

APPENDIX C

HAYES SOLOWAY P.C.

Ashley Lynn Kirk, Arizona State Bar #021866
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Attorneys for Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

THE FREECYCLE NETWORK, INC.,
an Arizona non-profit organization,

Plaintiff,

v.

TIM OEY and JANE DOE OEY,

Defendants.

No. CIV06-173-TUC-RCC

**DECLARATION OF ASHLEY L.
KIRK IN SUPPORT OF
OPPOSITION TO PLAINTIFF'S
MOTION FOR A PRELIMINARY
INJUNCTION**

I, Ashley L. Kirk, declare as follows:

1. I am an attorney licensed to practice in Arizona. I am the managing attorney of the law firm of Hayes Soloway P.C., with offices at 3450 E. Sunrise Drive, Suite 140, Tucson, Arizona 85718.

2. I am an attorney who represents Tim Oey and Jane Doe Oey (Pat Oey), in a matter filed before the United States District Court for the District of Arizona. *The Freecycle Network, Inc., v. Tim Oey and Jane Doe Oey*, Case No CIV06-173-TUC-RCC on April 4, 2006. That lawsuit has been assigned to the Honorable Raner C. Collins, United States District Court Judge. Plaintiff filed a motion for preliminary injunction on April 19, 2006.

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3. I am not representing Tim Oey or Jane Doe Oey (Pat Oey) *pro bono*.

4. On May 2, 2006 and May 3, 2006, I performed a Google group search attached as Tab 1; downloaded magazine articles critical of The Freecycle Network attached as Tab 2; downloaded a blog critical of The Freecycle Network attached as Tab 3; downloaded several pages of discussion groups critical of The Freecycle Network attached as Tab 4; and downloaded a Wikipedia article concerning The Freecycle Network attached as Tab 5.

DATED this 4th day of May, 2006.

HAYES SOLOWAY P.C.
3450 E. Sunrise Drive, Suite 140
Tucson, Arizona 85718

By: /s/Ashley L. Kirk
Ashley L. Kirk
Attorney for Defendants

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APPENDIX C - TAB 1



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freecycle

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Results 1 - 10 of 7,850 for **freecycle**. (0.16 seconds)

Sorted by **relevance** [Sort by date](#)

Groups matching **freecycle**

-  [HRM_Freebies](#) - 48 members - Last message: 15 hours ago
Description: This is a group for people in the HRM area who are ...
-  [Lavergne FreeCycle](#) - 26 members - Last message: Nov 17 2005
Description: Welcome to the **Freecycle** Network, where one person's ...

[37 more »](#)

Damage Control at **Freecycle**? REPOST

... 15 Mar 2005 21:19:24 -0700, Jules Striker <"Kristian Damgaard"> wrote: The comments from MS appeared in the messages section for Edmonton **Freecycle** just now ...
[edm.forsale](#) - Mar 28, 2:28 pm by arielv2@37.com - 92 messages - 48 authors

Freecycle/business? Or Scam for Moderators? CRA To Investigate ...

From: "The Free World" <thefreeworldrecyclinggr...@gmail.com> Newsgroups: can.general
Subject: Deron Beal **freecycle** \$150,000 Date: 22 Apr 2005 08:47:00 -0700 ...
[edm.general](#) - Mar 11, 11:46 am by Ariadne - 63 messages - 32 authors

Freecycle in Wales

Freecycle in Wales Report Date : 30 October 2005 * * * * * **Freecycle** -
<http://www.freecycle.org/> The **Freecycle** Network is a worldwide movement of ...
[uk.environment](#) - Oct 30 2005, 1:06 pm by d...@rren.cymraeg.org - 2 messages - 2 authors

In The News **freecycle** Being Sued!

In The News (**freecycle**) Being Sued! At present **freecycle** is in a court battle and being sued by FreecycleSunnyvale for damages incurred ...
[alt.recovery.clutter](#) - Feb 5, 2:59 am by xfreecyclex - 2 messages - 2 authors

Deron Beal **freecycle** \$150,000

Deron Beal **freecycle** \$150,000 Imagine this Deron Beal the creator of **freecycle** is no longer running a free network. And he is the only salaried staff. ...
[misc.consumers.frugal-living](#) - Apr 22 2005, 10:20 pm by The Free World - 3 messages - 3 authors

Huckster for **Freecycle**, Now ADMITS Getting Camera, and Who ...

