

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

V.

KURES 4 KIDS, a/k/a KURZ 4 KIDS,
a/k/a CURES 4 KIDS, f/k/a
KNOWLEDGE 4 KIDS; MICHAEL
W. GANNON; AMY D. GANNON;
the marital community of MICHAEL
W. GANNON and AMY D. GANNON

Defendants.

NO. 13-2-41293-4SEA

STIPULATED JUDGMENT

I. JUDGMENT SUMMARY

1.1	Judgment Creditor:	State of Washington
1.2	Judgment Debtors:	Knowledge 4 Kids d/b/a Kures 4 Kids (hereinafter "Kures 4 Kids" or "K4K"), Michael Gannon, Amy Gannon, and the marital community thereof
1.3	Principal Judgment Amount:	
a.	Restitution:	\$36,200.00
b.	Costs and Fees:	\$40,000.00 (suspended)
c.	Civil Penalty:	\$51,500.00 (suspended)

II. FINDINGS OF FACT

2.1 Defendant, Knowledge 4 Kids d/b/a Kures 4 Kids (“K4K”) is a Washington non-profit corporation, which was incorporated in March 2012. K4K is located in Snohomish, Washington, and conducts business in Snohomish, King, and other counties. K4K is also known as “Kures for Kids” and “Cures for Kids” and was formerly known as “Knowledge for Kids[.]” K4K registered as a non-profit corporation and charitable organization with the Washington Secretary of State. On its registration form, K4K indicates that it “will apply” to the Internal Revenue Service (“IRS”) for federal 501(c)(3) tax status but has not yet submitted its application.

1 **2.2** K4K solicited and collected contributions for charitable or purportedly
2 charitable purposes from the general public in the state of Washington, including but not
3 limited to King and Snohomish Counties.

4 **2.3** Defendant Michael W. Gannon is the President, Director, and Manager of K4K
5 and as such, he has had and continues to have control over its policies, activities, and practices,
6 including those described herein. Michael W. Gannon is married to Amy D. Gannon and
7 together they constitute a marital community (“the Gannons”). All actions taken by Michael
8 W. Gannon as described herein were for the benefit of his marital community. Michael W.
9 Gannon resides in Snohomish, Washington, and transacts or has transacted business in the state
10 of Washington.

11 **2.4** Defendant Amy D. Gannon is the Secretary and Senior Marketing Director of
12 K4K and as such, she has had and continues to have control over its policies, activities, and
13 practices, including those described herein. Amy D. Gannon is married to Michael W. Gannon
14 and together they constitute a marital community. All actions taken by Amy D. Gannon as
15 described herein were for the benefit of her marital community. Amy D. Gannon resides in
16 Snohomish, Washington, and transacts or has transacted business in the state of Washington.
17 K4K, Michael Gannon, and Amy Gannon are sometimes referred to below collectively as
18 “Defendants.”

19 **2.5** Defendants have acted concert and cooperatively in carrying out the conduct
20 alleged in this Complaint and each is responsible for the unlawful conduct alleged herein.

21 **2.6** Michael Gannon and Amy Gannon began soliciting charitable contributions for
22 K4K on or about October 25, 2012. K4K solicited and collected charitable donations from the
23 general public across Washington, including but not limited to Snohomish and King Counties.

24 **2.7** A registration form K4K submitted to the Secretary of State Charities Program
25 stated that K4K’s mission/purpose was “to help improve the quality of life for families with
26

disabled and special needs children through mobility device assistance and also life enriching [sic] social and recreational activities with other local charities we support.”

2.8 K4K solicited donations at tables set up outside retail establishments such as grocery stores and mass merchandisers. Donors made cash or check donations into a Plexiglas box and were sometimes permitted to take small trinkets, which K4K purchased at The Dollar Store.

2.9 Defendants actively sought out and retained additional solicitors. K4K compensated its paid solicitors at a rate of \$10 per hour.

2.10 K4K did not enter into written contracts with its paid solicitors. K4K did not (a) instruct solicitors to register or make any filings or register with the Secretary of State, (b) file any registration(s) with the Secretary of State regarding their engagement of solicitors, or (c) register as a commercial fundraiser.

