

JAN 19 2010

ALAN CARLSON, Clerk of the Court

jb
L Brown
BY L BROWN

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8 *Attorneys for People of the State of California*
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

Jan 14 2010

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF ORANGE - CIVIL COMPLEX CENTER

13 **PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff.

v.

17 **ASSOCIATION FOR FIREFIGHTERS
AND PARAMEDICS, INC., MICHAEL
18 GAMBOA; PUBLIC AWARENESS,
L.L.C.; COMMUNITY SUPPORT, INC.;**
19 **COURTESY CALL, INC., ET AL.**

Defendants

Case No. 30-2009 00272106

**SETTLEMENT AGREEMENT AND
[PROPOSED] ORDER RE: COURTESY
CALL, INC.**

Dept: CX105
Judge: The Honorable Nancy Wieben
Stock

Action Filed: May 29, 2009

22 1. This Settlement Agreement and Order are entered into by, between, and among the
23 settling parties, Plaintiff, the People of the State of California ("the People"), by Edmund G.
24 Brown Jr., Attorney General of the State of California ("Attorney General") and Defendant
25 Courtesy Call, Inc., a Nevada Corporation (hereinafter "Courtesy Call") (hereinafter, collectively,
26 also referred to as "the Settling Parties"). At all times relevant herein, Courtesy Call was and is a
27 commercial fundraiser for charitable purposes within the meaning of Government Code section
28 12599. The Attorney General, on behalf of the People, sued Courtesy Call in the underlying

1 action for deceptive and misleading charitable solicitations, unfair competition, and disseminating
2 false or misleading statements. Courtesy Call denies any wrongdoing. The Settling Parties, each
3 of whom, desiring to avoid the expense, uncertainty, and inconvenience of further litigation in the
4 above-captioned matter, state all claims alleged against Courtesy Call arising out of the above-
5 captioned action have been settled, and that the Court may enter the proposed Order attached
6 hereto, on the following facts, terms, and conditions:

7 2. The Court has personal jurisdiction of the Settling Parties and subject matter
8 jurisdiction of the above-captioned action. The Court retains jurisdiction of the above-referenced
9 action and over the Settling Parties until final performance of the Settlement Agreement stated
10 herein. Any applicable statute, rule or court order affecting timely prosecution of this action,
11 including the 5-year dismissal statute and the 10-year statute of limitations under Government
12 Code section 12596 are hereby tolled. The Court shall retain jurisdiction as the ends of justice
13 may require for the purpose of enabling any party to this Settlement Agreement to apply to the
14 Court at any time for such further orders and directions as may be necessary or appropriate

15 including, but not limited to, the following: (a) the construction or carrying out of this
16 Settlement Agreement, (b) the enforcement of any provisions of the Settlement Agreement, and
17 (c) the punishment of any violations of the Settlement Agreement. This Settlement Agreement
18 constitutes a stipulation for settlement and shall be enforceable under Code of Civil Procedure
19 section 664.6.

20 3. Courtesy Call agrees to pay to the Attorney General's Office a total of \$30,000 for
21 attorney's fees and costs incurred by the Charitable Trusts Section, pursuant to Government Code
22 sections 12586.2 and 12598 (hereinafter also referred to as the "Settlement Amount"). These
23 funds shall be used by the Charitable Trusts Section solely for the administration of the Attorney
24 General's charitable trust enforcement responsibilities. The \$30,000 Settlement Amount shall be
25 payable at the rate of \$1,000.00 per month for a period of 30 consecutive months. The first
26 payment is to be made on or before February 10, 2010, or within 10 days after notice to Courtesy
27 Call President Rick Zeitlin that the court has signed the Order on the Settlement Agreement,
28 whichever occurs later. All subsequent payments shall be made by the 15th day of each

1 succeeding month until the Settlement Amount is paid in full. All payments pursuant to this
2 paragraph of the Settlement Agreement shall be made payable to "the Attorney General's
3 Litigation Deposit Fund" and shall be delivered to the Attorney General's Office at 300 S. Spring
4 Street, Los Angeles, California 90013, to the attention of Deputy Attorney General Jami L.
5 Cantore. If Courtesy Call fails to make any of the aforementioned payments, the Attorney
6 General shall notify Courtesy Call in writing to the attention of Richard Zeitlin, President of
7 Courtesy Call. Courtesy Call shall have 10 days from receipt of said writing by Mr. Zeitlin to
8 cure the default. If the default is not cured within the aforementioned 10-day period, the balance
9 of the Settlement Amount shall be immediately due and payable in full.

10 4. Courtesy Call shall fully comply with all registration requirements as set forth in
11 Government Code sections 12599 and 12599.5.