... Was James D, the second-hand dealer removed as a moderator by the others running **freecycle**, because of all the bad publicity he and Bax are generating? ...
[edm.forsale](#) - Feb 15, 1:27 pm by KennyMcVaySOB - 334 messages - 79 authors

Greediest **freecycle** moo to date

Freecycle is full of parents and breeders, some of them greedy. Of course it's good when parents on **freecycle** offer clothes when ...
[alt.support.childfree](#) - Feb 16, 4:52 pm by Terry Lomax - 2 messages - 1 author

Is **Freecycle** Run As A Business?

... That's right - **Freecycle** is *not* for selling or trading items. So if I want to trade my items for a tax receipt, **Freecycle**'s not the way to do it. ...

[edm.general](#) - Mar 15 2005, 11:04 pm by Bart Oleksy - 62 messages - 24 authors

FT: Freecycle - Bargains from cyberspace free for the asking

That is the idea behind **Freecycle**, a network of internet-based giveaway clubs that is gaining hundreds of thousands of new members around the world every month ...

[alt.marketplace.online.ebay](#) - Oct 29 2004, 1:00 pm by Sufaud - 1 message - 1 author

FBI/IRS complaints against freecycle fraud

<https://www.ifccfbi.gov> Yes Paul, a great site, I am sure there are hundreds if not thousands of **freecycle** members or former members who are currently aware ...

[alt.fan.cecil-adams](#) - Nov 16 2005, 12:51 am by NameNotRelea...@gmail.com - 1 message - 1 author

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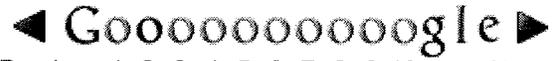
gov Yes Paul, a great site, I am sure there are hundreds if not thousands ...

alt.marketing.online.ebay - Nov 16 2005, 1:06 am by Widow - 13 messages - 6 authors

FreeCycle

Groups in hundreds of cities. From the main site <http://www.freecycle.org> you can select "West Coast" then San Diego. Yahoo! Groups : [sdfreecycleYahoo!](#) ... [sdnet.forsale](#) - Dec 6 2004, 9:48 pm by firechief - 3 messages - 3 authors

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... 15 Mar 2005 21:19:24 -0700, Jules Striker <"Kristian Damgaard" > wrote: The comments from MS appeared in the messages section for Edmonton **Freecycle** just now ...
ab.general - Mar 18 2005, 10:11 am by JohnMacDonald - 3 messages - 2 authors

Freecycle

There are also places like **Freecycle** where you might be able to hook up with one <http://www.freecycle.org> I'd just like to chime in with a plug for **Freecycle!** ...
rec.pets.cats.anecdotes - Oct 21 2004, 11:40 pm by Yoj - 10 messages - 7 authors

For Moos, "Freecycle" = "Freeload"

I love the idea of **Freecycle** and I wish there were one in Santa Cruz. If I had time, I'd set it up myself (limiting the want-ads ...
alt.support.childfree - Apr 27 2004, 11:46 am by Veronique - 5 messages - 3 authors

Reduce, Reuse and FREEcycle!

... **Freecycle** is open to all individuals, organizations & businesses who want to "recycle" that unneeded item rather than throw it away. ...
misc.consumers.frugal-living - Apr 27 2004, 7:00 am by Eric Snyder - 1 message - 1 author

Damage Control at Freecycle?

The comments from MS appeared in the messages section for Edmonton **Freecycle** just now, so thought more people giving comments will be constructive. ...
edm.forsale - Jan 21, 5:46 pm by Lisa McVay-Henske - 4 messages - 4 authors

HAMILTON FREECYCLE

HAMILTON **FREECYCLE** Welcome to Hamilton **Freecycle**, I hope you have a great time freecycling! To start sending messages to members ...
hamilton.buysell - Jun 29 2004, 8:22 pm by LIMEYNO1 - 1 message - 1 author

freecycle

... things (not junk) for which I have no further need but I was barred because I offended someone by suggesting that the stated ethos of **Freecycle** was "changing ...
uk.d-i-y - Mar 8, 2:42 pm by Stuart - 24 messages - 17 authors

