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April 5, 2020

**VIA EMAIL & FAX**

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**Re: Urgent Request for Clarification of Stay-At-Home Order  
*Easter Sunday Service***

Dear Mr. Shapiro and Mr. Schwab:

This firm represents evangelist Jonathan Shuttlesworth, a Christian pastor with the Revival Today ministry. We write to demand clarification of Pennsylvania Governor Tom Wolf's April 1, 2020 Order "For Individuals to Stay at Home" ("Order") and affirmation that it does not prohibit Christians from attending Pastor Shuttlesworth's planned outdoor, drive-in Easter Sunday service scheduled for April 12, 2020 in Harrisburg, Pennsylvania. We ask that you respond to this request for clarification by **5:00 p.m. April 6, 2020**. If your office fails to provide such clarity by that time, our client is prepared to file a federal lawsuit seeking immediate injunctive relief.<sup>1</sup>

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<sup>1</sup> As of the date of this letter, the Order is available online at the following URL:  
<https://www.governor.pa.gov/wp-content/uploads/2020/04/20200401-GOV-Statewide-Stay-at-Home-Order.pdf>.

By way of background, Pastor Shuttlesworth and his wife, Adalis Shuttlesworth, have been preaching the Gospel message of Jesus Christ, full-time, since May 2002. In 2007, they launched Revival Today, a televised ministry dedicated to sharing their faith with people who have never heard about Jesus. Their nearly daily worship services are broadcast and viewed by hundreds of thousands of Christians across the United States and the world.

In response to the emergence of a novel coronavirus in recent months, Governor Wolf issued a series of drastic orders prohibiting persons from leaving their homes “except as needed to access, support, or provide life-sustaining business, emergency, or government services.” Ostensibly, the Governor’s Office seeks to slow the rate of infection by restricting the movement and gatherings of people throughout the Commonwealth. On April 1, 2020, the Governor issued his latest Order, extending these draconian restrictions through April 30, 2020. While slowing the rate of infection may be an admirable goal, doing so at the expense of the rights and liberties of millions of Americans cannot be tolerated.

The First Amendment to the U.S. Constitution prohibits the Commonwealth from enforcing any “law respecting an establishment of religion, or prohibiting the free exercise thereof.” U. S. Const. amend. I; *see also Cantwell v. Connecticut*, 310 U.S. 296, 303 (1940) (applying the First Amendment to the States through the Fourteenth Amendment). Pursuant to the Free Exercise Clause, the Commonwealth may not regulate the same conduct differently based simply on whether that conduct is motivated by secular, as opposed to religious, purposes, without first satisfying the Supreme Court’s most exacting standard of review: strict scrutiny. Pennsylvania’s Religious Freedom Restoration Act of 2002, 71 Pa. Stat. Ann. § 2401, *et seq.*, requires the same.

Under strict scrutiny, the government cannot burden religious activity unless it first establishes (1) a compelling interest for imposing such burdens, and (2) that the burdens are the “least restrictive means” necessary to further that compelling interest. Federal courts routinely enjoin the enforcement of laws and policies under this standard. In *Fraternal Order of Police Newark Lodge No. 12 v. City of Newark*, 170 F.3d 359, 365 (3d Cir. 1999), for example, the Third Circuit, U.S. Court of Appeals, held that the Newark police department’s policy against facial hair violated the Free Exercise Clause because the policy “create[d] a categorical exemption for individuals with a secular [medical] objection but not for individuals with a religious objection.” *Id.* at 365. The court applied strict scrutiny in evaluating the plaintiff’s claims, and held that the government’s policy could not survive *any* degree of heightened scrutiny. *Id.* at 367.

Here, the Order exempts certain “life-sustaining” industries and activities—a term not defined by the Order. It does so in a seemingly arbitrary fashion, and without providing any justification for the various classifications of a laundry list of enumerated activities and industries.<sup>2</sup> For instance, the Order deems semi-conductor manufacturing “life-sustaining,” but

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<sup>2</sup> The Governor’s April 1, 2020 “Industry Operation Guidance” is, as of the date of this letter, available online at the following URL:

<https://www.scribd.com/document/452553026/UPDATED-4-00pm-April-1-2020-Industry-Operation-Guidance>.

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not computer manufacturing; beer and wine wholesalers, but not liquor stores; school and employee buses, but not charter buses; television broadcasting, but not motion picture industries; physicians, but not dentists; etc.

While the Order provides that “religious organizations” may continue “physical operations,” it does not define “religious organization,” nor does it define what constitutes a “physical operation.” As a result, Pastor Shuttlesworth—and millions of other Christians throughout the Commonwealth—are left to guess whether the Order prohibits religious congregations and services during the month of April.

On April 12, 2020, Christians across the world will celebrate Easter, the most important religious holiday for Christians—commemorating the resurrection of Jesus Christ. Pastor Shuttlesworth believes that he is called by God to preach—to share with others his hope in Jesus—and to do so especially on Easter Sunday. In obedience to his sincerely held religious beliefs, Pastor Shuttlesworth intends to convene an outdoor, drive-in worship service in Harrisburg, Pennsylvania. All those attending the service in-person will be encouraged to remain safely in their vehicles, which will in turn be separated by at least 6 feet.

We ask that your office respond in writing by 5:00 p.m. on April 6, 2020, clarifying that the Order does not prohibit Pastor Shuttlesworth’s planned religious observance. If we do not receive a response by that time, my office has been instructed to proceed with filing a federal lawsuit and seeking immediate injunctive relief.

Regards,



Harmeet K. Dhillon



Walter S. Zimolong<sup>3</sup>

CC: Keli Neary, Esq. – [kneary@attorneygeneral.gov](mailto:kneary@attorneygeneral.gov)

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