12 5. During years 2010, 2011 and 2012, Courtesy Call will not enter into any contracts or
13 agreements to solicit in California and/or on behalf of a California charity, without first providing
14 the California Attorney General's Office, addressed to the attention of Deputy Attorney General
15 Jami L. Cantore, with a copy of the contract or agreement for review ten business days before
16 commencement of work on the contract or agreement. During years 2010, 2011 and 2012 and
17 thereafter, every contract or agreement to solicit charitable contributions in California and/or on
18 behalf of a California charity that Courtesy Call enters into must comply with all of the
19 requirements set forth in Government Code section 12599.3. If Courtesy Call decides to enter
20 into a contract or agreement to solicit in California and/or to solicit on behalf of a California-
21 based charity, it must comply with all requirements under Government Code sections 12599 and
22 12599.6.

23 6. Courtesy Call shall not engage in misrepresentation and shall not violate Government
24 Code section 12599.6, subdivisions (a) and (f). To insure compliance with these provisions,
25 Courtesy Call will supply copies of all solicitation scripts used and/or to be used in California
26 during years 2010, 2011, and 2012 to the Attorney General's Office to the attention of Deputy
27 Attorney General Jami L. Cantore on or before December 31 of each of those years. Courtesy
28 Call shall not engage in deception, shall not conceal material facts, and shall not make

1 misrepresentations. Without limiting the foregoing, the prohibition in this paragraph includes
2 misrepresentations of the following made in the course of soliciting on behalf of a charity:

3 a) the nature or purpose of the charitable program activities that will be supported by
4 donations received;

5 b) the portion of the donation that will be retained by the charity;

6 c) the portion of the donation that will be directly used for the charitable purposes of
7 the charity on whose behalf the solicitation is made;

8 d) either specifically or generally, that the charity has any connection to or is
9 affiliated with any public safety organization when that is not the case;

10 e) that donations will be used for a specific purpose or program of a charity;

11 f) that donations will benefit persons or organizations in the donor's state or local
12 community unless a substantial portion of the charity's program services are provided in
13 that state or local community;

14 g) that a resident of a household has previously donated to the charity or made a
15 donation of a specific amount without documentation of that prior donation; and

16 h) that a person has already made a pledge to donate to the charity without
17 documentation of that pledge.

18 An isolated misrepresentation or violation of Government Code section 12599.6,
19 subdivisions (a) and (f), by an agent, independent contractor, or employee of Courtesy Call shall
20 not be deemed a violation of this Settlement Agreement by Courtesy Call if Courtesy Call clearly
21 and convincingly demonstrates that, as part of its routine business practices, it has done all of the
22 following:

23 (i) established and implemented written procedures to comply with the terms of this
24 Settlement Agreement, communicated those terms to all relevant agents, independent
25 contractors, and employees, and obtained from each of them a signed statement that they
26 have read, understood, and agreed to comply with the procedures;

27 (ii) trained all agents, independent contractors, and employees regarding compliance
28 with the procedures established pursuant to this Settlement Agreement;

1 (iii) maintained thorough records of such procedures, their implementation, and the
2 program of training agents, independent contractors, and employees in those procedures;
3 and

4 (iv) monitored and enforced compliance with the procedures established pursuant to
5 this section (including through the use of disciplinary measures and terminations) and kept
6 and made available to the Office of the California Attorney General upon request
7 complete records of all such monitoring and enforcement.

8 7. Courtesy Call shall not violate Business and Professions Code section 17510.8. To
9 ensure compliance with section 17510.8, for years 2010, 2011, and 2012, Courtesy Call will, on a
10 semiannual basis, obtain from all charities for whom it solicits donors located in California
11 written statements listing all program expenditures and, in addition, evidence supporting all such
12 program expenditures, e.g., cancelled checks for grants (front and back), declarations under
13 penalty of perjury from grant recipients, and similar evidence. On or before December 31 of
14 years 2010, 2011, and 2012, Courtesy Call will provide such statements and supporting evidence
15 submitted by each charity to the Attorney General's Office to the attention of Jami L. Cantore,
16 along with a report to the Attorney General's Office certifying under penalty of perjury that it has
17 complied with the requirements stated in this paragraph. In the event that Courtesy Call makes a
18 diligent effort to obtain the statement and evidence referenced in this paragraph from a charity for
19 whom it solicits California donors, but the charity refuses to provide them, Courtesy Call shall
20 immediately suspend soliciting for that charity until it receives the statement and evidence. In
21 this circumstance and provided such solicitation is immediately suspended, the Attorney General
22 will not initiate further action against Courtesy Call based on the terms set forth in this paragraph.

23 8. Courtesy Call will conspicuously and accurately identify the location of the headquarters
24 of the charity for whom it is soliciting in all written materials sent to donors and potential donors.

25 9. Courtesy Call will comply with the disclosure requirements set forth in Business and
26 Professions Code § 17510.85.

