

MICHAEL A. DELANEY, ATTORNEY GENERAL
STATE OF NEW HAMPSHIRE

V.

NEW HAMPSHIRE DEMOCRATIC PARTY

CONSENT AGREEMENT

NOW COME the parties, the State of New Hampshire (the "State"), by the Attorney General, and the New Hampshire Democratic Party (the "NHDP") and hereby agree to the following in settlement of the violations and claims asserted by the State in this case.

BACKGROUND

1. This Consent Agreement is entered into by and between the State and the NHDP to resolve the State's claims for an alleged violation of the New Hampshire prerecorded political message statute, RSA 664:14-a. The NHDP disputes that it violated the statute, and its execution of this Consent Agreement is not an admission of any violation.

2. A prerecorded political message is defined under New Hampshire law as:

A prerecorded audio message delivered by telephone by:

- (a) A candidate or political committee; or
- (b) Any person when the content of the message expressly or implicitly advocates the success or defeat of any party, measure, or person at any election, or contains information about any candidate or party.

RSA 664:14-a, I. Under the statute,

No person shall deliver or knowingly cause to be delivered a prerecorded political message unless the message contains, or a live operator provides, within the first 30 seconds of the message, the following information:

- (a) The name of the candidate or of any organization or organizations the person is calling on behalf of.
- (b) The name of the person or organization paying for the delivery of the message and the name of the fiscal agent, if applicable.

RSA 664:14-a, II.

3. The State alleges that the NHDP was responsible for causing a prerecorded political (audio) message, as defined in RSA 664:14-a, I, to be delivered to residents of New Hampshire on September 13, 2010. The audio message contained the recorded voice of the Chair of the NHDP, Ray Buckley, giving the following message:

This is State Democratic Chair Ray Buckley calling with the important news that current Republican Bill O'Brien has asked to join the Democratic Party's ticket for the November elections.

If he succeeds tomorrow, we expect Bill O'Brien will embrace the Democratic Party's platform, support President Obama, national health care reform and stand up for gay marriage, and protect a woman's right to choose and our agenda to move NH and America forward.

Once again, we wanted you to know before you vote tomorrow that Bill O'Brien has asked to join the Democratic ticket and our progressive agenda. Thank you so much.

The State further alleges that by being responsible for causing the delivery of these prerecorded political messages, the NHDP violated RSA 664:14-a, II, in that the audio message failed to contain "[t]he name of the person or organization paying for the delivery of the message, and the name of the fiscal agent, if applicable" as required by RSA 664:14-a, II (b). Accordingly, the State alleges that the NHDP was responsible for knowingly causing the subject prerecorded political messages to be delivered in a manner that violated New Hampshire law. The NHDP alleges that Chairman Buckley properly identified himself and the State Democratic Party.

4. The audio message that gave rise to this Consent Agreement was spoken over the telephone by Ray Buckley and recorded by Broadcast Solutions. The NHDP provided Broadcast Solutions with an electronic list of 456 telephone numbers of New Hampshire residents to call. On September 13, 2010, Broadcast Solutions delivered the

prerecorded political message to the telephone numbers. However, 62 of the deliveries did not reach either a live person or an answering machine.

5. The NHDP was responsible for knowingly causing the delivery of the prerecorded political messages by Broadcast Solutions to 394 New Hampshire households on September 13, 2010.

6. RSA 664:14-a, IV states that violations of RSA 664:14-a “shall result in a civil penalty of \$5,000 per violation.” RSA 664:14-a, IV.

7. This Consent Agreement is executed to settle this disputed matter and resolve any potential liabilities to the State arising from the NHDP knowingly causing the delivery of the September 13, 2010 message without further litigation or proceedings.

CIVIL PENALTY

8. The NHDP agrees to pay a total penalty of \$5,000 to the State for violating RSA 664:14-a, II.

9. All penalty payments shall be paid by check drawn in the name of “Treasurer, State of New Hampshire,” and mailed to the Office of the Attorney General, 33 Capitol Street, Concord, New Hampshire 03301, Attn: Assistant Attorney General Matthew G. Mavrogeorge.

10. The effective date of this Consent Agreement shall be the date on which the Office of the Attorney General executes it.

11. This Consent Agreement shall be construed in accordance with the laws of the State of New Hampshire.

FOR THE NEW HAMPSHIRE
DEMOCRATIC PARTY

Dated: August 29th, 2011

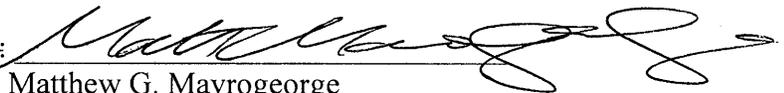
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FOR THE STATE OF NEW HAMPSHIRE

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Dated: August 29th, 2011

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