

SUFFOLK, ss.

# Commonwealth of Massachusetts



SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
CIVIL ACTION

No. 14-2487 C

Commonwealth of Massachusetts, Plaintiff(s)

v.

Focus on Veterans, Inc., Defendant(s)

## SUMMONS AND ORDER OF NOTICE

To the above-named Defendant:

You are hereby summoned and required to serve upon Ashley H. Wiskneski AAG Public Charities Di  
One Ashburton Pl. Boston MA 02108  
plaintiff's attorney, whose address is \_\_\_\_\_,  
an answer to the complaint which is herewith served upon you, within 20 days after service of this summons  
upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against  
you for the relief demanded in the complaint. You are also required to file your answer to the complaint in  
the office of the Clerk of this court at Boston either before service upon plaintiff's attorney or within a reason-  
able time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which  
you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter  
of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

WE ALSO NOTIFY YOU that application has been made in said action, as appears in the complaint,  
for a preliminary injunction and that a hearing upon such application will be held at the court house at said  
Boston of our said court on Tuesday the twelfth  
day of August A.D. 2014, at two o'clock P.M., at which time you may  
appear and show cause why such application should not be granted.

Witness, Barbara J. Rouse, Esquire, at Boston, the sixth day of  
August, in the year of our Lord two thousand fourteen

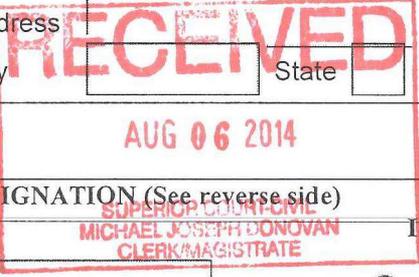


Clerk/Magistrate

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

<b>CIVIL ACTION COVER SHEET</b>	TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT COUNTY OF SUFFOLK	DOCKET NO. <u>14-2487 C</u>
<b>PLAINTIFF(S)</b> <b>Commonwealth of Massachusetts</b>	<b>DEFENDANT(S)</b> <b>Focus on Veterans, Inc.</b> <b>19 Main Street</b> <b>Central Village, CT 06332</b>	
Plaintiff Atty <u>Ashley H. Wisneski, Esq.</u>	Type Defendant's Attorney Name _____	
Address <u>Office of the Attorney General, One Ashburton Place</u>	Defendant Atty _____	
City <u>Boston</u> State <u>MA</u> Zip Code <u>02108</u>	Address _____	
Tel. <u>+1 (617) 963-2079</u> BBO# <u>660,927</u>	City _____ State _____ Zip Code _____	



TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			
CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
	<b>D13 Declaratory Judgment G L C 231A - Average Track</b>		<input type="radio"/> Yes <input checked="" type="radio"/> No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

**TORT CLAIMS**  
 (Attach additional sheets as necessary)

<b>A. Documented medical expenses to date:</b> 1. Total hospital expenses 2. Total doctor expenses 3. Total chiropractic expenses 4. Total physical therapy expenses 5. Total other expenses (describe)	\$ _____ \$ _____ \$ _____ \$ _____ \$ _____ \$ _____
<b>Subtotal</b>	\$ _____
<b>B. Documented lost wages and compensation to date</b> <b>C. Documented property damages to date</b> <b>D. Reasonably anticipated future medical expenses</b> <b>E. Reasonably anticipated lost wages and compensation to date</b> <b>F. Other documented items of damages (describe)</b>	\$ _____ \$ _____ \$ _____ \$ _____
<b>G. Brief description of plaintiff's injury, including nature and extent of injury (describe)</b>	\$ _____
<b>Total</b>	<b>\$ _____</b>

**CONTRACT CLAIMS**  
 (Attach additional sheets as necessary)

Provide a detailed description of claim(s):

**TOTAL \$.....**

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

AI hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods.

