Title 1: Secretary of State

Part 15: Charities Regulation

Part 15 Chapter 1: GENERAL PROVISIONS

1.01 Definitions
1.03 Filing Materials
1.05 Application Forms
1.07 Variances From the Rules
1.09 Oral Opinions
1.11 Interpretations by the Division

Part 15 Chapter 2: CHARITABLE ORGANIZATIONS

2.01 Registration Statement
2.02 Electronic Filing
2.03 Certificate of Registration-Charitable Organizations
2.05 Renewal
2.07 Notice of Exemption
2.08 Determination of Online Solicitation
2.09 Termination of Registration or Cessation of Fundraising Activities Within the State
2.13 Books and Records

Part 15 Chapter 3: PROFESSIONAL FUND-RAISERS/SOLICITORS

3.01 Professional Fund-Raisers
3.02 Fund-Raising Counsel
3.03 Retention of Records
3.04 Certificate of Registration-Professional Fund-Raiser
3.05 Renewal - Professional Fund-Raiser
3.07 Filing of Solicitation Campaign Notice
3.09 Filing of Summary of Financial Activities of a Professional Fund-Raiser for a Solicitation Campaign
3.11 Termination of Registration - Professional Fund-Raiser
3.13 Application/Renewal - Professional Solicitor
3.15 Display of Certificate - Professional Fund-Raiser/Fundraising Counsel
3.17 Commercial Co-venturers

Part 15 Chapter 4: ADMINISTRATIVE HEARING PROCEDURES

4.01 Definitions
4.03 Notice of Administrative Hearing
4.05 Witnesses
4.07 Documents
4.09 Conduct of Hearing

4.11 Evidence
4.13 Order of Proof - Burden of Proof
4.15 Presentation and Transcription of Record of Hearings
4.17 Order to be Filed Upon Completion of Hearing
4.19 Continuances
4.21 Computation of Time
4.23 Validity of Rules

Part 15 Chapter 5: [Reserved]

Title 1: Secretary of State

Part 15: Charities- Charities Regulation

Part 15 Chapter 1: GENERAL PROVISIONS

*Preamble***:** The following Rules are hereby adopted by the Secretary of State by the authority granted him in Miss. Code Ann. §79-11-504 (1972). The Charities Division of the Office of the Secretary of State has been vested with the authority to regulate charities as provided in Miss. Code Ann. §§79-11-501 through 79-11-529 (1972). These Rules supersede all rules heretofore adopted and from this date shall be generally applicable to the administration of the Charitable Solicitations Act, and the procedure and practice of the Charities Division in accordance herewith. The adoption of these Rules represents a finding by the Secretary of State that such Rules are necessary and appropriate for the public interest and for the protection of contributors and are consistent with the purposes fairly intended by the policy and provisions of the Charitable Solicitations Act. These Rules are intended to supplement the statutory provisions of the Charitable Solicitations Act and should not be considered as replacing or superseding any provision concerning filings, registrations, applications, or any other requirement contained therein.

Rule 1.01 Definitions. As used in Miss. Code Ann. §§79-11-501 through 79-11-529 and the Rules promulgated thereunder, the following terms shall have the meaning ascribed to them below unless the context requires otherwise:

(A) "Act" shall mean the Charitable Solicitations Act, which is codified as Miss. Code Ann. §§79-11-501 through 79-11-529.

(B) "Religious institution " shall mean

(1) Ecclesiastical or denominational organizations, churches, diocese or presbytery or established physical places for worship, whether or not incorporated, at which nonprofit religious services and activities are regularly conducted and carried on and also includes those religious groups which do not maintain specific places of worship;

(2) Such separate groups or corporations which form an integral part of a religious Institution as defined by subsection (B)(1) of this Rule and which are exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954, or of a corresponding section of any subsequently enacted federal revenue act; and

(3) Such institutions soliciting contributions for the construction and maintenance of a house of worship or clergyman's residence.

(C) “Charities Division” or “Division” shall mean the Charities Division of the Office of the Secretary of State of Mississippi.

(D) "Charitable sales promotion" shall mean an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit, in whole or in part, a Charitable Organization or purpose.

(E) "Commercial Co-venturer" shall mean any person or entity who is regularly and primarily engaged in the production, trade, sale or commerce of goods other than in connection with the raising or solicitation of funds, assets, or other property for charitable organizations or charitable purposes, who for indirect compensation (including contractually arranged fees, commissions or other monetary remuneration), conducts, promotes, underwrites, arranges, markets, sponsors or advertises a sale, performance, or event of any kind which will benefit, to any extent, a Charitable Organization.

A person or entity who contracts with a Charitable Organization to benefit that charity to any extent, and who receives only indirect compensation limited to goodwill or tax benefits as a result of that contractual agreement, is considered neither a commercial co-venturer nor a professional fund-raiser so long as neither the person (or entity) nor the Charitable Organization conducts, promotes, underwrites, arranges, markets, sponsors, or advertises the relationship to the public during the contract period.

Source: M*iss. Code Ann*. §§ 79-11-501; 504(a) (Rev. 2009).

Rule 1.03 Filing Materials. All papers, forms or information required to be filed with the Division may be filed electronically as permitted by the Division, through the mails or otherwise. The date on which papers, forms or other documents are actually received by the Division shall be the date of filing thereof. An application is not considered complete and will not be further processed until all required documentation has been received by the Division.

Source: M*iss. Code Ann*. §§ 79-11-503; 504(a) (Rev. 2009).

Rule 1.05 Application Forms. All applications required to be filed shall be submitted on forms authorized by the Division. All information requested in such forms is essential and must be furnished. Additional documentation not specifically called for by the form, but which is essential to a full disclosure of all information, shall be furnished and properly identified. All forms and documentation furnished to the Division become part of the records of the Division and are not returnable.

Source: M*iss. Code Ann*. §§ 79-11-503; 504(a) (Rev. 2009).

Rule 1.07 Variances From The Rules. The Division may grant variances from these Rules if it determines that (a) application of the Rules from which the variance is granted would, in the particular case, be unnecessarily burdensome, and (b) such variance would not be inconsistent with the public policy purposes of the Act.

Source: M*iss. Code Ann*. §§ 79-11-504(a),(d) (Rev. 2009).

Rule 1.09 Oral Opinions. Oral or informal opinions by the staff of the Division as to the applicability of the Act and oral or informal representations by the staff of the Division concerning the status of filings made with the Division are not considered binding upon the Division unless accurately and promptly confirmed in writing by the party requesting such oral or informal opinion or representation.

Source: M*iss. Code Ann*. §§ 79-11-504(a)-(c) (Rev. 2009).

Rule 1.11 Interpretations By The Division. Pursuant to §79-11-504(b) of the Act, the Division may respond to written inquiries concerning interpretations of the Act or the rules promulgated thereunder, provided sufficient relevant facts are given and the situation is not hypothetical. The Division may refuse to respond to any inquiry. The Division shall impose a fee of one hundred dollars ($100) for each interpretive opinion it issues in response to such inquiries.