2.11 K4K's paid solicitors repeatedly represented to members of the public that they were volunteers in the course of soliciting charitable contributions. Specific instances of such misrepresentations include but are not limited to the following dates and places: June 16, 2013, at the Mt. Vernon, Washington Wal-Mart; July 26, 2013, at the Gilman Blvd. QFC grocery store in Issaquah, Washington; and August 26, 2013, at the Albertson's grocery store at 3925 236th Ave. NE, Redmond, Washington.

2.12 K4K's paid solicitors regularly gave or referred potential donors to brochures displayed at K4K's solicitation tables. Michael and Amy Gannon collaborated to draft K4K's brochures.

2.13 Through at least May of 2013, K4K's brochures indicated that it raised funds on behalf of the following organizations: Feat of Washington, Washington Autism Alliance, The Arc of Island and Skagit, 2014 Special Olympics, Boys and Girls Club of Washington State, Washington Access Fund, Parent to Parent Support Programs, Open Door Autism Center,

1 Easter Seals Washington State, and YMCA. On August 26, 2013, a K4K solicitor told an
2 undercover investigator with the Attorney General's Office that K4K raises funds for the Boys
3 and Girls Club and Friendship Adventures. None of the organizations listed on K4K's
4 brochures had authorized K4K to use their names to solicit funds, and K4K had no agreement
5 with any of these organizations to raise funds on their behalf.

6 **2.14** Defendants claimed on K4K brochures that they used "dedicated volunteers" to
7 help support the K4K mission, when in fact K4K used paid solicitors as well as volunteers.
8 These brochures were distributed by K4K's paid solicitors to members of the public.

9 **2.15** None of the solicitation materials at the K4K tables, including without
10 limitation K4K's brochures, disclosed that (a) the person at K4K's table was a commercial
11 solicitor, or (b) donors could obtain additional information regarding K4K at a published
12 website or telephone number for the Washington Secretary of State.

13 **2.16** At all relevant times, K4K maintained a website, www.kures4kids.org, which
14 included a request for donations. The website invited the public to pay via credit card or
15 PayPal. K4K's website did not clearly and conspicuously display in the body of its solicitation
16 – including without limitation its "Donate" page – that the donor can obtain additional
17 financial and other information at a published number or web site for the office of the
18 Secretary of State, although the website disclosed K4K's Washington State charity
19 identification number. Amy Gannon designed the website and created and/or approved of its
20 content, and Michael Gannon, K4K's president and sole director, also knew and approved of
21 the website's content.

22 **2.17** From October 2012 through December 2013, K4K took in approximately
23 \$70,000 in donations.

24 **2.18** On November 21, 2013, the Attorney General's Office requested the K4K
25 produce certain financial information, pursuant to the requirements of RCW 19.09.210. K4K

did not produce the requested information by the date demanded but instead produced it only after the Attorney General's Office filed the above-captioned lawsuit.

2.19 Defendants further agree that their liability under this Stipulated Judgment is not amenable to discharge in bankruptcy, and they shall not seek or support its discharge in bankruptcy nor oppose its being determined not amenable to discharge in bankruptcy.

2.20 Defendants further agree that their payments made or due pursuant to this Stipulated Judgment are not preferential transfers of assets and it shall not make or support arguments to the contrary in bankruptcy court or elsewhere.

III. CONCLUSIONS OF LAW

3.1 The Court has jurisdiction of the subject matter of this action and of the parties hereto, and Plaintiff's Complaint states claims upon which relief may be granted.

3.2 The Attorney General has jurisdiction to bring this action under RCW 19.86.080 and RCW 19.86.040.

3.3 Defendants have engaged in the conduct described in Findings of Fact above in King County and elsewhere in the state of Washington.

3.4 Venue is proper in King County pursuant to RCW 4.12.020 and 4.12.025.

3.5 Defendants' conduct as described in the Findings of Fact above constitutes violations of the Charitable Solicitations Act, RCW 19.09, and the Consumer Protection Act, RCW 19.86 et seq. Specifically:

a. **Failure to register contracts with commercial fundraisers.**

The CSA defines “commercial fundraiser” as:

any entity that for compensation or other consideration directly or indirectly solicits or receives contributions within this state for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of, or represents to persons in this state as independently engaged in the business of, soliciting or receiving contributions for such purposes.

