



NOTICE OF ADOPTION

Office of the Secretary of State
Charitable Solicitations Rules
8 CCR 1505-9

May 4, 2009

Pursuant to sections 6-16-110.5(3) and 6-16-111(6)(b), C.R.S., (2008) and the rulemaking provisions of the State Administrative Procedure Act, 24-4-103 C.R.S. (2008), I, Bernie Buescher, Colorado Secretary of State, do hereby and adopt and give **NOTICE** of the permanent rule adoption this 4th day of May, 2009, of the Secretary of State Charitable Solicitations Rules (8 CCR 1505-9) as follows (additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~).

[Existing Rule 1 is amended and relocated as New Rule 2]

Rule 1

Electronic Filing

~~(1) All filings with the Office of the Secretary of State that are required or permitted by title 6, article 16, C.R.S., the "Colorado Charitable Solicitations Act," shall be made electronically, through the use of the Secretary of State's Internet charitable solicitation registration and reporting system, and shall be in the format prescribed by the Secretary of State. No such filing attempted on paper shall be deemed valid, nor shall any paper filing tendered in connection with the above cited Act be accepted by the Secretary of State.~~

~~(2) The Secretary of State shall issue a unique user identification number and password to any charitable organization, paid solicitor, or professional fundraising consultant who requests to file pursuant to title 6, article 16, C.R.S., provided that such requester first furnishes any information, agreement or affirmation that the Secretary of State requires in order to establish and maintain an accurate, accessible, and secure electronic charitable solicitations filing and information system. Submission of a filing with the identification number and password described in this Rule 1 shall~~

~~constitute the filer's official signature, in accord with C.R.S. 24-71.1-106, affixed under penalty of perjury, as provided by law.~~

[Existing Rule 2 is amended and relocated as New Rule 3]

Rule 2

Expedited Hearing Deadlines

~~(1) Upon receipt of a request for hearing pursuant to C.R.S. 6-16-111 (6) (b), the Secretary of State shall set and give notice of the requested hearing. Such notice shall be served within five business days of the Secretary of State's receipt of the hearing request, and shall set the hearing on a date no sooner than ten and no later than twenty calendar days after the date of service of the notice. For the purposes of this Rule 2, any notice by mail shall be deemed served on the date of its postmark.~~

~~(2) Proceedings conducted pursuant to C.R.S. 6-15-111 (6) and this Rule 2 may, in the discretion of the Secretary of State, be continued for good cause shown by any party to such proceedings. Any continuance shall be as brief as practicable, and no continuance shall be for a period longer than ten days.~~

~~(3) The Secretary of State shall conclude all expedited hearings with reasonable dispatch, and shall take final agency action, including, but without limitation, issuance of all such administrative findings, decisions, and orders as the Secretary considers appropriate, within twenty calendar days from the date on which any such expedited proceeding is concluded.~~

New Rule 1 is adopted as follows:

RULE 1. DEFINITIONS. AS USED IN THESE RULES AND IN THE COLORADO CHARITABLE SOLICITATIONS ACT.

- 1.1 **ACCOUNTING PERIOD:** THE TIME PERIOD FOR KEEPING RECORDS AND REPORTING INCOME AND EXPENSES.
- 1.2 **AGENT:** ANY PERSON WHO TRANSACTS SOME BUSINESS OR MANAGES SOME AFFAIR FOR ANOTHER (THE "PRINCIPAL"), BY THE AUTHORITY AND ON ACCOUNT OF THE PRINCIPAL, UNDER A WRITTEN INSTRUMENT, AND WHO IS REQUIRED TO RENDER AN ACCOUNT OF SUCH BUSINESS OR AFFAIR TO THE PRINCIPAL. THE TERM "AGENT" SHALL ALSO INCLUDE THE TERM "SUBCONTRACTOR."
- 1.3 **AUTHORIZED OFFICER:** THE OFFICER DESIGNATED BY THE FILING ENTITY TO ELECTRONICALLY SIGN ANY FORMS ON BEHALF OF THE ORGANIZATION PURSUANT TO THE CCSA. THIS PERSON SHALL BE AN OFFICER OF A NONPROFIT CORPORATION, A TRUSTEE OF A CHARITABLE TRUST, OR A SENIOR MANAGER MEMBER OF ANY OTHER TYPE OF ENTITY SUBJECT TO THE FILING REQUIREMENTS OF THE CCSA.
- 1.4 **CCSA:** COLORADO CHARITABLE SOLICITATIONS ACT.
- 1.5 **DIRECTLY EMPLOYED:** AS USED IN SECTION 6-16-103(7)(D), C.R.S., MEANS THE CHARITABLE ORGANIZATION CONTROLS OR DIRECTS THE MEANS AND METHODS OF ACCOMPLISHING THE RESULT OF THE INDIVIDUAL'S WORK, REGARDLESS OF WHETHER THE INDIVIDUAL IS EMPLOYED FULL-TIME OR PART-TIME, IS PAID A SALARY OR ON COMMISSION, OR IS CALLED AN EMPLOYEE OR AN AGENT OR INDEPENDENT CONTRACTOR.
- 1.6 **FISCAL YEAR:** ANY ACCOUNTING PERIOD CONSISTING OF A YEAR, SUBJECT TO RULE 1.15.

