

<p>States and the Districts of California,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>Cancer Fund of America, Inc., a Delaware corporation, et al.;</p> <p>Defendants.</p>	<p>CASE NO.</p> <p>STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT AGAINST CHILDREN’S CANCER FUND OF AMERICA, INC., AND ROSE PERKINS</p>
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Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”) and the states of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia have filed a complaint for a permanent injunction and other equitable relief against Defendants Cancer Fund of America, Inc., also d/b/a Breast Cancer Financial Assistance Fund (“CFA”), Cancer Support Services, Inc. (“CSS”), Children’s Cancer Fund of America, Inc. (“CCFOA”), and The Breast Cancer Society, Inc., also d/b/a The Breast Cancer Society of America (“BCS”), Rose Perkins, and other individuals, alleging that all named Defendants

1	North Dakota:	N.D. CENT. CODE §§ 50-22-01 through 50-22-07; and 51-15-01 through 51-15-11.
2	Ohio:	OHIO REV. CODE ANN. § 1716.
3	Oklahoma:	OKLA. STAT. ANN. tit. 18 §§ 552.1 through 552.22.
4	Oregon:	OR. REV. STAT. §§ 128.886; and 646.605 through 646.636.
5	Pennsylvania:	10 PA. STAT. ANN. §§ 162.1 through .14 (1990).
6	Rhode Island:	R.I. GEN. LAWS §§ 5-53.1-1 through 5-53.1-18.
7	South Carolina:	S.C. CODE ANN. §§ 33-56-10 through 33-56-200.
8	South Dakota:	S.D. CODIFIED LAWS §§ 37-30-17 through 37-30-21; and 21-34-1 through 21-34-14.
9	Tennessee:	TENN. CODE ANN. §§ 48-101-501 through 48-101-522.
10	Texas:	TEX. BUS. & COM. CODE ANN. §§ 17.41 through 17.63.
11	Utah:	UTAH CODE ANN. §§ 13-11-1 through 13-11-23; 13-22-1 through 13-22-23; and 13-26-1 through 13-26-11.
12	Vermont:	VT. STAT. ANN. tit. 9 §§ 2453 through 2461; and 2471 through 2479.
13	Virginia:	VA. CODE ANN. §§ 57-48 through 57-69.
14	Washington:	WASH. REV. CODE §§ 19.86; and §19.09.
15	West Virginia:	W.VA. CODE §§ 29-19-1 -15b; and 46A-1-101 through 46a-6-110.
16	Wisconsin:	WIS. STAT. §§ 202.11-202.18.
17	Wyoming:	WYO. STAT. ANN. §§ 40-12-101 through 114.

4. Defendants CCFOA and Perkins neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.

5. Defendants CCFOA and Perkins waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.

6. Defendants CCFOA and Perkins waive all rights to appeal or otherwise challenge or contest the validity of this Order.

7. Entry of this Order is in the public interest.

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contact or donor lists, or providing caging, mail processing, or fulfillment services, or
(2) controlling, directly or indirectly, or holding a majority ownership interest in, any

1 indirectly, are hereby permanently restrained and enjoined from violating, or assisting
 2 others in violating, any provision of the TSR, 16 C.F.R. Part 310, as currently
 3 promulgated or as it hereafter may be amended.

