of Charitable and Regulatory Programs.

16. The Plaintiff alleges that the aforesaid acts and practices of the Defendants constitute violations of Virginia Code §§ 57-57(L), (N), and (O).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Virginia, respectfully requests this Court enter the Consent Judgment filed simultaneously herewith.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By: 
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CERTIFICATE OF SERVICE

I, Stephen John Sovinsky, certify that on November 30, 2017, a true copy of the foregoing

Complaint was mailed via first class mail to:

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