- 1.7 **FORM OF THE APPLICANT’S BUSINESS:** THE LEGAL STATUS OF THE ENTITY, SUCH AS DOMESTIC NONPROFIT CORPORATION, FOREIGN NONPROFIT CORPORATION, DOMESTIC NONPROFIT ASSOCIATION, FOREIGN NONPROFIT ASSOCIATION, CORPORATION, SOLE PROPRIETOR, ETC.
- 1.8 **GROSS REVENUE:** THE TOTAL AMOUNT THE ORGANIZATION RECEIVES FROM ALL SOURCES, REGARDLESS OF GEOGRAPHIC LOCATION, DURING ITS ACCOUNTING PERIOD, WITHOUT SUBTRACTING ANY COSTS OR EXPENSES. GROSS REVENUE DOES NOT INCLUDE RECEIPT OF FUNDS MERELY AS AN AGENT FOR ANOTHER, WHERE THE ORGANIZATION COLLECTS THE FUNDS AND DELIVERS THE FUNDS TO THE PRINCIPAL WITHOUT ASSERTING ANY RIGHT TO USE THEM OR OTHERWISE DERIVING A BENEFIT FROM THEM.
- 1.9 **NAME OR NAMES UNDER WHICH CHARITABLE ORGANIZATION INTENDS TO SOLICIT CONTRIBUTIONS:** INCLUDES ANY “DOING BUSINESS AS,” “ALSO KNOWN AS,” OR TRADE NAMES. THIS TERM INCLUDES THE NAME OF ANY DONOR-ADVISED FUND THAT SOLICITS CONTRIBUTIONS FROM THE PUBLIC USING ITS OWN NAME, UNLESS, IN ALL WRITTEN AND ORAL SOLICITATIONS, IT CLEARLY IDENTIFIES ITSELF AS A “DONOR-ADVISED FUND” OF A SPECIFIED CHARITABLE ORGANIZATION THAT IS EITHER REGISTERED WITH THE SECRETARY OF STATE OR EXEMPT UNDER SECTION 6-16-104(6)(A)-(C), C.R.S.
- 1.10 **NEWLY-FORMED CHARITABLE ORGANIZATION:** AN ORGANIZATION THAT HAS NOT COMPLETED ITS FIRST FISCAL YEAR OR HAS NOT REACHED THE 15TH DAY OF THE FIFTH MONTH SINCE THE CLOSE OF ITS FIRST FISCAL YEAR. IN MOST CASES, NEWLY-FORMED CHARITABLE ORGANIZATIONS WILL FILE AN INITIAL REGISTRATION STATEMENT CONSISTING OF ESTIMATED FINANCIAL INFORMATION THAT MUST BE REPLACED BY ACTUAL FINANCIAL INFORMATION ON OR BEFORE THE 15TH DAY OF THE FIFTH MONTH AFTER THE CLOSE OF ITS FIRST FISCAL YEAR.
- 1.11 **PERSON RESPONSIBLE FOR DIRECTING AND SUPERVISING THE CONDUCT OF THE CAMPAIGN:** PURSUANT TO SECTION 6-16-104.6(7)(B), C.R.S., THIS TERM INCLUDES ANY AGENTS OR SUBCONTRACTORS OF THE PAID SOLICITOR.
- 1.12 **PRINCIPAL PLACE OF BUSINESS:** THE BONA FIDE PHYSICAL STREET ADDRESS OF THE ORGANIZATION OR SOLE PROPRIETOR. THIS DOES NOT INCLUDE A POST OFFICE BOX OR PRIVATE MAILBOX.
- 1.13 **REGISTRATION SERVICE PROVIDER:** A BUSINESS OR INDIVIDUAL THAT PROVIDES THE SERVICE OF REGISTERING A CHARITY, PAID SOLICITOR, PROFESSIONAL FUNDRAISING CONSULTANT FOR CHARITABLE SOLICITATIONS WITH THE SECRETARY OF STATE, BUT IS NEITHER A BONA FIDE VOLUNTEER NOR A DIRECTOR, OFFICER, OR COMPENSATED EMPLOYEE AS DESCRIBED IN SECTION 6-16-103(7)(C), C.R.S.
- 1.14 **SHORT-PERIOD REGISTRATION AND FINANCIAL STATEMENT:** A REGISTRATION AND FINANCIAL STATEMENT COVERING A PERIOD OF LESS THAN 12 MONTHS.
- 1.15 **SOLE RESPONSIBILITY:** WITH RESPECT TO SECTION 6-16-103(7)(A), C.R.S., A PERSON WHOSE “SOLE RESPONSIBILITY IS TO PRINT OR MAIL FUNDRAISING LITERATURE” IS INTENDED TO EXEMPT ONLY EMPLOYEES OF PROFESSIONAL PRINTING AND COPYING BUSINESSES FROM THE DEFINITION OF PAID SOLICITOR.
- 1.16 **SUBCONTRACTOR:** ANY AGENT (BUT NOT AN EMPLOYEE) OF A PROFESSIONAL SOLICITOR WHO SOLICITS UNDER A CONTRACT OR AGREEMENT ON BEHALF OF THE PROFESSIONAL

SOLICITOR FOR THE BENEFIT OF ANY CHARITABLE ORGANIZATION WITH WHICH THE PROFESSIONAL SOLICITOR HAS A CONTRACT OR AGREEMENT.

New Rule 2 is adopted as follows:

RULE 2. ELECTRONIC FILING

- 2.1 ALL FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE THAT ARE REQUIRED OR PERMITTED BY THE CCSA SHALL BE MADE ELECTRONICALLY THROUGH THE USE OF THE SECRETARY OF STATE'S INTERNET CHARITABLE SOLICITATION REGISTRATION AND REPORTING SYSTEM, AND SHALL BE IN THE FORMAT PRESCRIBED BY THE SECRETARY OF STATE. NO SUCH FILING ATTEMPTED ON PAPER WILL BE DEEMED VALID, NOR WILL ANY PAPER FILING TENDERED IN CONNECTION WITH THE CCSA BE ACCEPTED BY THE SECRETARY OF STATE
- 2.2 THE SECRETARY OF STATE WILL ISSUE A UNIQUE USER IDENTIFICATION NUMBER AND PASSWORD TO ANY CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL FUNDRAISING CONSULTANT WHO REQUESTS TO FILE PURSUANT TO TITLE 6, ARTICLE 16, C.R.S., PROVIDED THAT SUCH REQUESTER FIRST FURNISHES ANY INFORMATION, AGREEMENT OR AFFIRMATION THAT THE SECRETARY OF STATE REQUIRES IN ORDER TO ESTABLISH AND MAINTAIN AN ACCURATE, ACCESSIBLE, AND SECURE ELECTRONIC CHARITABLE SOLICITATIONS FILING AND INFORMATION SYSTEM. SUBMISSION OF A FILING WITH THE IDENTIFICATION NUMBER AND PASSWORD DESCRIBED IN THIS RULE 2 SHALL CONSTITUTE THE FILER'S OFFICIAL SIGNATURE, IN ACCORD WITH SECTION 24-71.3-102(8), C.R.S., AFFIXED UNDER PENALTY OF PERJURY, AS PROVIDED BY LAW.

New Rule 3 is adopted as follows:

RULE 3. EXPEDITED HEARING DEADLINES

- 3.1 UPON RECEIPT OF A REQUEST FOR HEARING PURSUANT TO SECTION 6-16-111 (6) (B), C.R.S., THE SECRETARY OF STATE WILL SET AND GIVE NOTICE OF THE REQUESTED HEARING. SUCH NOTICE WILL BE SENT BY CERTIFIED MAIL WITHIN FIVE BUSINESS DAYS OF THE SECRETARY OF STATE'S RECEIPT OF THE HEARING REQUEST, AND WILL SET THE HEARING ON A DATE NO SOONER THAN TEN AND NO LATER THAN TWENTY CALENDAR DAYS AFTER THE DATE OF MAILING OF THE NOTICE.
- 3.2 PROCEEDINGS CONDUCTED PURSUANT TO SECTION 6-15-111 (6), C.R.S., AND THIS RULE 3 MAY, IN THE DISCRETION OF THE SECRETARY OF STATE, BE CONTINUED FOR GOOD CAUSE SHOWN BY ANY PARTY TO SUCH PROCEEDINGS. ANY CONTINUANCE WILL BE AS BRIEF AS PRACTICABLE, AND NO CONTINUANCE WILL BE FOR A PERIOD LONGER THAN TEN DAYS.
- 3.3 THE SECRETARY OF STATE WILL CONCLUDE ALL EXPEDITED HEARINGS WITH REASONABLE DISPATCH, AND WILL TAKE FINAL AGENCY ACTION, INCLUDING, BUT WITHOUT LIMITATION, ISSUANCE OF ALL SUCH ADMINISTRATIVE FINDINGS, DECISIONS, AND ORDERS AS THE SECRETARY CONSIDERS APPROPRIATE, WITHIN TWENTY CALENDAR DAYS FROM THE DATE ON WHICH ANY SUCH EXPEDITED HEARING IS CONCLUDED.