OT: Freecycle

... space. <http://www.freecycle.org> The worldwide (!) **Freecycle** Network is made up of many individual groups across the globe. It's ...
alt.music.michael-jackson - May 5 2004, 12:00 am by Sarina - 1 message - 1 author

freecycle

The worldwide (!) **Freecycle** Network is made up of many individual groups across the globe. It's a grassroots movement of people ...
alt.consumers.free-stuff - May 14 2004, 7:09 am by Ashara - 1 message - 1 author

Give to Charities, Not Freecycle=WARNING! - Repost

Aparently you didnt see the big article in the sun 9 days ago again praising the **Freecycle** group. ... Something must be really rotten at Edmonton **Freecycle**. ... **edm.general** - Oct 18 2005, 11:48 pm by The Helpful One - 71 messages - 35 authors

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Results **31 - 40** of 7,820 for **freecycle**. (0.21 seconds)

Sorted by relevance [Sort by date](#)

Freecycle.org

The **freecycle** group is discouraging the use of curb alerts, though, although I understand it is still the custom with a few groups. ... <http://www.freecycle.org>
alt.recovery.clutter - Jan 16 2005, 9:09 pm by Piper - 2 messages - 2 authors

OT - Freecycle Challenge

... Mary (Idaho to Oregon via Montana)
<http://community.webshots.com/user/mardor1948>
I finally got around to looking into **Freecycle** in my area and attempted to ...
rec.crafts.textiles.quilting - Feb 2, 11:04 pm by maryd - 13 messages - 9 authors

Freecycle Leinster

I am pleased to announce Leinster **Freecycle**. ... If someone is interested in starting up **Freecycle** in one of the other areas, feel free! ...
alt.mothers - Nov 14 2004, 4:03 pm by Irish Marie - 9 messages - 4 authors

freecycle (was Re: Free Punching Bag)

I just joined my local **freecycle** group, and it is moderated. ... another suggestion would be to list it on a local **Freecycle** <http://www.freecycle.org/> list. ...
misc.consumers.frugal-living - Jul 17 2004, 3:35 pm by Jane Sitton - 39 messages - 18 authors

Ottawa Freecycle: Turning Trash Into Treasure

FOR IMMEDIATE RELEASE: Ottawa **Freecycle**: Turning Trash Into Treasure ...
ont.general - Mar 2 2004, 4:48 pm by Eric Snyder - 2 messages - 1 author

First Freecycle experience a success!

Hi Trina et al: I'm collecting **Freecycle** "success" stories to be used on an upcoming TV interview. Would you mind send your **Freecycle** ...
alt.recovery.clutter - Jan 5 2005, 4:45 am by egstcm - 4 messages - 4 authors

Got junque? Freecycle it.

Freecycle <http://www.freecycle.org> is an interesting concept. Got junk? Is it possibly interesting to others? Post what you got and see who will take it away. ...
rec.arts.sf.fandom - Oct 28 2003, 3:19 pm by yeltrabn...@email.com - 4 messages - 3 authors

Diesel trucks on Freecycle

Sorry you can't think that way. Actually, Vegas has two fantastic **freecycle** groups. ... It's just all in the **freecycle** and Christmas spirit. ...
misc.transport.trucking - Dec 17 2005, 5:47 pm by gashauler - 10 messages - 5 authors

Pre-FreeCycle

guy.k...@zetnet.co.uk said... Before I **FreeCycle** it - I've a spare Sony car radio and 10-disc CD player. Anyone want it? Excited squeals... ...
uk.rec.sheds - Dec 3 2005, 6:36 pm by Sena - 36 messages - 6 authors

Childfree moment of the day--from Freecycle!

Okay, so if you may have already read my post about giving tarps ...
Page 11 of 30

to get back in practice, to people from the Austin **Freecycle** list. ...
alt.support.childfree - May 21 2004, 9:55 pm by Atalanta Pendragonne - 2
messages - 2 authors

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Freecycle

Margie, you sound like my brother - he won't use **Freecycle** because he says he'd have to tell people when to come when he's home and that's like advertising ...
[sci.med.transcription](#) - Oct 9 2005, 5:46 pm by Liz - 33 messages - 17 authors

Rant - Freecycle

... And all good makes, not cheap stuff. So since of little value but wanting it to be used rather than scrapped, I decided to use **Freecycle**. ...
[argonet.zfc](#) - Feb 19, 4:55 pm by Dave Plowman (News) - 1 message - 1 author

OT: Freecycle (was New Yahoo Group - Greedbay)