Source: *Miss. Code Ann.* §§ 79-11-504(a),(b) (Rev. 2009).

Part 15 Chapter 2: Charitable Organization

Rule 2.01 Registration Statement. In order to apply for registration as a Charitable Organization pursuant to §79-11-503 of the Act, the following must be submitted to the Division:

(A) The Unified Registration Statement;

(B) The non-refundable $50.00 registration fee;

(C) Copies of contracts between the Charitable Organization and any Professional Fund-Raisers relating to financial or other compensation or profit to be derived by the Professional Fund-Raisers;

(D) With the initial registration only, a copy of the current charter, articles of incorporation, bylaws and/or any other instrument of organization and any federal tax exemption determination letter from the Internal Revenue Service or notification of any rescission of, challenge to, or investigation of the Charitable Organization's federal tax exemption;

(E) A financial report and other information and documents as required by §79-11-507 of the Act; and

(F) An alternate address, different than that of the address of the Charitable Organization for which registration is sought, for each of the president, chief executive officer or executive director (or equivalent thereof), and chief financial officer or treasurer (or equivalent thereof) of the Charitable Organization. Because these addresses are available to the public upon request, the Division recommends that home addresses not be used.

Source: *Miss. Code Ann.* §§ 79-11-503; 504(a) (Rev. 2009).

Rule 2.02 Electronic Filing

All filings with the Secretary of State's Office that are required or permitted by §79-11-503 of the Act shall be made electronically, and shall be in the format prescribed by the Secretary of State.

Rule 2.03 Certificate Of Registration. Registration in Mississippi as a Charitable Organization shall become effective upon the date of the issuance of a Certificate of Registration by the Division. The Certificate of Registration shall expire one year from the date of issuance.

Source: M*iss. Code Ann*. §§ 79-11-50(3),(4); 504(a) (Rev. 2009).

Rule 2.05 Renewal. In order to renew the Certificate of Registration, the following must be submitted to the Division on or before one year from the date of the Certificate of Registration in order to renew:

(A) The Unified Registration Statement;

(B) The $50.00 non-refundable renewal fee;

(C) Copies of contracts not already on file with the Division between the Charitable Organization and any Professional Fund-Raisers relating to financial compensation or profit to be derived by the Professional Fund-Raisers;

(D) A financial report and other information and documents as required by ~~Section~~ §79-11-507 of the Act;

(E) An alternate address, different than that of the address of the Charitable Organization for which renewal is sought, for each of the president, chief executive officer or executive director (or equivalent thereof), and chief financial officer or treasurer (or equivalent thereof) of the Charitable Organization. Because these addresses are available to the public upon request, the Division recommends that home addresses not be used; and

(F) An affidavit of solicitation~~s~~ must be submitted with the Registration Statement (Form URS) if the renewal is late. When the renewal is received after the expiration of the Certificate of Registration, a statement detailing the solicitations made during the period of non-registration must be submitted. The statement must contain the donations pledged and donations received from Mississippi residents.

If no solicitations were made, the statement must affirm that no solicitations were made during the period of non-registration. For purposes of this subsection, the period of non-registration shall mean the date on which the Certificate of Registration expired through the date on which the Division receives the complete renewal package. A renewal is not considered complete and will not be further processed until the Division has received all the required documentation, including the affidavit of solicitation~~s~~.

Source: M*iss. Code Ann*. §§ 79-11-503; 504(a) (Rev. 2009).

Rule 2.07 Notice Of Exemption. Any Charitable Organization claiming an exemption from registration pursuant to § 79-11-505 of the Act must, prior to any solicitations, file with the Division a properly completed Notice of Exemption (on Secretary of State Form CE) along with the documentation required by such form and a processing fee of fifty dollars ($50). The Division shall review the Notice and may request additional information from the Organization in order to make a determination. The Division shall notify the Organization of its determination within sixty (60) days of the filing of the Notice.

Upon finding that the Charitable Organization qualifies for an exemption, the Division will issue the Organization a Certificate of Exemption which shall remain in effect until the Division is notified that the Organization is no longer soliciting contributions, or that the Organization's status has changed such that registration would be required. Upon finding that the Charitable Organization does not qualify for an exemption, the Division shall notify the Organization of this determination and the Organization shall be required to file a registration statement as provided in Section 2.01 of these Rules within thirty (30) days of receipt of such notice. Any change to information on file with the Division should be made within thirty (30) days of said change.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 505 (Rev. 2009).

Rule 2.08 *Determination of Online Solicitation*. Pursuant to Miss. Code Ann. §§79-11-501 and 79-11-503, every charitable organization which solicits or intends to solicit contributions by any means shall file a registration statement with the Secretary of State unless exempt in accordance with §79-11-505.

(A) Charitable organizations soliciting via the internet or by email are considered to be soliciting in Mississippi if any of the following apply:

(1) The charitable organization has in Mississippi a bank account, physical address or mailing address;
(2) The charitable organization specifically targets, by expending funds (by trade or otherwise) for internet solicitations to Mississippi residents; or
(3) The charitable organization solicits donations via the internet or by email, by providing a "Donate Now" button or any other indirect form of solicitation and either:
  a) Receives, or intends to receive, in the charitable organization's fiscal year contributions in the amount of at least Twenty Five Thousand Dollars ($25,000.00) from Mississippi residents; or
  b) Receives contributions from twenty five (25) or more Mississippi residents in the charitable organization's fiscal year.

(B) Any charitable organization soliciting via the internet or by email which does not meet the criteria provided in Rule 2.08(A) is not required to file a registration statement with the Secretary of State.

Rule 2.09 Termination of Registration or Cessation of Fundraising Activities within the State.

(A) A registered Charitable Organization may terminate its registration by submitting a Notice of Termination or a letter requesting termination to the Division within thirty (30) days of ceasing activities in the state.

(B) A registered Charitable Organization which chooses to either terminate its registration or not renew its registration must submit a final report to the Division within thirty (30) days of the date of termination or expiration, respectively. The final report must contain the following:

(1) For a Charitable Organization which has ceased operations and sold or distributed all or substantially all of its assets:

(a) A list of officers and trustees of the Charitable Organization, including their addresses and telephone numbers, which shall be different from the address of the Charitable Organization;

(b) A financial statement meeting the criteria of §79-11-507 of the Act;

(c) If the Charitable Organization is a domestic corporation, a filed, stamped copy of the corporation's Articles of Dissolution filed with the Mississippi Secretary of State Business Services Division meeting the criteria of §79-11-337 of the Mississippi Code;

(d) If the Charitable Organization is a foreign corporation, a filed, stamped copy of the corporation's Articles of Dissolution filed with the secretary of state (or other state agency performing this function) of the Charitable Organization's state of incorporation and/or other terminating documents as filed with the appropriate regulator in the Charitable Organization's state of incorporation; and

(e) A sworn statement signed by an officer of the Charitable Organization providing details of the final distribution of assets. This statement shall indicate the name or names and addresses of the party or parties that received the distributed assets, along with such parties' state of organization and whether the parties are registered as a charity in any state and/or have obtained tax-exempt 501(c)(3) status with the IRS.