New Rule 4 is adopted as follows:

RULE 4. ISSUING REGISTRATION NUMBERS

- 4.1 UPON APPROVAL BY THE SECRETARY OF STATE OF AN INITIAL OR RENEWAL REGISTRATION STATEMENT OF A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR, THE SECRETARY OF STATE WILL ISSUE OR UPDATE THE STATUS OF A PERMANENT REGISTRATION NUMBER. THE SECRETARY OF STATE WILL SEND A CONFIRMATION TO THE EMAIL ADDRESS OF THE AUTHORIZED OFFICER AND REGISTERED AGENT, REFLECTING THE ORGANIZATION'S NAME AND ANY DBAs, ITS PERMANENT REGISTRATION NUMBER, THE DOCUMENT NUMBER OF THE FILING, THE ORGANIZATION'S FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN), THE ADDRESS OF THE PRINCIPAL PLACE OF BUSINESS, THE DATE THE DOCUMENT WAS APPROVED, THE DATE THE SUBSEQUENT RENEWAL WILL BE (OR WAS) DUE, THE NAME OF THE PERSON WHO SIGNED THE DOCUMENT, AND THE DATE IT WAS SIGNED.
- 4.2 THE SECRETARY OF STATE WILL PROVIDE AN ELECTRONIC "CERTIFICATE OF REGISTRATION" IN THE FORM OF A PRINTABLE ELECTRONIC CERTIFICATE WHICH WILL DISPLAY THE REGISTRATION STATUS OF A REGISTRANT IN GOOD OR DELINQUENT STATUS TO ANY USER OF THE WEB SITE UPON REQUEST. THE CERTIFICATE WILL INDICATE WHETHER THE REGISTRANT IS REGISTERED OR OUT OF COMPLIANCE WITH THE FILING REQUIREMENTS OF THE CCSA AND LIST THE ORGANIZATION'S REGISTRATION NUMBER, ENTITY TYPE (CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL FUNDRAISING CONSULTANT), STATUS, THE DATE THAT STATUS WAS ESTABLISHED, AND THE DATE BY WHICH THE ORGANIZATION MUST RENEW OR SHOULD HAVE RENEWED ITS REGISTRATION OR REPLACED ESTIMATED FINANCIAL FIGURES WITH ACTUAL FIGURES. A REGISTRATION CERTIFICATE WILL NOT BE PROVIDED IN THE EVENT THE REGISTRANT'S STATUS IS DENIED, SUSPENDED, REVOKED, EXEMPT, OR EXPIRED.
- 4.3 THE REGISTRATION OF A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR WILL BE LISTED AS "GOOD" ON THE CHARITABLE SOLICITATIONS WEBSITE AFTER THE SECRETARY OF STATE'S OFFICE HAS ACCEPTED ITS INITIAL OR RENEWAL REGISTRATION STATEMENT, PROVIDED THAT THE RENEWAL IS FOR THE ORGANIZATION'S MOST RECENT FISCAL YEAR. INITIAL REGISTRATIONS WILL RESULT IN A "GOOD" STATUS SUBJECT TO RULE 5.4
- 4.4 THE REGISTRATION OF A CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL FUNDRAISING CONSULTANT WILL BE LISTED AS DELINQUENT EFFECTIVE ON THE FIRST DAY AFTER ITS RENEWAL DEADLINE HAS PASSED.
- 4.5 A SHORT-PERIOD REGISTRATION AND FINANCIAL STATEMENT MAY BE REQUIRED IF THE CHARITABLE ORGANIZATION HAS NOT BEEN IN EXISTENCE FOR AN ENTIRE ACCOUNTING PERIOD, OR CHANGES ITS ACCOUNTING PERIOD. SIMILARLY, A SHORT-PERIOD FINAL REGISTRATION AND FINANCIAL STATEMENT MAY BE REQUIRED IF THE ORGANIZATION MERGES OUT OF EXISTENCE OR DISSOLVES BEFORE THE END OF ITS ACCOUNTING PERIOD.
- 4.6 A CHARITABLE ORGANIZATION SHALL USE THE SAME ACCOUNTING PERIOD TO FILE REGISTRATION DOCUMENTS WITH THE SECRETARY OF STATE AS ITS USES TO MAINTAIN ITS FINANCIAL RECORDS INTERNALLY AND AS IT USES TO FILE THE FEDERAL FORM 990 WITH THE INTERNAL REVENUE SERVICE (IRS).
- 4.7 IF A PAID SOLICITOR HAS NOT SUBMITTED A SOLICITATION CAMPAIGN FINANCIAL REPORT ("CAMPAIGN REPORT") ON OR BEFORE THE 90TH DAY FOLLOWING THE CAMPAIGN END DATE LISTED ON THE SOLICITATION NOTICE, THE CAMPAIGN REPORT WILL BE LISTED AS OVERDUE, AND THE PAID SOLICITOR'S REGISTRATION STATUS WILL BE LISTED AS DELINQUENT.

New Rule 5 is adopted as follows:

RULE 5. FILING DEADLINES AND EXTENSION OF FILING DEADLINES

- 5.1 ONLY CHARITABLE ORGANIZATIONS MAY REQUEST AN EXTENSION OF THE DEADLINE FOR RENEWING A REGISTRATION. THIS OPTION IS NOT AVAILABLE TO PROFESSIONAL FUNDRAISING CONSULTANTS OR PAID SOLICITORS.
- 5.1.1 ALL REQUESTS FOR AN EXTENSION SHALL BE FILED ELECTRONICALLY ON THE SECRETARY OF STATE'S WEB SITE BY LOGGING IN AND E-FILED THE NECESSARY DOCUMENT. NEITHER FILING FOR AN EXTENSION WITH THE IRS NOR SUBMITTING A COPY OF SUCH A REQUEST (IRS FORM 8868) TO THE SECRETARY OF STATE IS SUFFICIENT TO EXTEND A FILING DEADLINE. THE SECRETARY OF STATE WILL NOT CONSIDER REQUESTS TO WAIVE LATE FILING FEES ON THE GROUNDS THAT THE ORGANIZATION FILED FOR AN EXTENSION WITH THE IRS, BUT NEGLECTED TO FILE FOR AN EXTENSION WITH THE SECRETARY OF STATE.
- 5.1.2 TO AVOID INCURRING LATE FEES, CHARITABLE ORGANIZATIONS MUST FILE A REGISTRATION RENEWAL OR AN EXTENSION ON OR BEFORE THE FILING DEADLINE. CHARITABLE ORGANIZATIONS THAT FAIL TO FILE AN EXTENSION REQUEST ON TIME WITH THE SECRETARY OF STATE WILL BE SUBJECT TO A LATE FEE, EVEN IF IT IS STILL WITHIN THE PERIOD DURING WHICH AN EXTENSION WOULD HAVE APPLIED IF IT HAD BEEN TIMELY FILED.
- 5.2 A PROFESSIONAL FUNDRAISING CONSULTANT OR PAID SOLICITOR MAY RENEW ITS REGISTRATION NO EARLIER THAN 60 DAYS BEFORE ITS ANNIVERSARY DATE.
- 5.3 THE RANGE OF CAMPAIGN DATES THAT MAY BE LISTED ON A SOLICITATION NOTICE IS ONE YEAR OR LESS.
- 5.4 CHARITABLE ORGANIZATIONS THAT REGISTER INITIALLY USING INFORMATION FROM THE FISCAL YEAR PRIOR TO THE ORGANIZATION'S MOST RECENT FISCAL YEAR, HAVE 14 DAYS FROM THE DATE THE INITIAL REGISTRATION IS APPROVED IN WHICH TO FILE AN EXTENSION OF THE DEADLINE FOR THE MOST RECENT FISCAL YEAR OR A RENEWAL COVERING THE MOST RECENT FISCAL YEAR. ORGANIZATIONS FAILING TO FILE FOR SUCH EXTENSION WILL BEGIN RECEIVING DELINQUENCY NOTICES ON THE 15TH DAY AFTER THE FILE DATE OF THE INITIAL REGISTRATION.
- 5.5 IF THE DEADLINE FOR FILING A DOCUMENT UNDER THE CCSA THAT IS REQUIRED TO BE FILED BY ELECTRONIC MEANS FALLS ON A SATURDAY, SUNDAY, LEGAL HOLIDAY, OR ANY DAY THE SECRETARY OF STATE'S PHYSICAL OFFICE IS CLOSED, THE DEADLINE SHALL BE ON SUCH DAY.