Bertha mentioned the **Freecycle** Yahoo lists... Anyone else utilize **freecycle**? We have half a dozen in and around Phoenix in the various suburbs. ...
[alt.marketing.online.ebay](#) - Jan 24 2005, 7:18 pm by Lumpy - 15 messages - 8 authors

freecycle

... away. beats trashing up our earth, anyday. <http://www.freecycle.org/> -- everything is a goat : <http://www.goatism.org/logic.htm>
[alt.gathering.rainbow](#) - Feb 16, 3:03 am by heyzeus - 1 message - 1 author

Damage Control at Freecycle? Repost

The comments from MS appeared in the messages section for Edmonton **Freecycle** just now, so thought more people giving comments will be constructive. ...
[edm.forsale](#) - Mar 5, 2:14 pm by DaveJolly - 2 messages - 2 authors

Could 4paperplus sue freecycle.org? The original freecycle(tm)

Could 4paperplus sue **freecycle.org**? The original **freecycle(tm)** **FreeCycle** - a non profit service designed to help the environment ...
[misc.consumers.frugal-living](#) - Apr 26, 8:29 am by freecycled.blogspot.com - 1 message - 1 author

Freecycle changing the world one gift at a time

Freecycle changing the world one gift at a time <http://freecycle.org/> I don't know about changing the world but, I like getting or giving free stuff! ...
[alt.dumpster](#) - Jul 20 2004, 11:06 pm by Bear - 4 messages - 4 authors

Freecycle - is it worth the effort?

I know there are some dedicated freecyclers in the group, and you will probably answer in the positive. BUT... I thought I'd try ...
[aus.family](#) - Mar 21, 8:41 am by Narelle - 6 messages - 4 authors

www.freecycle.org

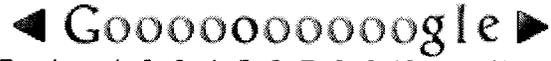
... I just *love* **Freecycle**! Actually its www.freecycle.org news:41F44D9A.3070801@usa.net... Take it to www.freecycle.com Ok guys, that's enough. ...
[alt.hvac](#) - Jan 23 2005, 9:32 pm by Noon-Air - 19 messages - 10 authors

freecycle

I am part of cardiffs but can not find others. Take at look on <http://www.freecycle.org>

[alt.consumers.uk-freebies](#) - Oct 17 2005, 5:24 pm by Paul Haslam - 5 messages - 3 authors

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Reply: Freecycle

... I spent this morning helping at the Napanee landfill site, the local **freecycle** groups (I am the owner of one) had an area set up to divert things from the ...

ODSP Fireside - Oct 22 2005, 3:55 pm by Rosie - 15 messages - 8 authors

Give to Charities, Not Edmonton Freecycle=WARNING!

With CRA now getting interested in some of the people running **Freecycle**, we can expect interesting changes soon. If you were honest ...

calgary.general - Feb 26, 11:19 am by KATO - 9 messages - 6 authors

Give to Charities, Not Edmonton Freecycle=WARNING!

If you could be bothered to read the **freecycle.org** rules you would understand why those things (trades and services) aren't allowed on **Freecycle**. ...

edm.general - Dec 29 2005, 7:40 am by Fakename - 3 messages - 3 authors

Freecycle

Hey all, I don't know if any of you have heard of this (I hadn't until yesterday).

Freecycle is a neat online project for getting rid of unwanted items. ...

comp.sys.cbm - Jan 25 2005, 9:02 pm by Leif Bloomquist - 2 messages - 2 authors

Who mentioned Freecycle.org?

someone said they loved **Freecycle**. ... Hey Beth, I was noting your mention of a waterbed,

because it all comes around to why I found **Freecycle** so GREAT. ...

alt.recovery.clutter - Jun 12 2004, 11:29 pm by PattyC - 12 messages - 10 authors

Freecycle Moo Wants Free Hot Tub

Freecycle is a mooch-fest in my city, too. ... Sunfell In my most recent Ann Arbor

Freecycle

email digest, there were ten items "wanted" and four offers. ...

alt.support.childfree - May 14 2004, 5:30 am by snerdie - 22 messages - 17 authors

dam, freecycle was a scam, and man are they in trouble now

FBI/IRS complaints against **freecycle** fraud <https://www.ifccfbi.gov> Yes Paul, a great site, I am sure there are hundreds if not thousands of **freecycle** members ...