1 RCW 19.09.020(5) (emphasis added). The CSA defines “entity” to include “an
2 individual, organization, group, association, partnership, corporation, agency or unit of state
3 government, or any combination thereof.” RCW 19.09.020(9). “Compensation” is defined as
4 “salaries, wages, fees, commissions, or any other remuneration or valuable consideration.”
5 RCW 19.09.020(7).

6 Kures 4 Kids compensated its solicitors, who both solicited and received charitable
7 contributions on behalf of Kures 4 Kids, at a rate of \$10 per hour. As such, Kures 4 Kids’
8 solicitors were “commercial fundraisers” within the meaning of RCW 19.09.020(5), and Kures
9 4 Kids was required to enter into written contracts with them, RCW 19.09.200(2), and to
10 register those contracts with the Secretary of State. RCW 19.09.097. Kures 4 Kids did not
11 fulfill these statutory obligations.

12 **b. Misrepresentations of “volunteer” status.**

13 RCW 19.09.100(7) states that “Any entity soliciting charitable contributions must not
14 misrepresent orally or in writing” “(b) [t]hat the person soliciting the charitable
15 contribution is a volunteer or words of similar meaning or effect that create the impression that
16 the person soliciting is not a paid solicitor unless such person is unpaid for his or her services.”
17 On several occasions, Kures 4 Kids solicitors violated this provision by representing to
18 members of the public that they were volunteers, when in fact they were paid solicitors.

19 **c. Failure to include required disclosures on brochures and website.**

20 RCW 19.09.100(4) provides that solicitations by advertisement or mass distribution –
21 including electronic, posters, and leaflets – must “clearly and conspicuously” make the
22 following disclosures “in the body of the solicitation material”:

23 (a) The solicitation is conducted by a named commercial fund-raiser, if it is;
24
25 (b) The registration required by the charitable solicitation act is on
26 file with the secretary's office; and

(c) The potential donor can obtain additional financial and other information at a published number or web site for the office of the secretary.

K4K's brochures and website do not "clearly and conspicuously" include all these required disclosures.

d. **Failure to keep and produce books.**

RCW 19.09.200(1) provides that all registered charities “must maintain accurate, current, and readily available books and records at their usual business locations until at least three years have elapsed following the effective period to which they relate. The books and records must contain, at a minimum, documentation supporting the information contained in the solicitation report” RCW 19.09.210 requires all registered charities, upon request of the Attorney General, to “submit a financial statement and all requested records containing, but not limited to,” contributions collected, the amount given to charitable purposes and manner of distribution, expenses paid for solicitation, and amounts paid to commercial fundraisers or charitable organizations. The Attorney General requested this information and documentation on November 21, 2013, but Kures 4 Kids did not produce its financial information until January 15, 2014, nearly two months later.

3.6 Compliance with all provisions of the Charitable Solicitations Act is a condition for any solicitation activity. *See* RCW 19.09.100(12).

3.7 The Legislature has declared that the practices covered by the Charitable Solicitations Act “are matters vitally affecting the public interest for the purpose of applying the consumer protection act,” and a violation of the Charitable Solicitations Act “is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act.” RCW 19.09.340(1). Accordingly, the Court concludes that all violations of the Charitable Solicitations Act are *per se* violations of the Consumer Protection Act.

3.8 Plaintiff is entitled to a Decree ordering Defendants to pay a civil penalty for each violation of the Consumer Protection Act, pursuant to RCW 19.86.140.

3.9 Plaintiff is entitled to a Decree ordering Defendants to pay restitution to consumers pursuant to RCW 19.86.080.

3.10 Plaintiff is entitled to a Decree binding upon Defendants and their successors, officers, employees, agents, servants, transferees, directors, and all persons in active concert or participation with Defendants permanently enjoining Defendants from engaging in the practices violating the Charitable Solicitations Act and the Consumer Protection Act as described above and requiring Defendants to comply with the injunctive relief outlined below.

3.11 Plaintiff is entitled to a Decree ordering Defendants to pay Plaintiff's costs and fees incurred in the prosecution of this action pursuant to RCW 19.86.080.

3.12 The fees and costs incurred by Plaintiff in the prosecution of this action are reasonable.

3.13 The named individual Defendants in this action, Michael Gannon and Amy Gannon, are officers of Kures 4 Kids, and had control over its policies, activities and practices. Both Michael Gannon and Amy Gannon personally participated in or with knowledge approved of the violations of the Charitable Solicitations Act described above. Accordingly, the Court holds that Michael Gannon and Amy Gannon are personally liable, as is their marital estate, for the Consumer Protection Act violations established above.