New Rule 6 is adopted as follows:

RULE 6. REMINDER NOTICES AND DELINQUENCY NOTICES

- 6.1 THE SECRETARY OF STATE WILL MAIL A FIRST NOTICE TO THE PRINCIPAL PLACE OF BUSINESS AND REGISTERED AGENT OF A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR NO LATER THAN 30 DAYS PRIOR TO THE DUE DATE OF THE ORGANIZATION'S RENEWAL DEADLINE. A SECOND NOTICE WILL BE

MAILED TO THE PRINCIPAL PLACE OF BUSINESS AND REGISTERED AGENT OF THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR ONE DAY AFTER THE DEADLINE, IF THE ORGANIZATION HAS FAILED TO RENEW ITS REGISTRATION. THE SECRETARY OF STATE WILL MAIL A SUSPENSION LETTER TO THE PRINCIPAL PLACE OF BUSINESS AND REGISTERED AGENT OF A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR ON THE 60TH DAY AFTER THE ORGANIZATION'S RENEWAL DEADLINE.

- 6.2 IF THE REGISTRATION STATEMENT OF A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR IS NOT RENEWED BY THE PRESCRIBED DEADLINE OR DEADLINE EXTENSION GRANTED BY THE SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE, THE STATUS OF ITS REGISTRATION WILL BE LISTED AS DELINQUENT EFFECTIVE ON THE FIRST DAY AFTER THE DEADLINE HAS PASSED, AND SUSPENDED ON THE 60TH DAY AFTER THE DEADLINE HAS PASSED. ONCE AN ORGANIZATION'S REGISTRATION HAS BEEN SUSPENDED, IT MUST CEASE SOLICITING CONTRIBUTIONS IN COLORADO, UNTIL IT HAS CURED THE REASON FOR SUSPENSION BY RENEWING ITS REGISTRATION FOR ALL OVERDUE FISCAL YEARS AND PAYING ALL OUTSTANDING REGISTRATION FEES AND FINES.
- 6.3 A PAID SOLICITOR MUST SUBMIT A SOLICITATION CAMPAIGN FINANCIAL REPORT ("CAMPAIGN REPORT") ON OR BEFORE THE 90TH DAY FOLLOWING THE CAMPAIGN END DATE LISTED ON A SOLICITATION NOTICE. DELINQUENT NOTICES WILL BE SENT TO THE PRINCIPAL PLACE OF BUSINESS AND REGISTERED AGENT OF THE PAID SOLICITOR AND CHARITABLE ORGANIZATION ONE DAY AND 15 DAYS AFTER THE DEADLINE. A SUSPENSION NOTICE WILL BE SENT ON THE 60TH DAY AFTER THE DEADLINE.

New Rule 7 is adopted as follows:

RULE 7. FINES

- 7.1 ANY CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR WHO, AFTER RECEIVING TWO NOTICES BY MAIL ADDRESSED TO THE ORGANIZATION AND REGISTERED AGENT OF THE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR FAILS TO PROPERLY RENEW OR UPDATE A REGISTRATION, FILE A SOLICITATION NOTICE, OR FILE A FINANCIAL REPORT OF A SOLICITATION CAMPAIGN ON OR BEFORE THE 14TH DAY FOLLOWING THE ISSUANCE OF THE FINAL NOTICE, SHALL BE ASSESSED A LATE FEE.
- 7.1.1 LATE FEES FOR OVERDUE FILINGS WILL INCREASE THE LONGER A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR IS DELINQUENT. THE MAXIMUM LATE FEE WILL BE IMPOSED ON THE 60TH DAY AFTER DEADLINE.
- 7.1.2 THE LATE FEE FOR A CHARITABLE ORGANIZATION SHALL BE NOT LESS THAN \$25 AND NOT MORE THAN \$100 PER YEAR.
- 7.1.3 THE LATE FEE FOR A PROFESSIONAL FUNDRAISING CONSULTANT OR PAID SOLICITOR SHALL BE NOT LESS THAN \$50 AND NOT MORE THAN \$200 PER YEAR AND WILL APPLY TO AN OVERDUE RENEWAL OR AN OVERDUE FINANCIAL REPORT OF A SOLICITATION CAMPAIGN.

- 7.1.4 ONCE A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR HAS BEEN ASSESSED A LATE FEE, IT MUST PAY THE LATE FEE IN ADDITION TO THE REGULAR FILING FEE IN ORDER TO ACHIEVE COMPLIANCE.
- 7.1.5 TO COME INTO COMPLIANCE AND AVOID ADDITIONAL LATE FEES, A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR SHALL FILE ALL PAST DUE DOCUMENTS IN SEQUENCE, FROM OLDEST TO NEWEST.
- 7.2 AN ORGANIZATION WHICH, AFTER SUFFICIENT NOTIFICATION BY THE SECRETARY OF STATE IN ACCORDANCE WITH SECTION 6-16-114, C.R.S., CONTINUES TO SOLICIT CONTRIBUTIONS WITHOUT FILING AN INITIAL REGISTRATION STATEMENT SHALL BE LIABLE FOR A FINE OF \$300 PER YEAR FOR CHARITABLE ORGANIZATIONS OR \$1,000 PER YEAR FOR PAID SOLICITORS. THIS FINE SHALL NOT BE APPLIED TO A CHARITABLE ORGANIZATION THAT IS EXEMPT FROM THE REQUIREMENT TO REGISTER PURSUANT TO SECTION 6-16-104 (6)(A) – (C), C.R.S. IN SUCH CASES, THE CHARITABLE ORGANIZATION SHALL RESPOND TO THE SECRETARY OF STATE’S NOTICE BY STATING THAT IT IS EXEMPT FROM THE REQUIREMENT TO REGISTER AND CITING THE BASIS FOR ITS EXEMPTION.
- 7.2.1 FINES FOR SOLICITING WHILE UNREGISTERED WILL INCREASE THE LONGER AN ORGANIZATION FAILS TO RESPOND TO THE SECRETARY OF STATE’S FINAL NOTICE OF THE NEED TO REGISTER OR FAILS TO STATE THE BASIS FOR ITS EXEMPTION TO THE REGISTRATION REQUIREMENT.
- 7.2.2 ONCE AN ORGANIZATION HAS BEEN FINED FOR SOLICITING WHILE UNREGISTERED, IT MUST PAY THE FINE IN ADDITION TO THE REGULAR FILING FEE IN ORDER TO ACHIEVE COMPLIANCE WITH THE CCSA AND THESE RULES.
- 7.3 ANY CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR REGISTERED WITH THE SECRETARY OF STATE OR SUBJECT TO REGISTRATION UNDER SECTION 6-16-104(1), C.R.S., MAY REQUEST AN IMPOSED FINE TO BE EXCUSED OR REDUCED BY SUBMITTING A WRITTEN REQUEST BY LETTER, EMAIL, FAX OR HAND-DELIVERY. THE SECRETARY OF STATE MAY CONSIDER EXCUSING OR WAIVING A FINE ONLY IN THE CASE OF BONA FIDE PERSONAL EMERGENCIES AS DEFINED BELOW, OR IF A TIMELY FILING WAS NOT POSSIBLE DUE TO WEBSITE ERRORS. THE REQUEST SHALL INCLUDE:
- 7.3.1 THE NAME OF THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR.
- 7.3.2 THE DATE OF THE REQUEST .
- 7.3.3 THE DUE DATE OF THE DELINQUENTLY FILED REGISTRATION DOCUMENT(S).
- 7.3.4 THE ACTUAL FILING DATE OF THE DELINQUENTLY FILED REGISTRATION DOCUMENT(S).
- 7.3.5 A BRIEF SUMMARY OF THE REASONS, CIRCUMSTANCES, OR OTHER JUSTIFICATION OF THE BONA FIDE PERSONAL EMERGENCY.
- 7.3.6 ANY MEASURES THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR HAS INSTITUTED OR PLANS TO INSTITUTE TO AVOID FUTURE DELINQUENCIES, IF APPLICABLE.