alt.marketplace.online.ebay - Nov 16 2005, 1:00 am by

NameNotRelea...@gmail.com - 1 message - 1 author

Deron Beal freecycle \$150,000

... Declawed fronts and spayed. Shy demure. Deron Beal **freecycle** \$150,000

Imagine this

Deron Beal the creator of **freecycle** is no longer running a free network. ...

tor.general - Apr 23 2005, 1:46 am by sn0ball0 - 4 messages - 3 authors

Freecycle

It's part of the **Freecycle** network and you can let fellow Mancunians know what "rubbish" you want to get rid of! <http://groups.yahoo> ...

uk.local.manchester - Oct 17 2004, 8:13 pm by Fred - 1 message - 1 author

After Freecycle A New FRUGAL Concept in the Works

Freecycle used to be good, I got rid of a ton of stuff. On **freecycle** used to

be about not filling land fills, now it's a social welfare program. ...
[mtl.general](#) - Oct 4 2005, 5:24 pm by Kat - 5 messages - 4 authors

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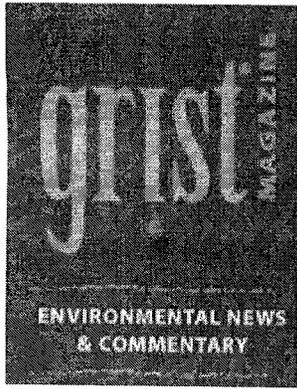
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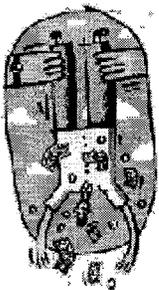
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ETC.

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Waste Lines

As Freecycle grows, idealism and reality collide

BY MATT WEISER

19 May 2005

Got a garage full of stuff you don't need? Try posting it on Freecycle. No Freecycle group in your area? Start your own.



A new deal has some Freecyclers down in the dumps.

This has been the happy mantra of Freecyclers since the grassroots online exchange started up in 2003. More than a million people all over the world have become members, via some 2,600 local groups. Thousands of tons of useful goods have been kept out of the garbage. The media has been charmed.

But behind the scenes at the Freecycle Network, as it's formally known, the honeymoon may be over. Founder and executive director Deron Beal recently accepted the network's first corporate support, in the form of a \$130,000 sponsorship from the largest garbage company in the U.S., Waste Management, Inc. While some say the move is necessary for success, others are crying "hypocrisy" and leaving by the score. Meanwhile, moderators of local Freecycle groups, which have long operated independently, are bristling at a move toward centralization. Has Freecycle run its course?

First, the funding: Beal says WM came to him with the sponsorship proposal in 2004. At the time, he was gearing up to secure the trademark on the Freecycle name. Success in that endeavor has been elusive: an unrelated Florida company beat Beal to the trademark office by just a few months. He plans to mount a legal challenge to prove he has a prior right to the name, and said the sponsorship money is critical to that battle. The first check arrived in February, and visitors to Freecycle.org will now find WM linked as a sponsor. Actually, as the only sponsor.

The money also allowed Beal to quit his day job and begin drawing a paycheck from Freecycle. He had been working for RISE, Inc., a Tucson, Ariz., nonprofit that combines recycling and job training.* Shifting to Freecycle full-time, he said, will mean better service for the network's 4,000 moderators and 1.2 million members. The money will also help improve the website, which has until recently been somewhat rudimentary.

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The garbage giant announced its sponsorship in late April and, says company spokesperson Heather Browne, plans to roll out a public-relations campaign that will urge people to cut down on waste by using Beal's creation. "We have to exhibit a daily commitment to environmental stewardship, and Freecycle allows us to be able to further exemplify that," Browne said.

Indeed, WM has a long history of funding environmental causes; it has been a leading sponsor of Earth Day for years. But in 1990, it was denied membership in the Environmental Grantmakers Association, the group of foundations whose support is critical to the movement. The association said WM had "engaged in a pattern of abusive corporate conduct involving repeated violations of both criminal and civil laws, with the effect of endangering and degrading the environment," the *Chronicle of Philanthropy* reported at the time.