Signature of Attorney of Record Ashley H. Wisneski Date: Aug 6, 2014

A.O.S.C. 3-2007

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

SUPERIOR COURT  
CIVIL ACTION #

14-2487 C

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff,

v.

FOCUS ON VETERANS, INC.,

Defendant.



I. INTRODUCTION

1. The Commonwealth of Massachusetts by its Attorney General (“Commonwealth”) brings this action in the public interest against a Connecticut public charity, Focus on Veterans, Inc. (“FOV”), to compel FOV’s compliance with the registration requirements of M.G.L. c. 12, § 8E by filing the necessary registration materials with the Non-Profit Organizations/Public Charities Division of the Attorney General’s Office (“the Division”). FOV’s registration and submission of annual filings as required by law are necessary to ensure transparency and public accountability regarding the funds FOV has raised and how and whether those funds have been spent in furtherance of its charitable mission. The Commonwealth also brings this action in the public interest to enjoin FOV’s unauthorized charitable solicitation and unfair and deceptive charitable solicitation practices in violation of M.G.L. c. 68, §18 et seq. Specifically, the Commonwealth seeks to enjoin FOV’s unauthorized solicitation of funds pursuant to M.G.L. c. 68, § 19 and to enjoin the unfair and deceptive charitable solicitation practices in which the FOV has engaged. Those practices include misleading potential donors by falsely representing or implying that their donations would be used to assist Massachusetts

veterans in various ways, including providing housing and transportation assistance. The Commonwealth, pursuant to M.G.L. c. 68, § 32(e), also seeks declaratory relief, disgorgement of funds improperly obtained, restitution, and civil penalties.

## II. JURISDICTION AND VENUE

2. Jurisdiction is conferred on this Court by M.G.L. c. 214, §1 and M.G.L. c. 68, § 32 (e). The Court is authorized to declare the respective rights of the parties pursuant to M.G.L. c. 231A, §1 et seq.

3. This action is brought in Suffolk County pursuant to M.G.L. c. 223, §5.

## III. PARTIES

4. The Plaintiff is the Commonwealth of Massachusetts, on whose behalf the Attorney General brings this action in the public interest, pursuant to M.G.L. c. 68, §32(e).

5. Defendant FOV is a Connecticut charitable corporation with a principal place of business at 19 Main Street, Central Village, CT, 06332. FOV's Federal Employer Identification Number ("FEIN") is 27-0496150.<sup>1</sup> In its registration materials filed with the Connecticut Department of Consumer Protection, FOV alternately described its mission as "to give and provide to the poor and needy basic human needs" and as "to offer [to our military personnel and to the veterans who have served] the tools needed to be a positive asset to the community, their families and most importantly- themselves." In its Certificate of Incorporation filed with the Connecticut Secretary of State, FOV stated that its purpose was "to support veterans through employment, and contribute to veterans organizations." In an amendment filed a year later, FOV stated that its purpose was to "(a) provide housing for veterans in Sober Independent Living

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<sup>1</sup> There also exists a Massachusetts nonprofit corporation named Focus on Veterans, Inc. which was operated by the same individuals who run FOV. The Massachusetts corporation had a principal place of business at 240 Westminster Hill Road, Fitchburg, MA, 01420. The Massachusetts corporation's FEIN was 27-2615360. Upon information and belief, the Massachusetts corporation has not been operating or active in Massachusetts since at least December 2012.

Homes; (b) to offer employment to veterans within our organization; (c) to provide donations to individual veterans for basic necessities; (d) to donate monies to veteran organizations that assist veterans in need; (e) to donate monies to veteran organizations and individuals that send care packages to active troops; (f) to have the normal function of a non profit organization founded to assist veterans in providing the basic necessities.”

#### IV. FACTS

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6. FOV incorporated as a Connecticut nonprofit corporation on June 30, 2009.

7. On March 15, 2014, FOV was soliciting donations outside the Christmas Tree Shop in Shrewsbury, Massachusetts. *Tetreau Affid.*, ¶ 2.