(2) For all other Charitable Organizations, foreign or domestic, which opt not to renew for any other reason:

(a) A financial statement meeting the criteria of §79-11-507 of the Act; and

(b) A sworn and dated statement signed by an officer of the Charitable

Organization certifying that the Organization has ceased charitable solicitations within the State.

Source: M*iss. Code Ann*. §§ 79-11-503(8); 504(a) (Rev. 2009).

Rule 2.13 Books and Records. Charitable organizations either registered with the Secretary of State or exempt from registration shall maintain accurate books and records of the solicitation activities of the organization for a period of at least three (3) years. Solicitation activities shall include all financial activities of the organization. The records shall be maintained at the offices of the charitable organization and shall be kept in an auditable format. By way of example such records shall include, but not be limited to, the following:

(A) All check books, bank statements, cancelled checks and cash reconciliations of the organization;

(B) All bills, statements and receipts (or copies thereof), paid or unpaid, relating to the business and operation of the organization;

(C) Statements and records of all accounts in which the organization is vested;

(D) All written agreements (or copies thereof) entered into by the organization with any entity, person or otherwise relating to the business of the organization as such;

(E) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;

(F) Current minutes of the meetings of the organization's board of directors; and,

(G) Copies of all solicitation materials.

[Adopted 11/28/2005]

Source: M*iss. Code Ann*. §§ 79-11-504(a); 507 (Rev. 2009).

Part 15: Chapter 3: Professional Fund-raisers/Solicitors

Rule 3.01 Application: Professional Fund-raiser. In order to apply for registration as a Professional Fund-Raiser pursuant to §79-11-513 of the Act, the following must be submitted to the Division:

(A) The Professional Fund-Raiser Application for Registration,

(B) The Ten Thousand Dollar ($10,000) bond as provided in §79-11-513 of the Act,

(C) Copies of contracts between the Professional Fund-Raiser and any Charitable Organization relating to financial compensation or profit to be derived by the Professional Fund-Raisers,

(D) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets; including any articles evidencing a writing which will be used in the solicitation campaign,

(E) Professional Solicitor Application for Registration for each employee who will be making solicitations, and

(F) The $250.00 non-refundable registration fee.

Source: *Miss. Code Ann.* §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.02 Application: Professional Fund-raising Counsel. In order to apply for registration as a Professional Fund-raising counsel pursuant to §79-11-513 of the Act, the following must be submitted to the Division:

(A) The Application for Registration of a Professional Fund-raising counsel form,

(B) Copies of contracts between the Professional Fund-raising counsel and any Charitable Organization relating to financial compensation or profit to be derived from the Professional Fund-raising counsel's affiliation with either or both entities,

(C) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets, including any articles evidencing a writing which will be used in the solicitation campaign, and

(D) The $250.00 non-refundable registration fee.

Source: *Miss. Code Ann.* §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.03 Retention of Records. A professional fund-raiser shall maintain during each solicitation campaign and for not less than three years after the completion of such campaign the following records, which shall be available for inspection upon demand by the Secretary of State's Office:

(A) The date and amount of each contribution received and the name and address of each contributor.

(B) The name and residence of each employee, agent or other person involved in the solicitation.

(C) Records of all revenue received and expenses incurred in the course of the solicitation campaign.

(D) The location and account number of each bank or other financial institution account in which the professional fund-raiser has deposited revenue from the solicitation campaign.

(E) The professional fund-raising counsel shall maintain, for a period of three years, a copy of any contract, or contracts, or documents evidencing a contract, such as writings, notes, ledger entries, or taped conversations, relating to any agreements between the charity and the professional fund-raising counsel regarding contractual performance.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515(2),(3) (Rev. 2009).

Rule 3.04 Certification of Registration: Professional Fund-raiser/ Fundraising Counsel. Registration in Mississippi as a Professional Fund-Raiser/Fund-raising Counsel shall become effective upon the date of the issuance of a Certificate of Registration by the Division. The Certificate shall expire on June 30th each year.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.05 Renewal: Professional Fund-raiser. The following must be submitted to the Division on or before June 30th each year in order to renew:

(A) The Professional Fund-Raiser Application for Registration form,

(B) The Ten Thousand Dollar ($10,000) surety bond or a continuation notice of the bond on file as provided in §79-11-513 of the Act,

(C) Copies of contracts not already on file with the Division between the Professional Fund-Raiser and any Charitable Organization relating to financial compensation or profit to be derived from the Professional Fund-raiser's affiliation with either or both entities,

(D) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets; including any articles evidencing a writing which will be used in the solicitation campaign.

(E) The $250.00 non-refundable registration fee.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.06 Renewal: Fund-raising Counsel. The following must be submitted to the Division on or before June 30th of each year in order to renew:

(A) The Application for Registration of Fund-raising Counsel form,

(B) Copies of contracts not already on file with the Division between the Fund-raising counsel and any Charitable Organization relating to financial compensation or profit to be derived from the Professional Fund-raising counsel's affiliation with either or both entities, and

(C) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets,

(D) The $250.00 non-refundable registration fee.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.07 Filing of solicitation Campaign Notice. Prior to the commencement of each solicitation campaign, the Professional Fund-Raiser shall file a completed Solicitation Campaign Notice form with the Division. Any changes or modifications in the required information must be submitted to the Division on an amended form within 7 days.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515(3) (Rev. 2009).

Rule 3.09 Filing of Summary of Financial Activities of a Professional Fundraiser for a Solicitation Campaign. A Summary of Financial Activities of a Professional Fund-Raiser for a Solicitation Campaign form must be filed with the Division to report the financial activities for each individual solicitation campaign conducted for every charitable organization for which the Professional Fund-Raiser makes solicitations. This financial report is to be filed with the Division no more than 90 days after a solicitation campaign has been completed and/or annually on the anniversary date of the commencement of any solicitation if the campaign lasts more than one (1) year. If the solicitation campaign is conducted nationally or regionally and is not confined solely to the State of Mississippi, the financial information required to be filed shall be inclusive of the national or regional campaign.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515(3) (Rev. 2009).

Rule 3.11 Termination of Registration: Professional Fund-raiser/ Fundraising Counsel. A Professional Fund-Raiser/Fundraising Counsel may terminate registration by submitting a letter requesting termination to the Division within thirty (30) days of ceasing activities in the state.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515 (Rev. 2009).

Rule 3.13 Application/Renewal: Professional Solicitor.

(A) In order to apply for registration as a Professional Solicitor pursuant to §79-11-517 of the Act, the Professional Solicitor Application for Registration form must be completed and submitted to the Division. The application must be filed either (1) with the Professional Fund-Raiser Application for Registration or (2) with the Solicitation Campaign Notice filed by the Professional Fund-Raiser. A completed,

attested form must be on file with the Division before any solicitations may be made by the Solicitor.