- 7.3.7 OTHER RELEVANT INFORMATION, SUCH AS A DETAILED DESCRIPTION OF THE WEBSITE ERROR THAT PREVENTED THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR FROM FILING THE REGISTRATION DOCUMENT ON TIME.
- 7.4 IF THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR REQUESTS AN IMPOSED FINE TO BE EXCUSE OR REDUCED, THE CHARITIES PROGRAM STAFF WILL CONDUCT AN INVESTIGATION TO EXCUSE OR REDUCE IMPOSED FINES. FOLLOWING THAT DETERMINATION, STAFF WILL GENERATE A LETTER TO THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR NOTIFYING THE REGISTRANT OF THE DECISION.
- 7.5 THE SECRETARY OF STATE CONSIDERS A BONA FIDE PERSONAL EMERGENCY TO BE A VERY RARE EXCEPTION TO THE COMMITMENT TO FULFILL THE REQUIREMENTS OF LAWS CONCERNING CHARITABLE SOLICITATIONS. DEPENDING ON THE CIRCUMSTANCES, THE SECRETARY GENERALLY CONSIDERS ONE OR MORE OF THE FOLLOWING POSSIBLE JUSTIFICATIONS A “BONA FIDE PERSONAL EMERGENCY:”
- 7.5.1 PERSONAL EMERGENCIES, INCLUDING BUT NOT LIMITED TO, INCAPACITATION FOR MEDICAL REASONS, HOSPITALIZATION, ACCIDENT INVOLVEMENT, DEATH OF PERSONS OR TO MEMBERS OF SUCH PERSONS’ IMMEDIATE FAMILY.
- 7.5.2 PRACTICAL OBSTACLES OUT OF THE CONTROL OF THE REGISTRANT WHICH PRECLUDE TIMELY DISCLOSURE SUCH AS THE LOSS OR UNAVAILABILITY OF RECORDS OR A COMPUTER DUE TO FIRE, FLOOD OR THEFT.
- 7.5.3 OTHER EXTRAORDINARY REASONS. THESE INCLUDE COMPELLING REASONS BEYOND THE REGISTRANT’S CONTROL.
- 7.6 THE FOLLOWING ARE GENERALLY **NOT** CONSIDERED A “BONA FIDE PERSONAL EMERGENCY:”
- 7.6.1 FAILURE TO TIMELY FILE REGISTRATION DOCUMENTS AS A RESULT OF LACK OF PLANNING.
- 7.6.2 PRIORITIES OF ACCOUNTANT RESPONSIBLE FOR FILING STATE REGISTRATION FORMS AND FEDERAL INFORMATION RETURNS (FORMS 990, 990-EZ, 990-PF, 990-N, 990-T).
- 7.6.3 MISUNDERSTANDING OF APPLICABLE DISCLOSURE REQUIREMENTS AND DEADLINES.
- 7.6.4 MISTAKES IN ELECTRONIC FILING SUBMISSION, INCLUDING INCOMPLETE FILINGS RESULTING IN REJECTION OF THE FILED DOCUMENT.
- 7.6.5 LACK OF ACCESS TO INTERNET OR PERSONAL COMPUTER.
- 7.6.6 LACK OF CORPORATE CREDIT CARD OR OTHER MEANS FOR MAKING ONLINE PAYMENTS.
- 7.7 THE SECRETARY OF STATE WILL ISSUE DECISIONS DEPENDING ON INDIVIDUAL FACTS AND CIRCUMSTANCES. ALTHOUGH CIRCUMSTANCES VARY, THE CRITERIA THAT ARE CENTRALLY DISPOSITIVE WHEN REVIEWING A REQUEST TO EXCUSE OR REDUCE IMPOSED FINES ARE THE

ESTABLISHMENT OF A BONA FIDE PERSONAL EMERGENCY AS DEFINED ABOVE OR THE DEMONSTRATION OF A WEBSITE ERROR THAT MADE IT IMPOSSIBLE TO FILE A REQUIRED REGISTRATION DOCUMENT. IF UNCERTAIN, THE SECRETARY MAY ALSO CONSIDER THE FREQUENCY OF REQUESTS TO EXCUSE OR REDUCE FINES WITHIN A TWO-YEAR PERIOD, AND THE REGISTRANT'S DEMONSTRATION OF COMMITMENT TO FULFILL THE REQUIREMENTS OF COLORADO'S LAWS CONCERNING CHARITABLE SOLICITATIONS.

- 7.8 THE RULES CONCERNING FINES FOR SOLICITING WHILE UNREGISTERED SHALL TAKE EFFECT ON AUGUST 1, 2009.

New Rule 8 is adopted as follows:

RULE 8. SUSPENSIONS

- 8.1 IF THE SECRETARY OF STATE HAS NOT RECEIVED AN OVERDUE REGISTRATION OR RENEWAL OR A REQUEST FOR A HEARING FROM A DELINQUENT CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR BEFORE THE 60TH DAY AFTER THE DEADLINE OR DEADLINE EXTENSION GRANTED BY SECRETARY OF STATE OR THE SECRETARY OF STATE'S DESIGNEE, THE REGISTRATION WILL BE SUSPENDED. A SUSPENSION LETTER WILL BE MAILED TO THE PRINCIPAL PLACE OF BUSINESS AND REGISTERED AGENT OF THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR ON THE 60TH DAY AFTER THE DEADLINE, AND THE ORGANIZATION WILL INCUR THE MAXIMUM LATE FEE. ALL SOLICITATIONS IN COLORADO MUST CEASE AS OF THE EFFECTIVE DATE OF THE SUSPENSION AND UNTIL ANY LATE FEES AND FILING FEES HAVE BEEN PAID AND THE SUSPENSION HAS BEEN CURED.
- 8.2 IF THE SECRETARY OF STATE HAS NOT RECEIVED AN OVERDUE SOLICITATION CAMPAIGN FINANCIAL REPORT OR A REQUEST FOR A HEARING FROM A DELINQUENT PAID SOLICITOR BEFORE THE 60TH DAY AFTER THE DEADLINE, THE PAID SOLICITOR'S REGISTRATION WILL BE SUSPENDED. A SUSPENSION LETTER WILL BE MAILED TO THE PRINCIPAL PLACE OF BUSINESS AND REGISTERED AGENT OF THE PAID SOLICITOR ON THE 60TH DAY AFTER THE DEADLINE FOR FILING THE SOLICITATION CAMPAIGN FINANCIAL REPORT, AND THE PAID SOLICITOR WILL INCUR THE MAXIMUM LATE FEE. ALL SOLICITATION ACTIVITY IN COLORADO ON BEHALF OF ANY CLIENT OF THE PAID SOLICITOR MUST CEASE AS OF THE EFFECTIVE DATE OF THE SUSPENSION AND UNTIL ANY LATE FEES AND FILING FEES HAVE BEEN PAID AND THE SUSPENSION HAS BEEN CURED.
- 8.3 A PAID SOLICITOR WHO HAS NOT SUBMITTED A SOLICITATION CAMPAIGN FINANCIAL REPORT ON OR BEFORE THE PRESCRIBED DEADLINE SHALL NOT BE PERMITTED TO BEGIN ANY NEW SOLICITATION CAMPAIGN OR TO FILE ANY NEW SOLICITATION NOTICE UNTIL THE OVERDUE CAMPAIGN REPORT HAS BEEN SUBMITTED AND APPROVED BY THE SECRETARY OF STATE.