8. At its solicitation table, FOV displayed a banner that read, “Support Our Massachusetts Veterans.” *Tetreau Affid.*, ¶ 2.

9. On April 19, 2014, FOV was soliciting donations outside the Shaw’s supermarket in Hyde Park, Massachusetts. *Murray Affid.*, ¶ 2.

10. At its solicitation table, FOV displayed a banner that read, “Support Our Massachusetts Veterans.” *Murray Affid.*, ¶ 2, *Exhibit 1*.

11. FOV’s solicitation table also had a stack of pamphlets containing information about FOV, including that it provided housing to veterans in Central Village, CT, transportation to VA hospitals, scholarships, and part-time employment. The pamphlet also stated that the soliciting organization’s FEIN was 27-0496150, the same FEIN as FOV. *Murray Affid.*, ¶ 2, *Exhibit 1*.

12. On May 3, 2014, FOV was soliciting donations outside the Hannaford supermarket in Uxbridge, Massachusetts. *Schavone Affid.*, ¶ 2.

13. At its solicitation table, FOV displayed a banner that read, “Support Our

Massachusetts Veterans.” *Schavone Affid.*, ¶ 2.

14. On June 8, 2014, FOV was again soliciting donations outside the Hannaford supermarket in Uxbridge, Massachusetts. *Schavone Affid.*, ¶ 2.

15. At its solicitation table, FOV displayed a banner that read, “Support Our Massachusetts Veterans.” *Schavone Affid.*, ¶ 3, *Exhibit 1*.

16. FOV’s solicitation table also had a stack of pamphlets containing information about FOV, including that it provided housing to veterans in Central Village, CT, transportation to VA hospitals, scholarships, and part-time employment. The pamphlet also stated that the soliciting organization’s FEIN was 27-0496150, the same FEIN as FOV. *Schavone Affid.*, ¶ 3 *Exhibit 2*.

17. When contacted at the number contained on the pamphlet, an FOV representative provided the same information as appeared in the pamphlet about the services provided by FOV and claimed that funds raised were used to assist Massachusetts veterans, but could not provide details about what percentage was used for those purposes. *Schavone Affid.*, ¶ 4.

18. On July 11, 2014, FOV was soliciting donations outside the Dunkin Donuts drive-through in Plainville, Massachusetts. *Rockett Affid.*, ¶ 2.

19. At its solicitation table, FOV displayed a banner that read, “Support Our Massachusetts Veterans.” *Rockett Affid.*, ¶ 2.

20. When questioned by a Plainville police officer about where the donated money went and what it was used for, the FOV solicitor, Harvey Malbaurn (hereinafter “Malbaurn”), stated it was used for a house for veterans in Connecticut and also for transportation of veterans to hospitals and that none of the money would be used for veterans in Massachusetts. *Rockett Affid.*, ¶ 4.

21. When Malbaurn was asked if he had registered anywhere in Massachusetts in order to solicit, he answered that he had not. He also was unable to produce any written proof that FOV was a legitimate charitable organization. *Rockett Affid.*, ¶ 5.

22. Malbaurn was taken into custody and brought to the Plainville police station, where it was discovered that he had \$514.78 in his donation bucket. *Rockett Affid.*, ¶ 6.

23. In an attempt to learn more information about FOV, a Plainville police sergeant learned that FOV's house for veterans was located in Plainfield, Connecticut. *Carter Affid.*, ¶ 3.

24. The sergeant contacted the Plainfield, Connecticut police department and learned that FOV owns two homes in Plainfield which are rented out as "rooming houses" to both veterans and nonveterans. *Carter Affid.*, ¶ 3.

25. The Plainville sergeant was told that the residents of the Plainfield homes owned by FOV go out into other communities to solicit donations for the organization in order to support the homes and that they wear unmarked camouflage clothing when they solicit donations, whether they are veterans or nonveterans. *Carter Affid.*, ¶ 4.