(B) On or before June 30th each year, the Professional Solicitor Application for Registration form must be completed in order to renew registration as a Professional Solicitor.

(C) In the event of termination of employment, notice of such termination must be provided to the Division within thirty (30) days.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 517 (Rev. 2009).

Rule 3.15 Display of Certificate: Professional Fund-raiser/Fundraising Counsel. The current registration certificate issued by the Division to the Professional Fund-Raiser/ Fundraising Counsel shall be posted and displayed in a conspicuous place and in easy view of all persons who enter the office of the Professional Fund-Raiser/ Fundraising Counsel.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.17 Commercial Co-ventures.

(A) A Commercial Co-venturer engaging in a charitable sales promotion is required to file with the Secretary of State notice of the promotion no less than seven (7) days prior to the start of said promotion. Such notice must include a copy of the contract between the Co-venturer and the Charitable Organization.

(B) The Secretary of State also requires a Commercial Co-venturer to file a financial accounting of the charitable sales promotion no later than thirty (30) days after the conclusion of said promotion, if the charitable sales promotion is less than one (1) year. If the promotion period is greater than one (1) year, the Commercial Co-venturer shall file an annual financial accounting each year of the charitable sales promotion no later than thirty (30) days after the anniversary date of the first notice of promotion filing, and shall file a final financial accounting of the charitable sales promotion no later than thirty (30) days after the conclusion of said promotion. The accounting, annual accounting or final accounting shall include the following:

(a) The number of units of goods or services sold in Mississippi;
(b) The amount of gross sales in Mississippi;
(c) The amount of those gross sales paid by the Co-venturer to the Charitable Organization; and
(d) In the case of a multi-state, national or international campaign, the percentage of total sales in Mississippi paid to the charity.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515 (Rev. 2009).

Part 15 Chapter 4: Administrative Hearing Procedures

Rule 4.01 Definitions. "Party", as used in these rules, shall include the Attorney General, the Secretary of State, other governmental agency, charitable organization, professional fund-raiser, professional solicitor, or any other person.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 521(Rev. 2009).

Rule 4.03 Notice of Administrative Hearing.

(A) Written notice shall be provided to any charitable organization or other person against whom the Attorney General or the Secretary of State intends to institute an administrative hearing pursuant to the Regulation of Charitable Solicitations Act.

(B) Such notice shall be by certified mail, return receipt requested and shall set forth the date, time and place for the administrative hearing and shall also designate a Hearing Officer.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 521 (Rev. 2009).

Rule 4.05 Witnesses.

(A) Any Party wishing to appear or introduce evidence or other testimony at the administrative hearing shall, no later than fourteen (14) days prior to the hearing date, file with the Hearing Officer a list of witnesses which it intends to call to testify or to otherwise give evidence. The list shall contain for each witness:

1. Name;

2. Current residential and business address, if known;

3. Current residential and business telephone number, if known;

4. A statement indicating whether such person is to testify in person or by affidavit.

(B) A true and correct copy of such list shall be forwarded by each Party to all other Parties no later than fourteen (14) days prior to the hearing date.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.07 Documents. Upon request by any Party, any documents, papers or tangible things to be introduced by any Party at the hearing shall be made available for inspection and copying by

the requesting Party no later than fourteen (14) days prior to the hearing date. This shall include written reports prepared by any expert retained by any Party to testify at the hearing.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.09 Conduct of Hearing.

(A) The Hearing Officer shall have the authority to administer oaths and affirmations;

(B) Each Party may be represented by an attorney or other authorized representative;

(C) The Hearing Officer may clear the hearing room of witnesses not under examination.

(D) The Hearing Officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.11 Evidence.

(A) Hearings shall be informal and technical rules of evidence shall be relaxed;

(B) All witnesses who appear and testify under oath shall be subject to cross examination. A witness who does not appear may testify by affidavit provided the Party presenting the particular witness' affidavit has complied with the requirements of Rule 4.05 thereby affording any other Party an opportunity to contact said witness and obtain an affidavit on its own behalf;

(C) The Hearing Officer shall have the authority to admit into the record any evidence which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The Hearing Officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy or unduly cumulative;

(D) Documents received into evidence by the Hearing Officer shall be marked by him or her, or under his or her direction, and filed for the record of the appeal;

(E) Rebuttal and surrebuttal evidence may be heard at the discretion of the Hearing Officer;

(F) Arguments summarizing the evidence and the law may be heard at the discretion of the Hearing Officer.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.13 Order of Proof: Burden of Proof.

(A) At the hearing, the Attorney General or the Secretary of State shall be the first to present evidence.

(B) The Attorney General or the Secretary of State shall have the burden of proving its allegations by a preponderance of the evidence.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.15 Preservation and Transcription of Record of Hearing.

(A) A record of testimony at the hearing may be made by other than stenographic means, in which event notice shall be given to all parties designating the manner of recording and preserving the testimony.

(B) It shall be the responsibility of any Party desiring to preserve by stenographic means a record of testimony at the hearing to:

1. Arrange for a court reporter to make stenographic recording of the hearing;

2. Pay all fees and expenses for such recording and transcription directly to the court reporter.

(C) A true and correct copy of said stenographic recording shall be made available to any other Party requesting it, provided such Party agrees to pay the expense of such copy.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.17 Order to be Filed upon Completion of Hearing. After all evidence is heard or received and the hearing is completed, the Hearing Officer shall, within a reasonable time thereafter, prepare and file proposed written findings of fact and conclusions of law and a proposed Decision and Final Order based thereon. The Secretary shall review the findings of fact and conclusions of law of the hearing officer, and may accept, modify, or reject, in whole or in part, the findings of fact and conclusions of law. The Secretary shall thereafter issue a Final Order, a copy of which shall be sent promptly, via certified mail, return receipt requested, to all Parties who appeared at the administrative hearing, or to their attorney(s) or authorized representative(s).

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.19 Continuances. Continuances requested by any Party shall be granted within the discretion of the Hearing Officer only for good cause shown.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.21 Computation of Time. In computing any period of time prescribed or allowed

under these rules, the Hearing Officer shall be guided by the Mississippi Rules of Civil Procedure.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.23 Validity of Rules. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Part 15 Chapter 5: [Reserved]

Title 1: Secretary of State

Part 15: Charities Regulation

Part 15 Chapter 1: GENERAL PROVISIONS

1.01 Definitions
1.03 Filing Materials
1.05 Application Forms
1.07 Variances From the Rules
1.09 Oral Opinions
1.11 Interpretations by the Division

Part 15 Chapter 2: CHARITABLE ORGANIZATIONS

2.01 Registration Statement
2.02 Electronic Filing
2.03 Certificate of Registration-Charitable Organizations
2.05 Renewal
2.07 Notice of Exemption
2.08 Determination of Online Solicitation
2.09 Termination of Registration or Cessation of Fundraising Activities Within the State
2.13 Books and Records