New Rule 9 is adopted as follows:

RULE 9. WITHDRAWING A REGISTRATION

- 9.1 A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR MAY REQUEST TO WITHDRAW ITS REGISTRATION BY NOTIFYING THE SECRETARY OF STATE. UPON APPROVING SUCH A REQUEST, THE SECRETARY OF STATE WILL LIST THE REGISTRATION STATUS AS WITHDRAWN.

- 9.2 A CHARITABLE ORGANIZATION SHALL NOT BE PERMITTED TO WITHDRAW ITS REGISTRATION UNLESS AND UNTIL SUCH ORGANIZATION HAS FILED A FINAL RENEWAL AND FINANCIAL REPORT TO COVER THE MOST RECENT FISCAL YEAR IN WHICH IT WAS SUBJECT TO THE REGISTRATION REQUIREMENTS OF THE CCSA, UNLESS IT IS A NEWLY-FORMED CHARITABLE ORGANIZATION.
- 9.3 A NEWLY-FORMED CHARITABLE ORGANIZATION MAY REQUEST TO WITHDRAW ITS REGISTRATION UNCONDITIONALLY IF IT DETERMINES THAT IT REGISTERED BY MISTAKE IN THE FIRST PLACE.
- 9.4 A PAID SOLICITOR SHALL NOT BE PERMITTED TO WITHDRAW ITS REGISTRATION UNLESS AND UNTIL THE PAID SOLICITOR HAS FILED A COMPLETE, ACCURATE SOLICITATION CAMPAIGN FINANCIAL REPORT FOR EVERY SOLICITATION CAMPAIGN FOR WHICH THE PAID SOLICITOR HAS FILED A SOLICITATION NOTICE, AND THE PAID SOLICITOR HAS FILED A COMPLETE, ACCURATE SOLICITATION NOTICE FOR EVERY SOLICITATION CAMPAIGN CONDUCTED BY THE PAID SOLICITOR IN COLORADO.
- 9.5 A PROFESSIONAL FUNDRAISING CONSULTANT SHALL NOT BE PERMITTED TO WITHDRAW ITS REGISTRATION UNLESS AND UNTIL THE PROFESSIONAL FUNDRAISING CONSULTANT HAS FILED A REGISTRATION RENEWAL TO COVER THE MOST RECENT FISCAL YEAR IN WHICH IT WAS SUBJECT TO THE REGISTRATION REQUIREMENTS OF THE CCSA.

New Rule 10 is adopted as follows:

RULE 10. REINSTATING A SUSPENDED OR WITHDRAWN REGISTRATION

- 10.1 A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR MAY REINSTATE A REGISTRATION THAT HAS BEEN SUSPENDED OR WITHDRAWN.
- 10.1.1 A WITHDRAWN CHARITY MAY BE REINSTATED IF IT NOTIFIES THE SECRETARY OF STATE IN WRITING OF ITS DESIRE TO REINSTATE AND FILES EITHER A REGISTRATION RENEWAL OR AN EXEMPTION FORM FOR EACH FISCAL YEAR SINCE ITS REGISTRATION WAS WITHDRAWN. THE ORGANIZATION'S REGISTRATION WILL BE FULLY REINSTATED ONCE IT HAS FILED A REGISTRATION AND FINANCIAL STATEMENT CONTAINING ACTUAL FINANCIAL INFORMATION FOR THE MOST RECENTLY CONCLUDED FISCAL YEAR. IF IT IS NOT POSSIBLE TO FILE FINANCIAL INFORMATION FOR THE MOST RECENT FISCAL YEAR AT THE TIME OF REINSTATEMENT, THEN THE ORGANIZATION SHALL FILE A REGISTRATION AND FINANCIAL STATEMENT FOR THE PRIOR FISCAL YEAR AND FILE AN EXTENSION OF THE RENEWAL DEADLINE FOR THE MOST RECENT FISCAL YEAR.
- 10.1.2 A SUSPENDED CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR SHALL CORRECT THE DEFICIENCY FOR WHICH IT WAS SUSPENDED, AND, IF IT WAS SUBJECT TO THE REGISTRATION REQUIREMENTS OF THE CCSA DURING THE SUSPENSION PERIOD, IT MUST RETROACTIVELY RENEW ITS REGISTRATION AND PAY ANY APPLICABLE LATE FEES FOR ALL YEARS DURING WHICH IT WAS DELINQUENT OR SUSPENDED, BEFORE ITS REGISTRATION WILL BE REINSTATED.
- 10.1.3 IN ADDITION, A PAID SOLICITOR SHALL FILE SOLICITATION NOTICES AND CAMPAIGN REPORTS AND PAY ALL APPLICABLE LATE FEES FOR ANY SOLICITATION CAMPAIGNS

CONDUCTED WHILE SUCH SOLICITOR'S REGISTRATION WAS SUSPENDED, BEFORE ITS REGISTRATION WILL BE REINSTATED.

New Rule 11 is adopted as follows:

RULE 11. EFFECT OF REVOCATION

NO CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL FUNDRAISING CONSULTANT MAY REGISTER TO SOLICIT CONTRIBUTIONS IN COLORADO AFTER ITS REGISTRATION HAS BEEN REVOKED.

New Rule 12 is adopted as follows:

RULE 12. APPLICATION OF REGISTRATION REQUIREMENTS TO INTERNET SOLICITATION

12.1 ENTITIES THAT ARE DOMICILED WITHIN COLORADO. AN ENTITY THAT IS DOMICILED WITHIN COLORADO AND USES THE INTERNET TO CONDUCT CHARITABLE SOLICITATIONS IN COLORADO MUST REGISTER WITH THE SECRETARY OF STATE, UNLESS IT IS EXEMPT FROM THE REGISTRATION REQUIREMENTS PURSUANT TO SECTION 6-16-104(6), C.R.S. THIS IS TRUE WITHOUT REGARD TO WHETHER THE INTERNET SOLICITATION METHODS IT USES ARE PASSIVE OR INTERACTIVE, MAINTAINED BY ITSELF OR ANOTHER ENTITY WITH WHICH IT CONTRACTS, OR WHETHER IT CONDUCTS SOLICITATIONS IN ANY OTHER MANNER.

