

ENTERED
FEB 5 2009 *B*
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION
MISC NO. # 14

FILED
FEB 05 2009
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

**COMMONWEALTH OF KENTUCKY, EX. REL.
JACK CONWAY, ATTORNEY GENERAL**
Consumer Protection Division
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601

PETITIONER

v.

ASSURANCE OF VOLUNTARY COMPLIANCE

JORDAN PALMER

RESPONDENT

* * * * *

Pursuant to KRS 367.230, this Assurance of Voluntary Compliance is provided to the Commonwealth of Kentucky, ex. rel. Jack Conway, Attorney General, by Jordan Palmer.

I. PARTIES

1. The Petitioner is the duly elected Attorney General of the Commonwealth of Kentucky and is responsible for enforcement and administration of Kentucky law, including the consumer protection laws set forth in Kentucky Revised Statutes (KRS) Chapter 367. The Petitioner is sometimes referred to herein as "Petitioner" or "Attorney General".

2. The Respondent, Jordan Palmer, is an individual whose address is P.O. Box 23193 Lexington, Kentucky 40523-3193.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the parties and the subject matter of this Assurance of Voluntary Compliance (AVC) pursuant to KRS 367.230.

III. SUPPORTING STATEMENTS

4. Paragraphs 1 through 3 are hereby restated and incorporated by reference.

5. Respondent in the regular course of business has made promises to Kentucky



consumers on behalf of a certain charitable or civic organization in a manner that Petitioner alleges is in violation of applicable law and Respondent failed to properly handle funds of a certain charitable or civic organization and Petitioner alleges such failure is illegal. Respondent denies such allegations.

A. STATUTES AND REGULATIONS

6. KRS 367.170(1) states that “[u]nfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

7. KRS 367.230 states:

In the administration of KRS 367.110 to 367.300, the Attorney General may accept an assurance of voluntary compliance with respect to any method, act, or practice deemed to be violative of KRS 367.110 to 367.300 from any person who has engaged or was about to engage in that method, act, or practice. This assurance shall be in writing and shall be filed with and subject to the approval of the Circuit Court in which the alleged violator resides or has his principal place of business, or the Franklin Circuit Court. An assurance of voluntary compliance shall not be considered an admission of violation for any purpose. It shall be a willful violation of KRS 367.170 if a person who enters into an assurance of voluntary compliance fails to comply. Matters thus closed may at any time be reopened by the Attorney General for further proceedings in the public interest, pursuant to KRS 367.190.

8. KRS 367.990(2) states:

In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court,



may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars (\$2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

B. FINDINGS

9. The Kentucky Attorney General is charged with, among other things, the responsibility of enforcing the Act, KRS 367.190.

10. Respondent, Jordan Palmer, at all times relevant hereto, has been and continues to do business in Kentucky.

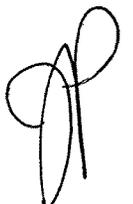
11. Respondent at all times relevant hereto engaged in trade and commerce within the meaning of the Consumer Protection Act in the Commonwealth of Kentucky.

12. Petitioner has alleged that the Respondent has engaged in unfair, false, misleading or deceptive acts or practices in the conduct of trade and commerce, in violation of KRS 367.170 of the Act.

13. Respondent denies the factual allegations and legal contentions of the Petitioner and specifically denies that he has violated Kentucky law. In order to resolve their differences, the parties have entered into this Assurance of Voluntary Compliance.

IV. PETITIONER'S ALLEGATIONS OF VIOLATIONS

14. Petitioner alleges that Respondent violated KRS 367.170 when he promised, through and on behalf of the charitable or civic organization, Federation for Kentucky Equality,



Inc./Kentucky Equality Federation (“Federation”), that certain student organizations at various Kentucky schools would be granted funds derived from an award to Federation from MySpace.com and failed to provide the funds to the student organizations as promised. Petitioner alleges that the student organizations relied upon the promise of funds to their detriment, incurring expenses and obligations which they would not otherwise have incurred. Petitioner alleges that the students received repeated assurances from Respondent that he would forward the funds, however the funds were never provided. Additionally, Petitioner alleges that Respondent used the award money for purposes not authorized by the Federation.

V. NO ADMISSION BY RESPONDENT

15. The Respondent does not admit to any wrongdoing or violation of law, and this AVC shall not be considered an admission of violation for any purpose. Respondent contends that all award money was used as authorized by the Board.

VI. MISCELLANEOUS PROVISIONS

16. Nothing in this AVC shall relieve Respondent of its obligation to comply with all applicable state and federal law.

17. Nothing in this AVC is intended to affect any rights any consumer may have regarding any matter described herein.

18. If any clause, provision or section of this AVC shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this AVC and this AVC shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

VII. GENERAL STATEMENTS

19. The Respondent consents and agrees to compromise and settle the consumer



protection violations alleged by the Petitioner, and consent to the filing of this AVC, for the purpose of resolving the Petitioner's allegations stated in this AVC.