26. M.G.L. c. 12, §8E requires that every charitable organization operating in the Commonwealth, with certain exceptions not relevant here, "shall, before engaging in charitable work or raising funds in the [C]ommonwealth, register with the [Division] by filing a copy of its charter, articles of organization, agreement of association or instrument of trust, a true copy of its constitution and by-laws and a one-time initial registration fee of \$100, together with such other information as the director may require."

27. FOV has failed to register with the Division as required by M.G.L. c. 12, §8E. *Harper Affid.*, ¶ 4.

28. FOV does not hold a valid Certificate for Solicitation issued by the Division. *Harper Affid.*, ¶ 4. Because FOV has not complied with the registration requirement, M.G.L. c. 68, §19 bars the Division from issuing the Certificate for Solicitation.

29. The Division sent letters to FOV on April 24, 2014; June 3, 2014; and June 18, 2014 informing them that FOV was not registered with the Division and could not solicit funds until it had satisfied its statutory registration requirements and obtained a Certificate for Solicitation from the Division. *Harper Affid.*, ¶ 5, *Exhibits 1, 2, and 3*. FOV has nonetheless continued to actively solicit funds in Massachusetts with total disregard for FOV's failure to comply with the laws of the Commonwealth, lack of a Certificate for Solicitation, and the clear admonitions from the Division.

30. FOV's failure to comply with the registration requirements of M.G.L. c. 12, §8E deprives the public of its right to review FOV's incorporation documents; learn who controls FOV; and discover how (or whether) FOV has been utilizing the funds it has raised to further its stated charitable purposes.

31. FOV displayed advertising material that falsely stated that FOV provided support to Massachusetts veterans. *Tetreau Affid.*, ¶ 2; *Murray Affid.*, ¶ 2, *Exhibit 1*; *Schavone Affid.*, ¶ 2, *Exhibit 1*; *Rockett Affid.*, ¶ 2. However, FOV could not provide information about what services are provided to Massachusetts veterans or what percentage of funds raised were used to support Massachusetts veterans. *Schavone Affid.*, ¶ 4; *Rockett Affid.*, ¶ 4. FOV's own literature and website do not contain any information about any services provided to Massachusetts veterans. *Schavone Affid.*, ¶ 3, *Exhibit 2*; *Harper Affid.*, ¶ 6, *Exhibits 4, 5, 6, and 7*.

B. Materiality of Misrepresentations and Undisclosed Facts

32. The misrepresentations by FOV concerned material facts which deceived or had the capacity to deceive potential donors and influenced some or all potential donors in their decisions as to whether to contribute, or, how much they would contribute.

33. FOV's failure to disclose material information likewise deceived or had the capacity to deceive potential donors and concerned material facts which would have influenced some or all potential donors in their decisions as to whether to contribute, or, how much they would contribute.

C. Knowingly and Willfully Engaging in Violative Acts

34. FOV knew or should have known that its acts or practices were unfair or deceptive and violated M.G.L. c. 68, § 32(e).

V. CAUSES OF ACTION

A. VIOLATIONS OF STATUTORY REQUIREMENTS

35. The allegations contained in paragraphs 1-34 of the Complaint are incorporated herein by reference.

36. By failing to submit registration materials to the Division, FOV has violated M.G.L. c. 12, §8E.

37. By failing to obtain a valid Certificate for Solicitation prior to soliciting funds in Massachusetts, FOV has violated M.G.L. c. 68, §19.

B. UNFAIR AND DECEPTIVE ACTS AND PRACTICES

38. The allegations contained in paragraphs 1-34 of the Complaint are incorporated herein by reference.

39. FOV engaged in unfair or deceptive acts or practices in violation of M.G.L. c. 68, § 32(e), by falsely representing or misleading potential donors to believe that their donations would be used to assist Massachusetts veterans in various ways, including providing housing and transportation assistance.