12.1.1 AN ENTITY IS DOMICILED WITHIN COLORADO IF ITS PRINCIPAL PLACE OF BUSINESS IS IN COLORADO.

12.2 ENTITIES THAT ARE DOMICILED OUTSIDE COLORADO. AN ENTITY THAT IS NOT DOMICILED IN COLORADO MUST REGISTER IN ACCORDANCE WITH THE LAW OF COLORADO, UNLESS IT IS EXEMPT FROM THE REGISTRATION REQUIREMENTS PURSUANT TO SECTION 6-16-104(6), C.R.S., IF:

12.2.1 ITS NON-INTERNET ACTIVITIES ALONE WOULD BE SUFFICIENT TO REQUIRE REGISTRATION IN COLORADO, OR

12.2.2 THE ENTITY SOLICITS CONTRIBUTIONS THROUGH AN INTERACTIVE WEB SITE AND
EITHER THE ENTITY:

12.2.1 SPECIFICALLY TARGETS PERSONS PHYSICALLY LOCATED IN COLORADO FOR SOLICITATION, OR

12.2.2 RECEIVES CONTRIBUTIONS FROM COLORADO ON A REPEATED AND ONGOING BASIS OR A SUBSTANTIAL BASIS THROUGH ITS WEB SITE; OR

12.2.3 THE ENTITY SOLICITS CONTRIBUTIONS THROUGH A SITE THAT IS NOT INTERACTIVE, BUT EITHER SPECIFICALLY INVITES FURTHER OFFLINE ACTIVITY TO COMPLETE A CONTRIBUTION, OR ESTABLISHES OTHER CONTACTS WITH COLORADO, SUCH AS SENDING E-MAIL MESSAGES OR OTHER COMMUNICATIONS THAT PROMOTE THE WEB SITE; AND

12.2.3.1 SPECIFICALLY TARGETS PERSONS PHYSICALLY LOCATED IN COLORADO FOR SOLICITATION, OR

12.2.3.2 RECEIVES CONTRIBUTIONS FROM COLORADO ON A REPEATED AND ONGOING BASIS OR A SUBSTANTIAL BASIS THROUGH ITS WEB SITE.

12.3 FOR PURPOSES OF THIS RULE 12, EACH OF THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

12.3.1 **“AN INTERACTIVE WEB SITE”** MEANS A WEB SITE THAT PERMITS A CONTRIBUTOR TO MAKE A CONTRIBUTION, OR PURCHASE A PRODUCT IN CONNECTION WITH A CHARITABLE SOLICITATION, BY ELECTRONICALLY COMPLETING THE TRANSACTION, SUCH AS BY SUBMITTING CREDIT CARD INFORMATION OR AUTHORIZING AN ELECTRONIC FUNDS TRANSFER. INTERACTIVE SITES INCLUDE SITES THROUGH WHICH A DONOR MAY COMPLETE A TRANSACTION ONLINE THROUGH ANY ONLINE MECHANISM PROCESSING A FINANCIAL TRANSACTION EVEN IF COMPLETION REQUIRES THE USE OF LINKED OR REDIRECTED SITES. A WEB SITE IS INTERACTIVE IF IT HAS THIS CAPACITY, REGARDLESS OF WHETHER DONORS ACTUALLY USE IT.

12.3.2 **“TO SPECIFICALLY TARGET PERSONS PHYSICALLY LOCATED IN COLORADO FOR SOLICITATION”** MEANS EITHER:

12.3.2.1 TO INCLUDE ON ITS WEB SITE AN EXPRESS OR IMPLIED REFERENCE TO SOLICITING CONTRIBUTIONS FROM COLORADO; OR

12.3.2.2 TO OTHERWISE AFFIRMATIVELY APPEAL TO RESIDENTS OF COLORADO, SUCH AS BY ADVERTISING OR SENDING MESSAGES TO PERSONS LOCATED IN COLORADO (ELECTRONICALLY OR OTHERWISE) WHEN THE ENTITY KNOWS OR REASONABLY SHOULD KNOW THE RECIPIENT IS PHYSICALLY LOCATED IN COLORADO. CHARITIES OPERATING ON A PURELY LOCAL BASIS, OR WITHIN A LIMITED GEOGRAPHIC AREA, DO NOT TARGET STATES OUTSIDE THEIR OPERATING AREA, IF THEIR WEB SITE MAKES CLEAR IN CONTEXT THAT THEIR FUNDRAISING FOCUS IS LIMITED TO THAT AREA EVEN IF THEY RECEIVE CONTRIBUTIONS FROM OUTSIDE THAT AREA ON LESS THAN A REPEATED AND ONGOING BASIS OR ON A SUBSTANTIAL BASIS.

12.3.3 **“TO RECEIVE CONTRIBUTIONS FROM COLORADO ON A REPEATED AND ONGOING BASIS OR A SUBSTANTIAL BASIS”** MEANS RECEIVING CONTRIBUTIONS WITHIN THE ENTITY’S FISCAL YEAR, OR RELEVANT PORTION OF A FISCAL YEAR, THAT ARE OF SUFFICIENT VOLUME TO ESTABLISH THE REGULAR OR SIGNIFICANT (AS OPPOSED TO RARE, ISOLATED, OR INSUBSTANTIAL) NATURE OF THOSE CONTRIBUTIONS. AN ENTITY RECEIVES CONTRIBUTIONS ON A REPEATED AND ONGOING BASIS IF IT RECEIVES AT LEAST 50 ONLINE CONTRIBUTIONS AT ANY TIME IN A YEAR, AND IT RECEIVES SUBSTANTIAL CONTRIBUTIONS IF IT RECEIVES \$25,000 OR 1% OF ITS TOTAL CONTRIBUTIONS, WHICHEVER IS LESS, IN ONLINE CONTRIBUTIONS IN A FISCAL YEAR.

12.3.4 AN ENTITY THAT SOLICITS VIA E-MAIL INTO COLORADO SHALL BE TREATED THE SAME AS ONE THAT SOLICITS VIA TELEPHONE OR DIRECT MAIL, IF THE SOLICITING PARTY KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE RECIPIENT WAS A RESIDENT OF OR WAS PHYSICALLY LOCATED IN COLORADO.

12.4 SOLICITATIONS FOR THE SALE OF A PRODUCT OR SERVICE THAT INCLUDE A REPRESENTATION THAT SOME PORTION OF THE PRICE SHALL BE DEVOTED TO A CHARITABLE ORGANIZATION OR CHARITABLE PURPOSE (OFTEN REFERRED TO AS “COMMERCIAL

COVENTURING” OR “CAUSE MARKETING” AND DEFINED IN SECTION 6-16-103(3), C.R.S., AS A “CHARITABLE SALES PROMOTION”) SHALL BE GOVERNED BY THE SAME STANDARDS AS OTHERWISE SET OUT IN THIS RULE 12 AND PURSUANT TO SECTION 6-16-104(1), C.R.S.

- 12.5 NOTHING IN THIS RULE 12 IS INTENDED TO LIMIT OR EXPAND UPON THE EXCEPTION TO THE DEFINITION OF A PAID SOLICITOR LISTED IN SECTION 6-16-103(7)(F), C.R.S., WHICH STATES THAT A PERSON WHOSE ONLY RESPONSIBILITY IN CONNECTION WITH A CHARITABLE CONTRIBUTION IS TO PROVIDE A MERCHANT ACCOUNT TO PROCESS CREDIT CARD PAYMENTS USING THE INTERNET.