Part 15 Chapter 3: PROFESSIONAL FUND-RAISERS/SOLICITORS

3.01 Professional Fund-Raisers
3.02 Fund-Raising Counsel
3.03 Retention of Records
3.04 Certificate of Registration-Professional Fund-Raiser
3.05 Renewal - Professional Fund-Raiser
3.07 Filing of Solicitation Campaign Notice
3.09 Filing of Summary of Financial Activities of a Professional Fund-Raiser for a Solicitation Campaign
3.11 Termination of Registration - Professional Fund-Raiser
3.13 Application/Renewal - Professional Solicitor
3.15 Display of Certificate - Professional Fund-Raiser/Fundraising Counsel
3.17 Commercial Co-venturers

Part 15 Chapter 4: ADMINISTRATIVE HEARING PROCEDURES

4.01 Definitions
4.03 Notice of Administrative Hearing
4.05 Witnesses
4.07 Documents
4.09 Conduct of Hearing
4.11 Evidence
4.13 Order of Proof - Burden of Proof
4.15 Presentation and Transcription of Record of Hearings

4.17 Order to be Filed Upon Completion of Hearing
4.19 Continuances
4.21 Computation of Time
4.23 Validity of Rules

Part 15 Chapter 5: [Reserved]

Title 1: Secretary of State

Part 15: Charities- Charities Regulation

Part 15 Chapter 1: GENERAL PROVISIONS

*Preamble***:** The following Rules are hereby adopted by the Secretary of State by the authority granted him in Miss. Code Ann. §79-11-504 (1972). The Charities Division of the Office of the Secretary of State has been vested with the authority to regulate charities as provided in Miss. Code Ann. §§79-11-501 through 79-11-529 (1972). These Rules supersede all rules heretofore adopted and from this date shall be generally applicable to the administration of the Charitable Solicitations Act, and the procedure and practice of the Charities Division in accordance herewith. The adoption of these Rules represents a finding by the Secretary of State that such Rules are necessary and appropriate for the public interest and for the protection of contributors and are consistent with the purposes fairly intended by the policy and provisions of the Charitable Solicitations Act. These Rules are intended to supplement the statutory provisions of the Charitable Solicitations Act and should not be considered as replacing or superseding any provision concerning filings, registrations, applications, or any other requirement contained therein.

Rule 1.01 Definitions. As used in Miss. Code Ann. §§79-11-501 through 79-11-529 and the Rules promulgated thereunder, the following terms shall have the meaning ascribed to them below unless the context requires otherwise:

(A) "Act" shall mean the Charitable Solicitations Act, which is codified as Miss. Code Ann. §§79-11-501 through 79-11-529.

(B) "Religious institution " shall mean

(1) Ecclesiastical or denominational organizations, churches, diocese or presbytery or established physical places for worship, whether or not incorporated, at which nonprofit religious services and activities are regularly conducted and carried on and also includes those religious groups which do not maintain specific places of worship;

(2) Such separate groups or corporations which form an integral part of a religious Institution as defined by subsection (B)(1) of this Rule and which are exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954, or of a corresponding section of any subsequently enacted federal revenue act; and

(3) Such institutions soliciting contributions for the construction and maintenance of a house of worship or clergyman's residence.

(C) “Charities Division” or “Division” shall mean the Charities Division of the Office of the Secretary of State of Mississippi.

(D) "Charitable sales promotion" shall mean an advertising or sales campaign, conducted by a commercial co-venturer, which represents that the purchase or use of goods or services offered by the commercial co-venturer will benefit, in whole or in part, a Charitable Organization or purpose.

(E) "Commercial Co-venturer" shall mean any person or entity who is regularly and primarily engaged in the production, trade, sale or commerce of goods other than in connection with the raising or solicitation of funds, assets, or other property for charitable organizations or charitable purposes, who for indirect compensation (including contractually arranged fees, commissions or other monetary remuneration), conducts, promotes, underwrites, arranges, markets, sponsors or advertises a sale, performance, or event of any kind which will benefit, to any extent, a Charitable Organization.

A person or entity who contracts with a Charitable Organization to benefit that charity to any extent, and who receives only indirect compensation limited to goodwill or tax benefits as a result of that contractual agreement, is considered neither a commercial co-venturer nor a professional fund-raiser so long as neither the person (or entity) nor the Charitable Organization conducts, promotes, underwrites, arranges, markets, sponsors, or advertises the relationship to the public during the contract period.

Source: M*iss. Code Ann*. §§ 79-11-501; 504(a) (Rev. 2009).

Rule 1.03 Filing Materials. All papers, forms or information required to be filed with the Division may be filed electronically as permitted by the Division, through the mails or otherwise. The date on which papers, forms or other documents are actually received by the Division shall be the date of filing thereof. An application is not considered complete and will not be further processed until all required documentation has been received by the Division.

Source: M*iss. Code Ann*. §§ 79-11-503; 504(a) (Rev. 2009).

Rule 1.05 Application Forms. All applications required to be filed shall be submitted on forms authorized by the Division. All information requested in such forms is essential and must be furnished. Additional documentation not specifically called for by the form, but which is essential to a full disclosure of all information, shall be furnished and properly identified. All forms and documentation furnished to the Division become part of the records of the Division and are not returnable.

Source: M*iss. Code Ann*. §§ 79-11-503; 504(a) (Rev. 2009).

Rule 1.07 Variances From The Rules. The Division may grant variances from these Rules if it determines that (a) application of the Rules from which the variance is granted would, in the particular case, be unnecessarily burdensome, and (b) such variance would not be inconsistent with the public policy purposes of the Act.

Source: M*iss. Code Ann*. §§ 79-11-504(a),(d) (Rev. 2009).

Rule 1.09 Oral Opinions. Oral or informal opinions by the staff of the Division as to the applicability of the Act and oral or informal representations by the staff of the Division concerning the status of filings made with the Division are not considered binding upon the Division unless accurately and promptly confirmed in writing by the party requesting such oral or informal opinion or representation.

Source: M*iss. Code Ann*. §§ 79-11-504(a)-(c) (Rev. 2009).

Rule 1.11 Interpretations By The Division. Pursuant to §79-11-504(b) of the Act, the Division may respond to written inquiries concerning interpretations of the Act or the rules promulgated thereunder, provided sufficient relevant facts are given and the situation is not hypothetical. The Division may refuse to respond to any inquiry. The Division shall impose a fee of one hundred dollars ($100) for each interpretive opinion it issues in response to such inquiries.

Source: *Miss. Code Ann.* §§ 79-11-504(a),(b) (Rev. 2009).

