

ENDORSED

FILED
SUPERIOR COURT, METROPOLITAN DIVISION
COUNTY OF KERN

JUN 29 2007

TERRY McNALLY, CLERK
BY _____ DEPUTY

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF KERN - METROPOLITAN DIVISION**

10 * * * * *

11 THE PEOPLE OF THE STATE OF CALIFORNIA,) **Case No.: S-1500-CV-261211 LPE**
12) **File No.: CF-5120**
13 Plaintiff,)
14 vs.) **COMPLAINT FOR CIVIL PENALTIES,**
15) **INJUNCTION AND OTHER RELIEF**
16 MICHAEL GALLOWAY, an individual;)
17 CATHOLIC ONLINE; CATHOLIC FINANCIAL)
18 SERVICES; YOUR CATHOLIC VOICE, INC.;)
19 YOUR CATHOLIC VOICE FOUNDATION, INC.)
and DOES 1 through 30, inclusive,)
Defendant.)

20 THE PEOPLE OF THE STATE OF CALIFORNIA, by and through EDWARD R. JAGELS,
21 District Attorney of the County of Kern, allege the following on information and belief:

22 **PRELIMINARY ALLEGATIONS**

23 **Parties**

- 24 1. Edward R. Jagels, as District Attorney of Kern County, acting to protect the public from
25 unlawful, unfair and fraudulent business acts and practices, brings this action in the name of the People
26 of the State of California.
27 2. The People are further informed and believe and thereon allege that Defendant
28 MICHAEL GALLOWAY is an individual who has engaged in business activities within the County of

1 Kern during all times relevant to this complaint.

2 3. The People are informed and believe and thereon allege that CATHOLIC ONLINE is a
3 business that has engaged in business activities within the County of Kern at all times relevant to this
4 complaint.

5 4. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
6 is an owner, officer or agent of CATHOLIC ONLINE.

7 5. The People are informed and believe and thereon allege that CATHOLIC FINANCIAL
8 SERVICES is a business that has engaged in business activities within the County of Kern at all times
9 relevant to this complaint.

10 6. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
11 is an owner, officer or agent of CATHOLIC FINANCIAL SERVICES.

12 7. The People are informed and believe and thereon allege that YOUR CATHOLIC
13 VOICE, INC. is a business that has engaged in business activities within the County of Kern at all
14 times relevant to this complaint.

15 8. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
16 is an owner, officer or agent of YOUR CATHOLIC VOICE, INC.

17 9. The People are informed and believe and thereon allege that YOUR CATHOLIC
18 VOICE, INC. is a suspended corporation.

19 10. The People are informed and believe and thereon allege that YOUR CATHOLIC
20 VOICE FOUNDATION, INC. is a business that has engaged in business activities within the County of
21 Kern at all times relevant to this complaint.

22 11. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
23 is an owner, officer or agent of YOUR CATHOLIC VOICE FOUNDATION, INC.

24 12. The People are informed and believe and thereon allege that YOUR CATHOLIC
25 VOICE FOUNDATION, INC. is a suspended corporation.

26 13. The People are ignorant of the true names and capacities of certain Defendants sued
27 herein under the fictitious names DOES 1 through 30, inclusive, pursuant to Code of Civil Procedure
28 section 474. At such time as the true names of aforesaid unknown Defendants responsible in part or

1 whole for the occurrences alleged herein are determined, the People will name said Defendants in this
2 action, and if necessary, pray leave from the court to amend this complaint accordingly.

3 14. The People are informed and believe and thereon allege that each Defendant was the
4 officer, agent, employee, partner, co-conspirator, or representative of each of the remaining Defendants,
5 acting within the course and scope of said agency, employment, partnership, conspiracy, or
6 representation, and each Defendant has ratified and approved the actions of each of the other
7 Defendants alleged herein.

8 15. When, in this Complaint, reference is made to any act of Defendants, such allegations
9 shall be deemed to mean that the officers, directors, agents, employees, representatives of said
10 Defendants carried out, or authorized such acts, or recklessly or carelessly failed to adequately
11 supervise, or control or direct their employees or agents while engaged in the management, direction,
12 operation, or control of the affairs of said business or organization, and did so while acting within the
13 course and scope of said agency, employment, partnership, or conspiracy.