New Rule 13 is adopted as follows:

RULE 13. CONTACT INFORMATION FOR CUSTODIANS OF BOOKS AND RECORDS

WHEREVER A CHARITABLE SOLICITATIONS FILING, INCLUDING BUT NOT LIMITED TO SOLICITATION CAMPAIGN FINANCIAL REPORTS, CALLS FOR THE NAME AND ADDRESS OF A PERSON WITH CUSTODY OF BOOKS AND RECORDS, SUCH NAME SHALL BE THAT OF A NATURAL PERSON AND SUCH ADDRESS SHALL BE A STREET ADDRESS OF THAT PERSON’S PRINCIPAL OFFICE OR USUAL PLACE OF BUSINESS. FOR A PERSON THAT HAS NO PRINCIPAL OFFICE ADDRESS AND NO USUAL PLACE OF BUSINESS, SUCH ADDRESS SHALL BE THE STREET ADDRESS OF THE PERSON’S RESIDENCE.

New Rule 14 is adopted as follows:

RULE 14. PAID SOLICITOR REGISTRATION

- 14.1 PURSUANT TO SECTION 6-16-104.6(4), C.R.S., A PAID SOLICITOR MAY REGISTER AND PAY A SINGLE FEE ON BEHALF OF ITS AGENTS (INCLUDING ANY SUBCONTRACTORS), PROVIDED THAT EACH AGENT OR SUBCONTRACTOR IS LISTED ON THE PAID SOLICITOR’S REGISTRATION.
- 14.2 FOR ANY SPECIFIC SOLICITATION CAMPAIGN, ANY AGENT OR SUBCONTRACTOR NOT DIRECTLY UNDER CONTRACT TO THE REGISTERED PAID SOLICITOR MUST FILE ITS OWN REGISTRATION.
- 14.3 AS REFERENCED IN SECTION 6-16-104.6(2), C.R.S., AND IN RULE 15.2.1, ANY COPY OF A CONTRACT PROVIDED TO A CHARITABLE ORGANIZATION OR THE SECRETARY OF STATE SHALL BE THE MOST RECENT COMPLETE VERSION OF THE AGREEMENT SIGNED BY AN AUTHORIZED OFFICIAL OF THE CHARITABLE ORGANIZATION AND BY THE PAID SOLICITOR, AND IT SHALL INCLUDE THE ORIGINAL AGREEMENT AND ALL ADDENDA.

New Rule 15 is adopted as follows:

RULE 15. SUBCONTRACTORS

15.1 FILING REQUIREMENTS

- 15.1.1 ANY SUBCONTRACTOR OPERATING UNDER A CONTRACT WITH A REGISTERED PAID SOLICITOR IN CONNECTION WITH THE PAID SOLICITOR’S WORK ON BEHALF OF A CHARITABLE ORGANIZATION TO SOLICIT CONTRIBUTIONS WILL BE TREATED AS AN AGENT OF THAT PAID SOLICITOR AND IS NOT REQUIRED TO REGISTER. THE PAID SOLICITOR SHALL BE RESPONSIBLE FOR FILING ALL SOLICITATION NOTICES AND CAMPAIGN REPORTS.

15.1.2 ANY AGENT (BUT NOT AN EMPLOYEE) OF A SUBCONTRACTOR OPERATING UNDER A CONTRACT WITH THAT SUBCONTRACTOR TO SOLICIT CONTRIBUTIONS SHALL REGISTER SEPARATELY.

15.2 AUTHORIZATION TO SOLICIT

15.2.1 A SUBCONTRACTOR SHALL OPERATE UNDER A WRITTEN CONTRACT WITH A REGISTERED PAID SOLICITOR AND SUCH CONTRACT SHALL BE PROVIDED TO THE SECRETARY OF STATE UPON REQUEST PURSUANT TO SECTION 6-16-104.6(2), C.R.S.

15.2.2 A SUBCONTRACTOR SHALL KEEP RECORDS IN ACCORDANCE WITH SECTION 6-16-109, C.R.S., AND SHALL FURNISH THE ORIGINALS OR COPIES TO THE PAID SOLICITOR.

These new and amended rules shall take effect 20 days after publication in the Colorado Register in accordance with the State Administrative Procedure Act.

A written statement of Basis, Purpose and Specific Statutory Authority is attached and hereby incorporated herein by reference.

Dated this 4th day of May, 2009



William A. Hobbs
Deputy Secretary of State

For

Bernie Buescher
Secretary of State

STATE OF COLORADO
Department of State

1700 Broadway
Suite 250
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Bernie Buescher
Secretary of State

William A. Hobbs
Deputy Secretary of State

Proposed Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State

Rules for the Administration of the Colorado Charitable Solicitations Act

May 4, 2009

1. Basis and Purpose

This statement pertains to the proposed rules to replace existing Rules 1 and 2 of the Colorado Secretary of State's "Rules Concerning the Colorado Charitable Solicitations Act" (8 CCR 1505-9). The proposed rules are necessary to provide for the acceptance of electronic signatures, expedited hearing deadlines, and for the extension of filing deadlines. In addition, new rules are necessary to implement the provisions of House Bill 08-1109, which authorized the Secretary of State to set and levy fines for noncompliance with Title 6, Article 16, and to address recommendations included in the Oversight of Charitable Solicitations Performance Audit of May, 2008. The performance audit identified ways the Department could improve its efforts to ensure that all applicable charities register with the Department and ensure that charities, paid solicitors, and professional fundraising consultants file required reports on time. This included developing criteria for when charitable organizations, paid solicitors, and professional fundraising consultants will be subject to fines and suspensions and ensuring that delinquency and suspension notices are sent out in a timely manner. Finally, several new rules are proposed in order to answer substantive or procedural questions that have arisen in the course of administering the Charitable Solicitations Act.

The Secretary of State therefore finds that the permanent adoption of the new Rules 1 through 15 of the Colorado Secretary of State's "Rules for the Administration of the Colorado Charitable Solicitations Act" is necessary in order to ensure the uniform and proper administration of the program, define terms, establish electronic signatures, establish expedited hearing deadlines, provide a framework for the issuance and verification of registration numbers, define a process for extending a filing deadline, describe the number and timing of notices the Secretary of State will send registrants, describe a process by which fines will be levied and can be appealed, provide greater certainty regarding the application of the registration requirement to internet

solicitations, and to clarify how the reporting requirements of the statute will apply to solicitation campaigns conducted by a subcontractor of a paid solicitor.

2. Statutory Authority

These amendments and revisions to the Colorado Secretary of State “Rules Concerning the Administration of the Charitable Solicitations Act” Office of the Secretary of State, Division of Licensing, 8 CCR 1505-9, are adopted pursuant to the following statutory provisions:

1. Rulemaking provisions of the Colorado Administrative Procedure Act, §24-4-103, C.R.S.
2. Section 6-16-110.5(3), C.R.S. (2008), which authorizes the Secretary of State to adopt any rules deemed necessary for the effective implementation of the “Colorado Charitable Solicitations Act.”
3. Section 6-16-111(6)(b), C.R.S. (2008), which directs the Secretary of State to promulgate rules to provide for expedited deadlines to govern hearings.