Part 15 Chapter 2: Charitable Organization

Rule 2.01 Registration Statement. In order to apply for registration as a Charitable Organization pursuant to §79-11-503 of the Act, the following must be submitted to the Division:

(A) The Unified Registration Statement;

(B) The non-refundable $50.00 registration fee;

(C) Copies of contracts between the Charitable Organization and any Professional Fund-Raisers relating to financial or other compensation or profit to be derived by the Professional Fund-Raisers; (~~D) With the initial registration only, a copy of the current charter, articles of incorporation, bylaws and/or any other instrument of organization and any federal tax exemption determination letter from the Internal Revenue Service or notification of any rescission of, challenge to, or investigation of the Charitable Organization's federal tax exemption;~~

(D) With the initial registration only, a copy of the current charter, articles of incorporation, bylaws and/or any other instrument of organization and any federal tax exemption determination letter from the Internal Revenue Service or notification of any rescission of, challenge to, or investigation of the Charitable Organization's federal tax exemption;

(E) A financial report and other information and documents as required by ~~Section~~ §79-11-507 of the Act; and

(F) An alternate address, different than that of the address of the Charitable Organization for which registration is sought, for each of the president, chief executive officer or executive director (or equivalent thereof), and chief financial officer or treasurer (or equivalent thereof) of the Charitable Organization. Because these addresses are available to the public upon request, the Division recommends that home addresses not be used.

Source: *Miss. Code Ann.* §§ 79-11-503; 504(a) (Rev. 2009).

Rule 2.02 Electronic Filing

~~(A)~~ All filings with the Secretary of State's Office that are required or permitted by §79-11-503 of the Act ~~may~~shall be made electronically, ~~through the use of the Mississippi Secretary of State's Internet Charitable Solicitation Registration and Reporting System,~~ and shall be in the format prescribed by the Secretary of State.

~~(B) The Secretary of State shall issue a unique user identification number and password to any charitable organization 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 202 shall constitute the filer's official signature, in accordance with §79-11-503 and §79-11-507 of the Act, affixed under penalty of perjury, as provided by law.~~

Rule 2.03 Certificate Of Registration. Registration in Mississippi as a Charitable Organization shall become effective upon the date of the issuance of a Certificate of Registration by the Division. The Certificate of Registration shall expire one year from the date of issuance.

Source: M*iss. Code Ann*. §§ 79-11-50(3),(4); 504(a) (Rev. 2009).

Rule 2.05 Renewal. In order to renew the Certificate of Registration, the following must be submitted to the Division on or before one year from the date of the Certificate of Registration in order to renew:

(A) The Unified Registration Statement;

(B) The $50.00 non-refundable renewal fee;

(C) Copies of contracts not already on file with the Division between the Charitable Organization and any Professional Fund-Raisers relating to financial compensation or profit to be derived by the Professional Fund-Raisers;

(D) A financial report and other information and documents as required by ~~Section~~ §79-11-507 of the Act;

(E) An alternate address, different than that of the address of the Charitable Organization for which renewal is sought, for each of the president, chief executive officer or executive director (or equivalent thereof), and chief financial officer or treasurer (or equivalent thereof) of the Charitable Organization. Because these addresses are available to the public upon request, the Division recommends that home addresses not be used; and

(F) An affidavit ~~notarized statement~~ of solicitation~~s~~ must be submitted with the Registration Statement (Form URS) if the renewal is late. When the renewal is received after the expiration of the Certificate of Registration, a statement detailing the solicitations made during the period of non-registration must be submitted. The statement must contain the donations pledged and donations received from Mississippi residents. If no solicitations were made, the statement must affirm that no solicitations were made during the period of non-registration. For purposes of this subsection, the period of non-registration shall mean the date on which the Certificate of Registration expired through the date on which the Division receives the complete renewal package. A renewal is not considered complete and will not be further processed until the Division has received all the required documentation, including the affidavit ~~statement~~ of solicitation~~s~~.

Source: M*iss. Code Ann*. §§ 79-11-503; 504(a) (Rev. 2009).

Rule 2.07 Notice Of Exemption. Any Charitable Organization claiming an exemption from registration pursuant to § 79-11-505 of the Act must, prior to any solicitations, file with the Division a properly completed Notice of Exemption (on Secretary of State Form CE) along with the documentation required by such form and a processing fee of fifty dollars ($50). The Division shall review the Notice and may request additional information from the Organization in order to make a determination. The Division shall notify the Organization of its determination within sixty (60) days of the filing of the Notice.

Upon finding that the Charitable Organization qualifies for an exemption, the Division will issue the Organization a Certificate of Exemption which shall remain in effect until the Division is notified that the Organization is no longer soliciting contributions, or that the Organization's status has changed such that registration would be required. Upon finding that the Charitable Organization does not qualify for an exemption, the Division shall notify the Organization of this determination and the Organization shall be required to file a registration statement as provided in Section 2.01 of these Rules within thirty (30) days of receipt of such notice. Any change to information on file with the Division should be made within thirty (30) days of said change.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 505 (Rev. 2009).

Rule 2.08 *Determination of Online Solicitation*. Pursuant to Miss. Code Ann. §§79-11-501 and 79-11-503, every charitable organization which solicits or intends to solicit contributions by any means shall file a registration statement with the Secretary of State unless exempt in accordance with §79-11-505.

(A) Charitable organizations soliciting via the internet or by email are considered to be soliciting in Mississippi if any of the following apply:

1. The charitable organization has in Mississippi a bank account,

physical address or mailing address;

2. The charitable organization specifically targets, by expending funds (by trade or otherwise) for internet solicitations to Mississippi residents; or
3. The charitable organization solicits donations via the internet or by email, by providing a "Donate Now" button or any other indirect form of solicitation and either:
    a. Receives, or intends to receive, in the charitable organization's fiscal year contributions in the amount of at least Twenty Five Thousand Dollars ($25,000.00) from Mississippi residents; or
    b. Receives contributions from twenty five (25) or more Mississippi residents in the charitable organization's fiscal year.

(B) Any charitable organization soliciting via the internet or by email which does not meet the criteria provided in Rule 2.08(A) is not required to file a registration statement with the Secretary of State.

Rule 2.09 Termination of Registration or Cessation of Fundraising Activities within the State.

(A) A registered Charitable Organization may terminate its registration by submitting a Notice of Termination or a letter requesting termination to the Division within thirty (30) days of ceasing activities in the state.

(B) A registered Charitable Organization which chooses to either terminate its registration or not renew its registration must submit a final report to the Division within thirty (30) days of the date of termination or expiration, respectively. The final report must contain the following:

(1) For a Charitable Organization which has ceased operations and sold or distributed all or substantially all of its assets:

(a) A list of officers and trustees of the Charitable Organization, including their addresses and telephone numbers, which shall be different from the address of the Charitable Organization;

(b) A financial statement meeting the criteria of ~~Section~~ §79-11-507 of the Act;

(c) If the Charitable Organization is a domestic corporation, a filed, stamped copy of the corporation's Articles of Dissolution filed with the Mississippi Secretary of State Business Services Division meeting the criteria of ~~Section~~ §79-11-337 of the Mississippi Code;

(d) If the Charitable Organization is a foreign corporation, a filed, stamped copy of the corporation's Articles of Dissolution filed with the secretary of state (or other state agency performing this function) of the Charitable Organization's state of incorporation and/or other terminating documents as filed with the appropriate regulator in the Charitable Organization's state of incorporation; and

(e) A sworn statement signed by an officer of the Charitable Organization providing details of the final distribution of assets. This statement shall indicate the name or names and addresses of the party or parties that received the distributed assets, along with such parties' state of organization and whether the parties are registered as a charity in any state and/or have obtained tax-exempt 501(c)(3) status with the IRS.