4 **V. COMPLIANCE WITH STATE LAW**

5 IT IS FURTHER ORDERED that CCFOA, its officers, agents, employees, and
 6 independent contractors, and Perkins, whether acting directly or indirectly, are hereby
 7 permanently restrained and enjoined from violating, or assisting others in violating, any
 8 provision of the following state laws:
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10 Alabama:	ALA. CODE §§ 8-19-1 through -15; and 13A-9-70 through 76.
11 Alaska:	ALASKA STAT. §§ 45.50.471 through 45.50.561; and 45.68.010 through 45.68.900.
12 Arizona:	ARIZ. REV. STAT. ANN. §§ 44-1521 through 44-1534 and 44-6551 through 44-6561.
13 Arkansas:	ARK. CODE ANN. §§ 4-28-401 through 4-28-416; and §§ 4-88-101 through 4-88-115.
14 California:	CAL. GOV. CODE §§ 12580 through 12599.6; CAL. BUS. & PROF. CODE §§ 17200 through 17206; and §§ 17510 through 17510.95.
15 Colorado:	COLO. REV. STAT. §§ 6-1-101 through 115; and 6-16-101 through 114.
16 Connecticut:	CONN. GEN. STAT. §§ 21a-175 through 21a-190l; and 42-110a through 42-110q.
17 Delaware:	DEL. CODE ANN. tit. 6, § 2513(a) (1998); tit. 6, § 2532(a) (1995); and tit. 6, §§ 2595(a) – (b) (1995).
18 Florida:	FLA. STAT. ch. 501, Part II; and ch. 496 (2013).
19 Georgia:	GA. CODE ANN. §§ 43-17-1 through 43-17-23 (2011).
20 Hawaii:	HAW. REV. STAT. §§ 467B-9.6, 467B-9.7(d), and 467B-10.5; 480-15; and Act 217 §2 Haw. Sess. Laws (2014).
21 Idaho:	IDAHO CODE ANN. §§ 48-601 through 619; and 48-1201 through 1206.
22 Illinois:	225 ILL. COMP. STAT. §§ 460/0.01 through 460/23.
23 Indiana:	IND. CODE §§ 24-5-0.5-1 through -12.
24 Iowa:	IOWA CODE § 714.16.
25 Kansas:	KAN. STAT. ANN. §§ 17-1759 through 17-1776.
26 Kentucky:	KY. REV. STAT. ANN. §§ 367.110 through 367.300.
27 Louisiana:	LA. REV. STAT. ANN. §§ 51:1401 through 1427; and 51:1901 through 1909.1.
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1 1. The judgment shall be suspended as to Perkins, subject to
2 Subsections VII.C.2 - 3, below. Plaintiffs' agreement to the suspension of the judgment
3 owed by Perkins is expressly premised upon the truthfulness, accuracy, and completeness
4 of Perkins' sworn financial statements and related documents submitted to Plaintiffs,
5 namely, the Financial Statement of Individual, signed on March 16, 2015, including
6 attachments;

7 2. The suspension of the judgment will be lifted as to Perkins if, upon
8 motion by any Plaintiff, the Court finds that Perkins failed to disclose any material asset,
9 materially misstated the value of any asset, or made any other material misstatement or
10 omission in the representations made in her Financial Statement, identified above. If the
11 suspension of the judgment is lifted pursuant to this provision, the judgment becomes
12 immediately due in the amount specified in Subsection VII.A above as to Perkins (which
13 the Parties stipulate for purposes only of this Section represents the consumer injury
14 alleged in the Complaint for which Perkins is jointly and severally liable with CCFOA),
15 less any payment previously made pursuant to this Section, plus interest computed from
16 the date of entry of this Order.

17 3. The suspension of the judgment will be lifted as to Perkins if, upon
18 motion by any Plaintiff State, the Court finds that Perkins has violated any provision of
19 Section II, above, and a judgment in the amount set forth in Subsection VII.A above, less
20 any prior payments by Perkins or CCFOA, becomes immediately due as to Perkins. The
21 judgment amount shall be payable to the moving Plaintiff State, which shall use any
22 money collected pursuant to the requirements of Section VIII.E.2, below.

1 **VIII. ADDITIONAL MONETARY PROVISIONS**

2 IT IS FURTHER ORDERED that:

3 A. CCFOA and Perkins relinquish dominion and all legal and equitable right,
4 title, and interest in all assets transferred pursuant to this Order and the CCFOA
5 Receivership Order, and may not seek the return of any assets;

6 B. The facts alleged in the Complaint will be taken as true, without further
7 proof, in any subsequent civil litigation by or on behalf of the Plaintiffs or the CCFOA
8 Receiver, including in a proceeding to enforce their rights to any payment or monetary
9 judgment pursuant to this Order, such as a nondischargeability complaint in any
10 bankruptcy case;