20. The Respondent states that he was advised of the opportunity to obtain his attorney's advice and representation, and that he has been advised by an attorney relating to this matter.

21. The Respondent states that he is under no disability, has read and knowingly consents and agrees to this AVC. The Respondent acknowledges that this AVC is binding on all of his agents, employees, successors, affiliates, parent companies, subsidiaries or assigns.

22. This AVC shall be binding and effective as of the date of its entry by the Clerk.

23. The Respondent does not object to the Attorney General's *ex parte* submission and presentation of this AVC to the Franklin Circuit Court for approval and agree that the Franklin Circuit Court has jurisdiction and is the proper venue for this action.

24. The Respondent does not object to the Franklin Circuit Court approving and signing this AVC and does not object to the AVC's entry by the clerk of said court.

WHEREFORE, the parties being in agreement and having agreed to entry of this AVC, the requirements of KRS 367.230 having been met, and the Court being well and sufficiently advised in regard to this matter;

1. The Respondent shall at all times comply with the requirements of KRS 367.170 to 367.300, KRS 367.990 to 367.993, 367.650 to 367.670, and related administrative regulations.

2. The Respondent agrees to generally comply with good non-profit governance standards in managing Federation, including maintaining a separate bank account for the organization, maintaining corporate records, properly engaging any board or governing body in the decisions of the organization and maintaining records of any decisions or actions of the governing body.

3. It shall be a willful violation of KRS 367.170 if Respondent fails to comply with any

and all terms set forth in this Assurance of Voluntary Compliance as provided in KRS 367.230.

4. As provided in KRS 367.230, this AVC shall not be considered an admission of violation for any purpose.

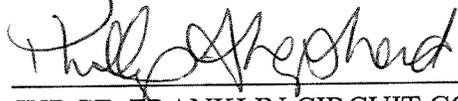
5. The Respondent shall pay to the Kentucky State Treasurer the sum of One Thousand Five Hundred Dollars (**\$1,500.00**) for the Office of Attorney General's costs of investigation as follows: Respondent shall submit 6 equal monthly payments of \$250.00 on or before the 28th of each month to the Office of Attorney General, Consumer Protection Division commencing **January 28th, 2009** and continuing thereafter until the total **\$1,500.00** has been paid.

6. The Respondent shall pay to the Kentucky State Treasurer the sum of Five Thousand Seven Hundred Fifty Dollars (**\$5,750.00**) for purposes of making restitution to the various school organizations as determined by the Office of Attorney General. Such amount shall be provided to the Officer of Attorney General, Consumer Protection Division in two installments as follows: Upon and at time of his execution of this AVC, Respondent shall pay **\$1,000.00** and the remaining balance of **\$4,750.00** shall be paid on or before **January 28, 2009**.

7. In the event Respondent fails to make the payments as required herein when due, all amounts required in paragraphs 5 and 6 directly above (less any payments by Respondent) shall be immediately due and payable to the Commonwealth of Kentucky and Respondent shall be subject to an **additional** penalty of Seven Thousand Two Hundred Fifty Dollars (**\$7,250.00**) which sum also shall be immediately due and payable to the Commonwealth of Kentucky.

6. As provided in KRS 367.230, the Attorney General may reopen any of the matters closed through this AVC at any time for further proceedings in the public interest.

DATE: 2-5-09

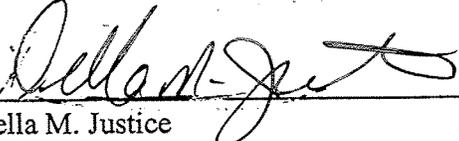


JUDGE, FRANKLIN CIRCUIT COURT



HAVE SEEN AND AGREED TO ENTRY:

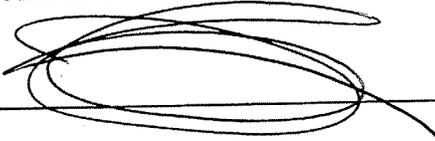
JACK CONWAY
ATTORNEY GENERAL

By: 

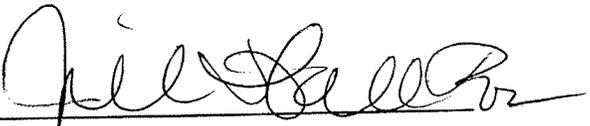
Della M. Justice
Assistant Attorney General
Office of Consumer Protection
1024 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
Telephone: (502) 696-5389

Date: 2/6/09

JORDAN PALMER
RESPONDENT



Date: 01/20/09

By: 

Jill Hall Rose, Esq.
501 Darby Creek Road, Suite 47
Lexington, Kentucky 40509
COUNSEL FOR RESPONDENT

Date: 1/5/09