(2) For all other Charitable Organizations, foreign or domestic, which opt not to renew for any other reason:

(a) A financial statement meeting the criteria of ~~Section~~ §79-11-507 of the Act; and

(b) A sworn and dated statement signed by an officer of the Charitable Organization certifying that the Organization has ceased charitable solicitations within the State.

Source: M*iss. Code Ann*. §§ 79-11-503(8); 504(a) (Rev. 2009).

Rule 2.13 Books and Records. Charitable organizations either registered with the Secretary of State or exempt from registration shall maintain accurate books and records of the solicitation activities of the organization for a period of at least three (3) years. Solicitation activities shall include all financial activities of the organization. The records shall be maintained at the offices of the charitable organization and shall be kept in an auditable format. By way of example such records shall include, but not be limited to, the following:

(A) All check books, bank statements, cancelled checks and cash reconciliations of the organization;

(B) All bills, statements and receipts (or copies thereof), paid or unpaid, relating to the business and operation of the organization;

(C) Statements and records of all accounts in which the organization is vested;

(D) All written agreements (or copies thereof) entered into by the organization with any entity, person or otherwise relating to the business of the organization as such;

(E) General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts;

(F) Current minutes of the meetings of the organization's board of directors; and,

(G) Copies of all solicitation materials.

[Adopted 11/28/2005]

Source: M*iss. Code Ann*. §§ 79-11-504(a); 507 (Rev. 2009).

Part 15: Chapter 3: Professional Fund-raisers/Solicitors

Rule 3.01 Application: Professional Fund-raiser. In order to apply for registration as a Professional Fund-Raiser pursuant to §79-11-513 of the Act, the following must be submitted to the Division:

(A) The Professional Fund-Raiser Application for Registration,

(B) The Ten Thousand Dollar ($10,000) bond as provided in §79-11-513 of the Act,

(C) Copies of contracts between the Professional Fund-Raiser and any Charitable Organization relating to financial compensation or profit to be derived by the Professional Fund-Raisers,

(D) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets; including any articles evidencing a writing which will be used in the solicitation campaign,

(E) Professional Solicitor Application for Registration for each employee who will be making solicitations, and

(F) The $250.00 non-refundable registration fee.

Source: *Miss. Code Ann.* §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.02 Application: Professional Fund-raising Counsel. In order to apply for registration as a Professional Fund-raising counsel pursuant to §79-11-513 of the Act, the following must be submitted to the Division:

(A) The Application for Registration of a Professional Fund-raising counsel form,

(B) Copies of contracts between the Professional Fund-raising counsel ~~and the Professional Fundraiser~~ and any Charitable Organization relating to financial compensation or profit to be derived from the Professional Fund-raising counsel's affiliation with either or both entities,

(C) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets, including any articles evidencing a writing which will be used in the solicitation campaign, and

(D) The $250.00 non-refundable registration fee.

Source: *Miss. Code Ann.* §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.03 Retention of Records. A professional fund-raiser shall maintain during each solicitation campaign and for not less than three years after the completion of such campaign the following records, which shall be available for inspection upon demand by the Secretary of State's Office:

(A) The date and amount of each contribution received and the name and address of each contributor.

(B) The name and residence of each employee, agent or other person involved in the solicitation.

(C) Records of all revenue received and expenses incurred in the course of the solicitation campaign.

(D) The location and account number of each bank or other financial institution account in which the professional fund-raiser has deposited revenue from the solicitation campaign.

(E) The professional fund-raising counsel shall maintain, for a period of three years, a copy of any contract, or contracts, or documents evidencing a contract, such as writings, notes, ledger entries, or taped conversations, relating to any agreements between the charity ~~professional fund-raiser~~ and the professional fund-raising counsel regarding contractual performance.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515(2),(3) (Rev. 2009).

Rule 3.04 Certification of Registration: Professional Fund-raiser/ Fundraising Counsel. Registration in Mississippi as a Professional Fund-Raiser/Fund-raising Counsel shall become effective upon the date of the issuance of a Certificate of Registration by the Division. The Certificate shall expire on June 30th each year.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.05 Renewal: Professional Fund-raiser. The following must be submitted to the Division on or before June 30th each year in order to renew:

(A) The Professional Fund-Raiser Application for Registration form,

(B) The Ten Thousand Dollar ($10,000) surety bond or a continuation notice of the bond on file as provided in §79-11-513 of the Act,

(C) Copies of contracts not already on file with the Division between the Professional Fund-Raiser and any Charitable Organization relating to financial compensation or profit to be derived from the Professional Fund-raiser's ~~ing counsel's~~ affiliation with either or both entities,

(D) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets; including any articles evidencing a writing which will be used in the solicitation campaign.

(E) The $250.00 non-refundable registration fee.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.06 Renewal: Fund-raising Counsel. The following must be submitted to the Division on or before June 30th of each year in order to renew:

(A) The Application for Registration of Fund-raising Counsel form,

(B) Copies of contracts not already on file with the Division between the Fund-raising counsel ~~and the Professional Fund-Raiser~~ and any Charitable Organization relating to financial compensation or profit to be derived from the Professional Fund-raising counsel's affiliation with either or both entities, and

(C) All copies of booklets, brochures, bulletins, circulars, scripts, documents, letters, pamphlets,

(D) The $250.00 non-refundable registration fee.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.07 Filing of solicitation Campaign Notice. Prior to the commencement of each solicitation campaign, the Professional Fund-Raiser shall file a completed Solicitation Campaign Notice form with the Division. Any changes or modifications in the required information must be submitted to the Division on an amended form within 7 days.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515(3) (Rev. 2009).

Rule 3.09 Filing of Summary of Financial Activities of a Professional Fundraiser for a Solicitation Campaign. A Summary of Financial Activities of a Professional Fund-Raiser for a Solicitation Campaign form must be filed with the Division to report the financial activities for each individual solicitation campaign conducted for every charitable organization for which the Professional Fund-Raiser makes solicitations. This financial report is to be filed with the Division no more than 90 days after a solicitation campaign has been completed and/or annually on the anniversary date of the commencement of any solicitation if the campaign lasts more than one (1) year. If the solicitation campaign is conducted nationally or regionally and is not confined solely to the State of Mississippi, the financial information required to be filed shall be inclusive of the national or regional campaign.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515(3) (Rev. 2009).

Rule 3.11 Termination of Registration: Professional Fund-raiser/ Fundraising Counsel. A Professional Fund-Raiser/Fundraising Counsel may terminate registration by submitting a letter requesting termination to the Division within thirty (30) days of ceasing activities in the state.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515 (Rev. 2009).

Rule 3.13 Application/Renewal: Professional Solicitor.