11 C. The facts alleged in the Complaint establish all elements necessary to
12 sustain an action by Plaintiffs pursuant to Section 523(a)(2)(A) of the Bankruptcy Code,
13 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such
14 purposes;

15 D. CCFOA and Perkins acknowledge that their Taxpayer Identification
16 Numbers, Social Security Numbers and/or Employer Identification Numbers, which
17 Defendants previously submitted to Plaintiffs, may be used for collecting and reporting
18 on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701;

19 E. Payment to the Plaintiff States:

20 1. All money paid to the Plaintiff States pursuant to this Order shall be
21 made by wire transfer to the Litigation Deposits Trust Fund (Fund Code "T-xx-909N"),
22 an interest bearing trust fund held by the Hawaii Attorney General's Office in trust for
23 the Plaintiff States ("the short-term court ordered trust fund" or "STCO Fund");

24 2. The STCO Fund shall be used to pay: (a) pursuant to cy pres,
25 qualifying charitable organizations with charitable purposes substantially similar to the
26 purposes for which CCFOA solicited funds, and (b) the Plaintiff States to reimburse costs
27 of the investigation and to pay attorneys' fees. When payment(s) from the STCO Fund
28 are appropriate, the Plaintiff States shall submit to this Court a Motion and Proposed

1 A. One year after entry of this Order, Perkins must submit a compliance
2 report, sworn under penalty of perjury. Perkins must:

3 1. identify all her telephone numbers and all physical, postal, email and
4 Internet addresses, including all residences;

5 2. identify all her business activities, including any business for which
6 she performs services whether as an employee or otherwise and any entity in which she
7 has any ownership interest;

8 3. describe in detail her involvement in each such business, including
9 title, role, responsibilities, participation, authority, control, and any ownership;

10 4. identify all such businesses by all of their names, telephone
11 numbers, and physical, postal, email, and Internet addresses;

12 5. describe the activities of each business, including the goods and
13 services offered, the means of advertising, marketing, sales, methods of payment, and the
14 involvement of any other Defendant named in this matter (which Perkins must describe if
15 she knows or should know due to her own involvement);

16 6. identify the primary physical, postal, and email address and
17 telephone number, as designated points of contact, which Plaintiffs or their
18 representatives may use to communicate with her;

19 7. for all her activities with any nonprofit organization that Perkins
20 undertakes in connection with Section II.D of this Order:

21 a. identify all such nonprofit organizations by all of their names,
22 telephone number[s], and physical, postal, email, and Internet addresses; and

23 b. describe in detail her involvement in each such nonprofit
24 organization, including any title, role, responsibilities, participation, authority, and
25 control;

26 8. describe in detail whether and how Perkins is in compliance with
27 each Section of this Order; and

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1 E. Unless otherwise directed by a Commission representative in writing, all
2 submissions to Plaintiff Federal Trade Commission pursuant to this Order must be
3 emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:

4 Associate Director for Enforcement,
5 Bureau of Consumer Protection,
6 Federal Trade Commission,
7 600 Pennsylvania Avenue NW,
8 Washington, DC 20580

9 The subject line of each submission must begin: FTC v. Cancer Fund of America, et al.

10 **XI. RECORDKEEPING**

11 IT IS FURTHER ORDERED that Perkins must create certain records for ten years
12 after entry of this Order, and retain each such record for five years. Specifically, for any
13 business that she, individually or collectively with any other Defendant named in this
14 matter, is a majority owner or controls directly or indirectly, she must create and retain
15 the following records:

16 A. Accounting records showing revenues from all goods or services sold or
17 billed;

18 B. Personnel records showing, for each person providing services, whether as
19 an employee or otherwise, that person's name; address; telephone number; job title or
20 position; dates of service; and reason for termination (if applicable);

21 C. Records of all consumer complaints, whether received directly or indirectly,
22 such as through a third party, and any response;

23 D. All records necessary to demonstrate full compliance with each provision
24 of this Order, including all submissions to Plaintiff Federal Trade Commission; and

25 E. A copy of each unique advertisement or other marketing material.
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STIPULATED ORDER FOR PERMANENT INJUNCTION