#### VI. PUBLIC INTEREST

40. The Defendant's activities, as described above, have harmed and continue to harm the goodwill of public charities and charitable giving in general.

41. The Defendant's activities, as described above, have harmed and continue to harm the public interest in the good faith conduct of charitable solicitations, in the due application of funds given to public charities, and in the full compliance with statutory requirements.

#### VII. RELIEF SOUGHT

WHEREFORE, the Commonwealth respectfully requests that this Honorable Court:

1. Issue a temporary restraining order pursuant to M.G.L. c. 68, §32(e) restraining the Defendant, its officers, agents, servants, employees, successors, and assigns, directly or indirectly, individually or in concert with others through any corporation, trust, partnership, or other device or entity, from initiating, continuing or taking any steps in furtherance of any fundraising activities in the Commonwealth until FOV has satisfied its statutory registration requirements and obtained a Certificate for Solicitation from the Division.

2. Issue a Summons and Short Order of Notice requiring the Defendant to show cause why a preliminary injunction should not issue against it.

3. After a return of notice and hearing, issue a preliminary injunction, pursuant to M.G.L. c. 68, §32(e) which:

(A) continues the order issued under prayer one;

(B) enjoins the Defendant, its agents, servants, employees, successors and assigns, and all other persons in active concert or participation with them, whether acting individually or through any corporation, trust, partnership, or other device or entity, from using deceptive practices in any solicitation of charitable contributions in violation of M.G.L. c.68, §32(e) including but not limited to falsely stating, representing or implying that the proceeds of the solicitation will be used for the benefit of Massachusetts veterans;

(C). orders the Defendant to:

(i) account, within thirty (30) days of the date of entry of this preliminary injunction, to the Division, for all money raised from the public in Massachusetts in 2012, 2013 and 2014;

(ii) exercise ongoing monitoring and oversight to ensure that violations of M.G.L. c. 68 do not occur, and report to the Division within two weeks of receipt, all complaints received from the public with respect to a solicitation in Massachusetts;

(iii) exercise appropriate control and oversight of its finances, including without limitation the financial activities of its agents, servants, employees and contractors, sufficient for the Defendant, pursuant to G.L. c.68, §33, to properly account to the Division for all money received as a result of all charitable solicitations in Massachusetts and for all disbursements of such money for the benefit of veterans in Massachusetts, including without limitation ensuring that the Defendant and said agents, servants, employees and contractors:

(a) keep such permanent books of account or records sufficient to substantiate each item in its annual financial reports, including without limitation maintenance of a general ledger and records of cash receipts, cash disbursements, accounts payable, accounts receivable and inventory, and to ensure that such records shall support each individual transaction for the recording of the items of gross support, revenue, and expenses; and

(b) make its books and records available for inspection by the Division at their usual place of business during normal business hours, if so requested by the Division; and

(iv) distribute a copy of said preliminary injunction to the Defendant's agents, servants, employees, and subcontractors during the pendency of said preliminary injunction; and

(D). orders that if the Defendant violates the preliminary injunction, it shall be subject to civil or criminal contempt penalties for each such violation.

4. After a trial on the merits:

- (a) Declare that the actions of the Defendant have violated M.G.L. c. 12, §8E and M.G.L. c. 68, §§ 19, 32(e);
- (b) Order a disgorgement of funds obtained through the unfair and deceptive acts or practices of the Defendant;
- (c) Make permanent the preliminary injunction; and
- (d) Grant such other and further relief as this Court deems equitable and just.

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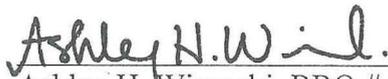
Respectfully submitted,

COMMONWEALTH OF MASSACHUSETTS

through

MARTHA COAKLEY  
ATTORNEY GENERAL

By:



Ashley H. Wisneski, BBO # 660927  
Assistant Attorney General  
Non-Profit Organizations/  
Public Charities Division  
One Ashburton Place  
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(617) 727-2200

Date: August 5, 2014