1 10. Courtesy Call will not engage in, or participate in, the distribution of decals, stickers,
2 and/or other emblems that can be used for display on a motor vehicle which bear a symbol that
3 suggests an affiliation with, or endorsement by, public safety personnel.

4 11. Courtesy Call will not engage in any conduct during the course of a charitable
5 solicitation via telephone that harasses, intimidates or frightens the recipient of the call.
6 Harassment shall include, but not be limited to, causing a telephone to ring repeatedly or
7 continuously with intent to annoy, abuse, or harass any person at the called number, shouting,
8 abusive language, and threats of any kind.

9 12. Courtesy Call will comply with all applicable Federal regulations established by the
10 Federal Trade Commission ("Telemarketing Sales Rule") at 16 C.F.R. § 310 et seq., specifically
11 §§ 310.33 and 310.4, regarding deceptive telemarketing practices and abusive telemarketing
12 practices.

13 13. Courtesy Call will fully comply with all reporting requirements as set forth in
14 Government Code section 12599 and all recordkeeping requirements set forth in Government
15 Code section 12599.7.

16 14. The Settlement Agreement shall not constitute an admission or finding of any
17 wrongdoing, fault, violation of law, or liability by Courtesy Call.

18 15. The Settlement Agreement contains the entire agreement and understanding between
19 the Settling Parties concerning the subject matter of this action and supersedes all other
20 agreements of any kind concerning the subject matter of the Settlement Agreement. Each of the
21 undersigned warrants that no promise or inducement has been offered to them except as set forth
22 herein and that the Settlement Agreement is executed without reliance upon any statement or
23 representation by any persons or parties, or their representatives, concerning the nature and extent
24 of injuries and/or damages and/or legal liability herein.

25 16. Each of the Settling Parties acknowledges that he, she, or it has read the entire
26 Settlement Agreement and understands it and, in addition, has had an opportunity to discuss the
27 content with an attorney and make whatever investigation or inquiry that party may deem
28 necessary or desirable in connection with the subject matter of the Settlement.

1 17. Each of the parties warrants that he, she or it is legally competent to execute the
2 Settlement Agreement. The undersigned representative for Courtesy Call certifies that he or she
3 is fully authorized by Courtesy Call to enter into the terms and conditions of the Settlement
4 Agreement and to fully and legally bind Courtesy Call to the Settlement Agreement.

5 18. The Settlement Agreement shall be governed by the laws of the State of California.

6 19. The Settlement Agreement shall be binding upon the heirs, devisees, executors,
7 affiliates, administrators, successors, assigns, officers, directors, trustees, executors, agents and
8 employees of Courtesy Call.

9 20. Each party shall bear its own attorney fees and costs unless otherwise stated herein.

10 21. The Settlement Agreement may be executed in separate counterparts, each of which
11 shall be deemed an original, and said counterparts shall together constitute one Settlement
12 Agreement, binding all parties hereto notwithstanding that all of the parties are not signatory to

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1 the original or same counterpart, and shall be delivered to Jami L. Cantore, Office of the Attorney
2 General, 300 S. Spring Street, Los Angeles, CA 90013.

3 IT IS SO AGREED.

4 DATED: 1/13/10 EDMUND G. BROWN JR, Attorney General

6 By Jami L. Cantore
7 JAMIL. CANTORE, Deputy Attorney General
8 Attorneys for the People of the State of California

9 DATED: 1/6/10 COURTESY CALL, INC., a Nevada Corporation

11 By [Signature], President
12 RICHARD ZEITLIN
13 Courtesy Call, Inc. President

15 DATED: 1/6/10 MURPHY ROSEN & MEYLAN LLP

17 By [Signature]
18 TROY H. SLOME, ESQ.
19 Counsel for Courtesy Call, Inc.

20 **ORDER**
21 plaintiff to give notice.
22 IT IS SO ORDERED.

23 1/19/10
24 DATED [Signature]
25 NANCY WIEBEN STOCK
26 JUDGE OF THE SUPERIOR COURT 6K LB
27
28

DECLARATION OF SERVICE BY REGULAR U.S. MAIL

Case Name: **People v. Association for Firefighters and Paramedics, Inc., etc., et al.**
OCSC Case No: 30-2009 00272 106

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 300 S. Spring Street, Los Angeles, CA 90013. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited that same day in the ordinary course of business.

On January 14, 2010, I served the **SETTLEMENT AGREEMENT AND [PROPOSED] ORDER RE: COURTESY CALL, INC.** by placing a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, for delivery as follows:

Copilevitz & Canter, LLC
Errol Copilevitz
Attorneys at Law
310 W. 20th Street, Suite 300
Kansas City, MO 64108

Troy H. Slome, Esq.
Murphy Rosen & Meylan LLP
100 Wilshire Blvd., Suite 1300
Santa Monica, CA 90401-1142

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on January 14, 2010, at Los Angeles, California.

Maria-Elena Hernandez
Declarant


Signature