14 16. Unless otherwise indicated specifically in this Complaint, any reference to "Defendants"
15 shall be read to include all Defendants, including both named and fictitiously-named Defendants.

16 **Jurisdiction and Venue**

17 17. Edward R. Jagels, District Attorney of Kern County, acting to protect the public from
18 unfair and unlawful business practices brings this action in the public interest in the name of the People
19 of the State of California. This action is brought pursuant to the statutory law of the State of California
20 preventing unfair and unlawful business practices, as contained in Business and Professions Code
21 Sections 17200 et. seq., including, but not limited to Business and Professions Code section 17204.

22 18. The People are informed and believe and thereon allege that beginning at an exact date
23 unknown to the People, but within four years prior to the filing of this complaint, and continuing to the
24 present, Defendants engaged in unfair competition within the meaning of Business and Professions
25 Code section 17200, by engaging in unlawful, unfair, wrongful, deceptive, or fraudulent business
26 practices within the County of Kern, and the State of California.

1 **Facts**

2 19. The People are informed and believe and thereon allege that at all times relevant to this
3 complaint, the Defendants have advertised that they provide an online financial service for individuals
4 and associations to make online donations and payments.

5 20. The People are informed and believe and thereon allege that the Defendants have made
6 the representation that Catholic Financial Services (CFS) is THE global leader in Catholic online
7 donations and payments.

8 21. The People are informed and believe and thereon allege that at all times relevant to this
9 complaint, the Defendants have operated an Internet website entitled "Catholic Financial Services" at
10 the following Internet address: <https://www.catholicfs.org>.

11 22. The People are informed and believe and thereon allege that at all times relevant to this
12 complaint, the Defendants have operated an Internet website entitled "Your Catholic Voice" at the
13 following Internet address: <http://www.yourcatholicvoice.org/>.

14 23. The People are informed and believe and thereon allege that at all times relevant to this
15 complaint, the Defendants have operated an Internet website entitled "Your Catholic Voice Foundation"
16 at the following Internet address: <http://www.ycvf.org/> .

17 24. The People are informed and believe and thereon allege that at all times relevant to this
18 complaint, the Defendants have operated an Internet website entitled "Catholic Online" at the following
19 Internet address: <http://www.catholic.org>.

20 25. The People are informed and believe and thereon allege that defendant MICHAEL
21 GALLOWAY has a financial interest in all four of the above-referenced websites and with all four of
22 the previously identified co-defendants.

23 26. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
24 has received monies from the public through the aforementioned websites.

25 27. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
26 has made false representations to the public through all four websites identified in the preceding
27 paragraphs.

1 28. The People are informed and believe and thereon allege that defendant MICHAEL
2 GALLOWAY has encountered financial difficulties within the past four years that have caused him to
3 divert funds that were solicited through the aforementioned websites, and has used those funds for
4 purposes other than those for which they were solicited or contributed.

5 29. The People are informed and believe and thereon allege that the Defendants falsely
6 represent through their collective websites that they collect funds on behalf of Catholic charities,
7 ministries and assistance programs and that the Defendants will serve as a conduit for the public to
8 donate monies to those charities, ministries and assistance programs.

9 30. The People are informed and believe and thereon allege that through the Catholic
10 Financial Services Website, the defendants make the following representations:

- 11 a. That CFS is supported by Catholic Parishioners, Parishes and Dioceses.
- 12 b. That CFS provides easy and safe money transfers.
- 13 c. That CFS provides “safe, simple and secure” online donation processing.”

14 31. The People are further informed and believe and thereon allege that based upon the
15 defendants’ representations various organizations, including associations affiliated with the Catholic
16 Church, attempted to utilize the defendants’ services for online payment and contributions.

17 32. The People are further informed and believe that the defendants owe over \$25,000.00 to
18 various organizations that have attempted to utilize the defendants’ online donation processing system.

19 33. The People are informed and believe that the defendants failed to process online
20 contributions that were intended to be delivered to the archdiocese of New Orleans for Hurricane relief.

21 34. The People are informed and believe and thereon allege that despite numerous requests,
22 CFS has refused to complete the transfer of funds to these organization’s bank accounts

23 35. The People are informed and believe and thereon allege that the defendants’ CFS website
24 specifically represents that person’s can “Use Catholic Financial Services (CFS) to send SECURE
25 payments in U.S. Dollars anywhere in the world.”