The Court having made the foregoing Finding of Fact and Conclusions of Law, and in accordance therewith, the Court enters the following:

IV. JUDGMENT AND DECREE

NOW, THEREFORE, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED
as follows:

1 **4.1** Pursuant to RCW 19.86.080, Plaintiff shall recover and Defendants shall pay
2 the costs and reasonable attorneys' fees incurred by Plaintiff in pursuing this matter in the
3 amount of \$40,000.00. This sum shall be suspended as long as: (a) all of the Defendants
4 strictly comply with the injunctive provisions of this Stipulated Judgment; (b) none of the
5 Defendants, or any entity that any of them owns or operates in whole or in part, becomes
6 subject to an administrative order or court order finding them (or any of them) to be in
7 violation of any provision of RCW 19.09; or (c) none of the Defendants, or any entity that any
8 of them owns or operates in whole or in part, enters into any agreed order, consent order, or
9 other similar order with any governmental entity related to alleged violations of any provision
10 of RCW 19.09, whether or not any admission of guilt or liability is made in such order.
11 Liability for this amount is not amenable to discharge in bankruptcy.

12 **4.2** Pursuant to RCW 19.86.140, Plaintiff shall recover and Defendants shall pay a
13 civil penalty of \$51,500. This civil penalty shall be suspended as long as: (a) all of the
14 Defendants strictly comply with the injunctive provisions of this Stipulated Judgment; (b)
15 none of the Defendants, or any entity that any of them owns or operates in whole or in part,
16 becomes subject to an administrative order or court order finding them (or any of them) to be
17 in violation of any provision of RCW 19.09; or (c) none of the Defendants, or any entity that
18 any of them owns or operates in whole or in part, enters into any agreed order, consent order,
19 or other similar order with any governmental entity related to alleged violations of any
20 provision of RCW 19.09, whether or not any admission of guilt or liability is made in such
21 order. Liability for this amount is not amenable to discharge in bankruptcy.

22 **4.3** Defendants and their successors, assigns, transferees, officers, agents, servants,
23 directors, employees, and all other person or entities in active concert or participation with
24 Defendants shall be informed of the terms and conditions of this Stipulated Judgment.

1 **4.4** Defendants and their owners, officers, directors, employees, servants, transferees,
2 successors, assigns and all other persons in active concert or participation with Defendant are
3 enjoined, restrained, and prevented from directly or indirectly engaging in the following acts or
4 practices within the state of Washington and shall comply with the following provisions:

5 a. Defendants Michael W. Gannon and Amy Gannon are permanently
6 enjoined from soliciting in Washington State on behalf of any charitable organization (as
7 defined by RCW 19.09.020(2)) or for a cause that the public could reasonably understand to be
8 charitable or for public benefit /and or community service oriented in nature, either directly or
9 through a commercial fundraiser (as defined by RCW 19.09.020(5));

10 b. Defendants Michael W. Gannon and Amy Gannon are permanently
11 enjoined from forming any charitable organization in Washington or any organization which
12 solicits contributions in Washington;

13 c. Defendants Michael W. Gannon and Amy Gannon are permanently
14 enjoined from serving as officers, directors, board members, managers, employees, or in any
15 fiduciary capacity for and from having any involvement in the financial or charitable
16 solicitation operations of any charitable organization that is located, has operations, or solicits
17 charitable contributions in Washington;

18 d. Defendants Michael W. Gannon and Amy Gannon are permanently
19 enjoined from forming any commercial fundraiser (as defined by RCW 19.09.020(5)) and/or
20 from submitting an application for commercial fundraiser registration to the Secretary of State
21 Charities Program for any entities they are involved or will become involved with in the future;

22 e. Defendants Michael W. Gannon and Amy Gannon are permanently
23 enjoined from serving as directors, officers, executives, managers, employees, in any fiduciary
24 capacity for, and from having any involvement in the financial or charitable solicitation

1 operations of any commercial fundraiser that is located, has operations, or solicits charitable
2 contributions in Washington;