(A) In order to apply for registration as a Professional Solicitor pursuant to §79-11-517 of the Act, the Professional Solicitor Application for Registration form must be completed and submitted to the Division. The application must be filed either (1) with the Professional Fund-Raiser Application for Registration or (2) with the Solicitation Campaign Notice filed by the Professional Fund-Raiser. A completed,

attested form must be on file with the Division before any solicitations may be made by the Solicitor.

(B) On or before June 30th each year, the Professional Solicitor Application for Registration form must be completed in order to renew registration as a Professional Solicitor.

(C) In the event of termination of employment, notice of such termination must be provided to the Division within thirty (30) days.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 517 (Rev. 2009).

Rule 3.15 Display of Certificate: Professional Fund-raiser/Fundraising Counsel. The current registration certificate issued by the Division to the Professional Fund-Raiser/ Fundraising Counsel shall be posted and displayed in a conspicuous place and in easy view of all persons who enter the office of the Professional Fund-Raiser/ Fundraising Counsel.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 513 (Rev. 2009).

Rule 3.17 Commercial Co-ventures.

(A) A Commercial Co-venturer engaging in a charitable sales promotion is required to file with the Secretary of State notice of the promotion no less than seven (7) days prior to the start of said promotion. Such notice must include a copy of the contract between the Co-venturer and the Charitable Organization.

(B) The Secretary of State also requires a Commercial Co-venturer to file a financial accounting of the charitable sales promotion no later than thirty (30) days after the conclusion of said promotion, if the charitable sales promotion is less than one (1) year. If the promotion period is greater than one (1) year, the Commercial Co-venturer shall file an annual financial accounting each year of the charitable sales promotion no later than thirty (30) days after the anniversary date of the first notice of promotion filing, and shall file a final financial accounting of the charitable sales promotion no later than thirty (30) days after the conclusion of said promotion. The accounting, annual accounting or final accounting shall include the following:

(a) The number of units of goods or services sold in Mississippi;
(b) The amount of gross sales in Mississippi;
(c) The amount of those gross sales paid by the Co-venturer to the Charitable Organization; and
(d) In the case of a multi-state, national or international campaign, the percentage of total sales in Mississippi paid to the charity.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 515 (Rev. 2009).

Part 15 Chapter 4: Administrative Hearing Procedures

Rule 4.01 Definitions. "Party", as used in these rules, shall include the Attorney General, the Secretary of State, other governmental agency, charitable organization, professional fund-raiser, professional solicitor, or any other person.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 521(Rev. 2009).

Rule 4.03 Notice of Administrative Hearing.

(A) Written notice shall be provided to any charitable organization or other person against whom the Attorney General or the Secretary of State intends to institute an administrative hearing pursuant to the Regulation of Charitable Solicitations Act.

(B) Such notice shall be by certified mail, return receipt requested and shall set forth the date, time and place for the administrative hearing and shall also designate a Hearing Officer.

Source: M*iss. Code Ann*. §§ 79-11-504(a); 521 (Rev. 2009).

Rule 4.05 Witnesses.

(A) Any Party wishing to appear or introduce evidence or other testimony at the administrative hearing shall, no later than fourteen (14) days prior to the hearing date, file with the Hearing Officer a list of witnesses which it intends to call to testify or to otherwise give evidence. The list shall contain for each witness:

1. Name;

2. Current residential and business address, if known;

3. Current residential and business telephone number, if known;

4. A statement indicating whether such person is to testify in person or by affidavit.

(B) A true and correct copy of such list shall be forwarded by each Party to all other Parties no later than fourteen (14) days prior to the hearing date.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.07 Documents. Upon request by any Party, any documents, papers or tangible things to be introduced by any Party at the hearing shall be made available for inspection and copying by

the requesting Party no later than fourteen (14) days prior to the hearing date. This shall include written reports prepared by any expert retained by any Party to testify at the hearing.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.09 Conduct of Hearing.

(A) The Hearing Officer shall have the authority to administer oaths and affirmations;

(B) Each Party may be represented by an attorney or other authorized representative;

(C) The Hearing Officer may clear the hearing room of witnesses not under examination.

(D) The Hearing Officer shall have the authority to maintain the decorum of the hearing and shall take reasonable steps to do so when necessary, including clearing the hearing room of any person who is disruptive.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.11 Evidence.

(A) Hearings shall be informal and technical rules of evidence shall be relaxed;

(B) All witnesses who appear and testify under oath shall be subject to cross examination. A witness who does not appear may testify by affidavit provided the Party presenting the particular witness' affidavit has complied with the requirements of Rule 4.05 thereby affording any other Party an opportunity to contact said witness and obtain an affidavit on its own behalf;

(C) The Hearing Officer shall have the authority to admit into the record any evidence which, in his or her judgment, has a reasonable degree of probative value and trustworthiness. The Hearing Officer shall have the authority to exclude evidence which is irrelevant, immaterial, lacking in probative value, untrustworthy or unduly cumulative;

(D) Documents received into evidence by the Hearing Officer shall be marked by him or her, or under his or her direction, and filed for the record of the appeal;

(E) Rebuttal and surrebuttal evidence may be heard at the discretion of the Hearing Officer;

(F) Arguments summarizing the evidence and the law may be heard at the discretion of the Hearing Officer.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.13 Order of Proof: Burden of Proof.

(A) At the hearing, the Attorney General or the Secretary of State shall be the first to present evidence.

(B) The Attorney General or the Secretary of State shall have the burden of proving its allegations by a preponderance of the evidence.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.15 Preservation and Transcription of Record of Hearing.

(A) A record of testimony at the hearing may be made by other than stenographic means, in which event notice shall be given to all parties designating the manner of recording and preserving the testimony.

(B) It shall be the responsibility of any Party desiring to preserve by stenographic means a record of testimony at the hearing to:

1. Arrange for a court reporter to make stenographic recording of the hearing;

2. Pay all fees and expenses for such recording and transcription directly to the court reporter.

(C) A true and correct copy of said stenographic recording shall be made available to any other Party requesting it, provided such Party agrees to pay the expense of such copy.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.17 Order to be Filed upon Completion of Hearing. After all evidence is heard or received and the hearing is completed, the Hearing Officer shall, within a reasonable time thereafter, prepare and file proposed written findings of fact and conclusions of law and a proposed Decision and Final Order based thereon. The Secretary shall review the findings of fact and conclusions of law of the hearing officer, and may accept, modify, or reject, in whole or in part, the findings of fact and conclusions of law. The Secretary shall thereafter issue a Final Order, a copy of which shall be sent promptly, via certified mail, return receipt requested, to all Parties who appeared at the administrative hearing, or to their attorney(s) or authorized representative(s).

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.19 Continuances. Continuances requested by any Party shall be granted within the discretion of the Hearing Officer only for good cause shown.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.21 Computation of Time. In computing any period of time prescribed or allowed under these rules, the Hearing Officer shall be guided by the Mississippi Rules of Civil Procedure.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Rule 4.23 Validity of Rules. If any one or more of these rules is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of any other of these rules.

Source: M*iss. Code Ann*. §§ 79-11-504(a) (Rev. 2009).

Part 15 Chapter 5: [Reserved]