26 36. The People are informed and believe and thereon allege that the defendants have failed to
27 deliver online contributions and payments to clients who have signed up for their service, that
28

1 MICHAEL GALLOWAY has made false, fraudulent, deceptive and misleading statements to explain
2 non-payments.

3 37. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
4 has falsely represented that the clients had made mistakes in the transactions that had prevented
5 payment.

6 38. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
7 has falsely represented that credit card agencies were holding up the transactions.

8 39. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
9 has represented that his wife had a "drug addiction" that was somehow impacting the defendants' ability
10 to deliver payments.

11 40. The People are informed and believe and thereon allege that on more than one occasion
12 MICHAEL GALLOWAY yelled at clients who called to inquire about funds that had not been
13 delivered.

14 41. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
15 called clients on their personal cell phones and threatened them.

16 42. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
17 threatened to contact his clients' employers if they did not desist in their efforts to collect payments
18 owed to them.

19 43. The People are informed and believe and thereon allege that MICHAEL GALLOWAY
20 has threatened to have one client, who is an attorney, disbarred if he did not desist in his efforts to
21 collect payments that were due to his organization.

22 44. The People are informed and believe and thereon allege that Catholic Financial Services
23 is not a member of the Better Business Bureau.

24 45. The People are informed and believe and thereon allege that the Better Business Bureau
25 has contacted the defendants regarding complaints against Catholic Financial Services and the
26 defendants have failed to respond to the complaints.

27 46. The People are informed and believe and thereon allege that the defendants have failed to
28 transfer funds as represented.

1 47. The People are informed and believe that whether intentionally or through accident or
2 negligence, the defendants have withdrawn funds from the account of at least one client, in the sum of
3 approximately \$5,885.00. The People are further informed and believe and thereon allege that the
4 defendants were apprised of the mistake by the affected client. The People are informed and believe and
5 thereon allege that the defendants have failed to return the sum of money that was withdrawn from the
6 client's bank account.

7 48. The People are informed and believe and thereon allege that MICHAEL GALLOWAY is
8 the owner, agent, principal of CATHOLIC FINANCIAL SERVICES, CATHOLIC ONLINE, YOUR
9 CATHOLIC VOICE and YOUR CATHOLIC VOICE FOUNDATION, INC. and that MICHAEL
10 GALLOWAY and those entities have experienced extreme financial pressures within the past year.

11 49. The People are informed and believe and thereon allege that tax liens have been filed
12 against MICHAEL GALLOWAY.

13 50. The People are informed and believe and thereon allege that on April 21, 2004, a federal
14 tax lien in the amount of \$45,291.00 was filed against MICHAEL GALLOWAY in Kern County.

15 51. The People are informed and believe and thereon allege that on April 7, 2005, a federal
16 tax lien in the amount of \$21,195.00 was filed against MICHAEL GALLOWAY in Kern County.

17 52. The People are informed and believe and thereon allege that on October 6, 2006, a
18 federal tax lien was filed in the amount of \$35,973.00 against MICHAEL GALLOWAY in Kern
19 County.

20 53. The People are informed and believe and thereon allege that on January 2, 2007, a federal
21 tax lien in the amount of \$31,167.00 was filed against MICHAEL GALLOWAY in Kern County.

22 54. The People are informed and believe and thereon allege that on April 9, 2007, a federal
23 tax lien in the amount of \$26,226.00 was filed against MICHAEL GALLOWAY in Kern County.

24 55. The People are informed and believe and thereon allege that as a result of financial
25 distress the defendants diverted funds that were obtained as a result of the defendants' internet
26 advertising that was intended to be delivered to clients who signed up through Catholic Financial
27 Services.

1 56. The People are informed and believe and thereon allege that the defendants diverted
2 monies and funds that were donated online by donors who intended to donate to Catholic charities,
3 parishes, dioceses and other affiliated organizations.

4 57. The People are informed and believe and thereon allege that the defendants diverted
5 monies that were intended to be donated to the archdiocese of New Orleans for Hurricane relief.

6 58. The People are informed and believe and thereon allege that the business offices for all of
7 the named defendants are within Kern County.

8 59. The People are informed and believe that the Defendants have failed to honor
9 representations that the Defendants made regarding refunds.