3 f. Defendants Michael W. Gannon and Amy Gannon are permanently
4 enjoined from serving as fund-raising counsel or consultant (as defined by RCW
5 19.09.020(10)) in Washington and from serving as directors, officers, executives, managers,
6 employees, in any fiduciary capacity for, and from having any involvement in the financial or
7 charitable solicitation operations of any fundraising counsel or consultant that is located or has
8 operations in Washington; and

9 g. If they have not already done so, Defendants shall submit closing
10 paperwork to the Washington Secretary of State's Office within five (5) business days of the
11 entry of this Stipulated Judgment that dissolves the Washington non-profit corporation
12 Knowledge 4 Kids d/b/a Kures 4 Kids; and

13 h. If they have not already done so, Defendants shall submit closing
14 paperwork to the Washington Secretary of State's Office within five (5) business days of the
15 entry of this Stipulated Judgment that closes Knowledge 4 Kids' d/b/a Kures 4 Kids'
16 registration with the Washington Secretary of State Charities Program.

17 V. RESTITUTION

18 5.1 Pursuant to RCW 19.86.080, Defendants hereby agree to entry of judgment
19 against them for consumer restitution as follows: \$36,200.00. The Attorney General shall use
20 the funds for any lawful purpose in the discharge of the Attorney General's duties at the sole
21 discretion of the Attorney General. In no event shall the funds paid pursuant to this section be
22 deemed a civil penalty. Liability for this amount is not amenable to discharge in bankruptcy.

23 VI. PAYMENT

24 6.1 Payment owing under all provisions of this Stipulated Judgment shall be in the
25 form of a valid check paid to the order of the "Attorney General—State of Washington" and

1 shall be due and owing immediately upon entry of the Stipulated Judgment, except as
2 suspended above. Payment shall be sent to the Office of the Attorney General, Attention:
3 Cynthia Lockridge, Administrative Office Manager, 800 Fifth Avenue, Suite 2000, Seattle,
4 Washington 98104-3188.

5 **6.2** In any successful action to enforce any part of this Stipulated Judgment,
6 Defendants will pay the Attorney General its attorney's fees and costs, including reasonable
7 attorney's fees as provided by RCW 19.86.080.

8 **VII. ENFORCEMENT**

9 **7.1** Violation of any of the injunctions contained in this Stipulated Judgment, as
10 determined by the Court, shall subject the Defendants to a civil penalty of up to \$25,000.00 per
11 violation pursuant to RCW 19.86.140.

12 **7.2** Violation of any of the terms of this Stipulated Judgment, except for failure to
13 make the monetary payment(s) set out above, as determined by the Court, shall constitute a
14 violation of the Consumer Protection Act, RCW 19.86.020.

15 **7.3** This Stipulated Judgment is entered pursuant to RCW 19.86.080. Jurisdiction is
16 retained for the purpose of enabling any party to this Stipulated Judgment with or without the
17 prior consent of the other party to apply to the Court at any time for enforcement of compliance
18 with this Stipulated Judgment, to punish violations thereof, or to modify or clarify this Stipulated
19 Judgment.

20 **7.4** Under no circumstances shall this Stipulated Judgment or the names of the State
21 of Washington or the Office of the Attorney General, Consumer Protection Division, or any of
22 its employees or representatives be used by Defendants, or Defendants' agents or employees,
23 in connection with the promotion of any product or service or an endorsement or approval of
24 Defendants' practices.

7.5 Nothing in this Stipulated Judgment shall be construed as to limit or bar any other governmental entity or consumer from pursuing other available remedies against Defendants.

VIII. DISMISSAL AND WAIVER OF CLAIMS

8.1. Upon entry of this Stipulated Judgment, all claims in this matter, not otherwise addressed by this Stipulated Judgment are dismissed.

DONE IN OPEN COURT this ____ day of June, 2014.

THE HONORABLE JUDGE MARIANE SPEARMAN

Presented by:

ROBERT FERGUSON
Attorney General

BENJAMIN ROESCH, WSBA #39960
SARAH SHIFLEY, WSBA #39394
Assistant Attorneys General
Attorneys for Plaintiff
State of Washington

Agreed to, Approved for Entry, and
Notice of Presentation Waived:

~~JAMES J. JAMESON, WSBA #11490~~
Attorney for Defendants

Agreed:

MICHAEL GANNON

AMY GANNON