10 60. The People are informed and believe and thereon allege that the Defendants have made
11 false representations regarding the services that they have advertised on their websites.

12 61. The People are informed and believe and thereon allege that the Defendants have failed
13 to respond to numerous complaints from the Better Business Bureau about their businesses since
14 January 1, 2005.

15 62. The People are informed and believe and thereon allege that the Defendants have failed
16 to respond to complaints that they received through the Better Business Bureau regarding billing issues.

17 63. The People are informed and believe and thereon allege that the Defendants have failed
18 to respond to complaints that they have received through the Better Business Bureau regarding
19 collection issues.

20 64. The People are informed and believe and thereon allege that the Defendants have failed
21 to respond to complaints that they have received through the Better Business Bureau regarding customer
22 service issues.

23 **FIRST CAUSE OF ACTION**

24 **False or Misleading Statements**

25 **(Business and Professions Code Sections 17500 et. seq.)**

26 65. Plaintiffs incorporate in this cause of action the allegations of paragraphs 1 through 64
27 of the preliminary allegations, as though set forth in full hereto.

28 / / /

1 66. Plaintiffs are informed and believe and thereon allege that the aforesaid conduct of
2 Defendants constituted false or misleading statements, within the provisions of Business and Professions
3 Code sections 17500 et. seq., which were untrue or misleading, and which Defendants knew, or by the
4 exercise of reasonable care should have known, were untrue and misleading.

5 67. Pursuant to Business and Professions Code section 17536, Defendants are liable for civil
6 penalties not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for each violation of the
7 California’s False or Misleading Advertising Laws.

8 **SECOND CAUSE OF ACTION**

9 **Unlawful and Unfair Business Practices**

10 **(Business and Professions Code Sections 17200 et. seq.)**

11 68. Plaintiffs incorporate in this cause of action the allegations of paragraphs 1 through 64
12 of the preliminary allegations, as though set forth in full hereto.

13 69. Plaintiffs are informed and believe and thereon allege that the aforesaid conduct of
14 Defendants constituted an unlawful business practice within the provisions of Business and Professions
15 Code sections 17200 et. seq., insofar as Defendants’ conduct was offensive to an established public
16 policy, or immoral, unethical, oppressive, unscrupulous, or substantially injurious to the public.

17 70. Pursuant to Business and Professions Code section 17206, Defendants are liable for civil
18 penalties not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) for each violation of the
19 Unfair Business Practices Act.

20 **PRAYER**

21 WHEREFORE, Plaintiff demands judgment against Defendants and each of them as
22 follows:

23 1. For civil penalties pursuant to California Business and Professions Code section 17536
24 in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) for each violation of California
25 Business and Professions Code section 17500, but in no event less than Two Hundred Fifty Thousand
26 Dollars (\$250,000.00).

27 2. For civil penalties pursuant to California Business and Professions Code section 17206
28 in the amount of Two Thousand Five Hundred Dollars (\$2,500.00) for each violation of California

1 Business and Professions Code section 17200, but in no event less than Two Hundred Fifty Thousand
2 Dollars (\$250,000.00).

3 3. That defendants and each of them be ordered to pay a civil penalty of Two Thousand
4 Five Hundred Dollars (\$2,500.00) for each act of unfair competition perpetrated against an elderly
5 person, pursuant to Business and Professions Code §17206.1, in an amount of not less than Twenty Five
6 Thousand Dollars (\$25,000.00)

7 4. For injunctive relief as is necessary to prevent further instances of unfair conduct by
8 Defendants, including a permanent injunction restraining Defendants and their officers, agents,
9 subsidiaries, and employees, and all of them from violating the provisions of California Business and
10 Professions Code section 17533.6.

11 5. For costs of suit incurred herein;

12 6. For an award of attorneys' fees incurred herein where permitted by statute;

13 7. For such other and further relief as the court may deem just and proper.

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15 DATED: June 29, 2007

EDWARD R. JAGELS
District Attorney

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18 By: _____

John T. Mitchell,
Deputy District Attorney

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23 **NOTICE:** This complaint is deemed verified pursuant to CCP §446.

24 **NOTICE:** Pursuant to *People v. Beltz Travel Services, Inc.* (N.D. Cal. 1974) 379 F.Supp 948, this
25 action cannot be removed to Federal Court.

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