Recent events suggest that the Houston, Texas-based company, which posted \$939 million in profits last year, hasn't changed. For nearly 20 years, it has been plagued by scandal, from accounting misdeeds to chronic pollution problems to allegations of mob ties. In 1999, for example, it was accused of illegally dumping medical waste in a Virginia landfill not suited for that purpose; in 2003, Texas levied its largest-ever landfill fine for noxious odors at a WM dump near Austin; and this spring, fire erupted underground at a WM-operated dump in Hawaii, where state officials also found fluid leakage and said the dump had been overfilled, making it unstable.

Waste Management, Want Not

The new sponsor hardly seems a good fit for a movement like Freecycle, some members say. While the community of local moderators, known as the Modsquad, usually gets to vote on important administrative matters, it wasn't allowed to vote on the grant. Beal said there wasn't time, and that it wouldn't be appropriate to have moderators vote on such "binding" matters.

"I certainly felt a bit deceived," said Eric Burke, founder of the Freecycle group in Anderson, S.C. "Had the sponsor been an environmental benefactor, a software company, or just about anyone else, I think most of the [local group] moderators would have seen it as good news."

Since learning of the WM grant, Burke has left Freecycle and founded [FreeSharing.org](http://www.FreeSharing.org), one of several splinter groups that serve as refuge for disillusioned Freecyclers. Accurately measuring the dissent is difficult; one former moderator estimates that hundreds of local groups have left the network.

"It's terribly disappointing," said fellow defector Rosemary Hill, who founded the Freecycle group in Bakersfield, Calif. She, too, has left the network and renamed her group. "Freecycle was a good thing, a wonderful thing. I think it's all about money now."



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But others say the sponsorship is not such a bad deal. "Waste Management does not have a good reputation in Alabama," acknowledged Tami Tilkin, Freecycle moderator in Birmingham. "The name is practically synonymous with a notorious hazardous waste landfill in the western part of the state. However, I don't think the relationship ... is a negative association. As I see it, Waste Management is paying money to 'greenwash' their image a bit. They have not bought control of Freecycle."

Beal echoed that, saying WM's sponsorship allows the company to claim it is addressing all three "R's" in the recycling triangle, including reuse. "They have the right to tell the world what a wonderful thing they are doing in support of us," he said. "We have our first underwriter, and we're tickled about what that enables us to do for our members."

This conflict illustrates that environmental grantmaking is a "messy business," said Robert Brulle, associate professor of sociology and environmental science at Drexel University in Philadelphia. "Corporations only give to enhance their public image. That's sort of a general rule, and there's nothing surprising about that," he said, adding that many green groups rely on grants from corporations with imperfect records. The key, Brulle said, is whether the gift comes with strings attached, and whether it reflects the first step toward gaining a controlling influence. In this case, he pointed out, "on the basis of one grant, it's kind of hard to say." However, past appointments of WM executives to the boards of the National Audubon Society and the National Wildlife Federation have generated controversy.

Fast, Cheap ... and Out of Control?

Control is also at stake in the other major issue currently eating at Freecyclers. Most local groups operate under an umbrella run by Yahoo!, with the moderator having control over member info and transactions. But last summer, Beal required every local moderator to add him as an "owner" with full moderator powers. Beal said this was essential, because some moderators had abandoned their groups, or failed to control spammers.

Though the Modsquad approved Beal's change, many moderators worried they'd be giving him power to collect private information, distribute advertising, and take over their groups at any time. Beal said he has no such plans. "I only initiate the bare minimum rules that we all need to follow for this thing to work," he said.

While Freecycle functions like an online discussion forum, its structure is unique. Such forums are often like a train; they might add more cars, but the train remains under the founder's control. For example, [Craigslist](#), the wildly popular discussion and advertising forum born in the San Francisco Bay Area, expands to serve other cities only when the founders see sufficient demand; each new city is moderated by Craigslist, not a local person. In other words, Craigslist is always driving the train.

Freecycle, on the other hand, basically said, "Take the name, but drive your own train." So it became a community of small discussion groups, each with its own conductor. Now, two years later, it's hardly surprising that some people don't want another conductor on board. Those who refuse to add Beal as moderator have been told to stop using the Freecycle name, and in some cases, he has convinced Yahoo! to shut down groups that don't

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Despite Freecycle's growing pains, Tilkin said most moderators and users remain unruffled by the changes. She calls Beal a "wonderful role model" who has guided Freecycle through incredible growth, while keeping its purpose intact. "It's not the same little grassroots effort it was, but Freecycle remains true to its mission," she said. "It provides a 100 percent free service to keep usable items out of landfills."

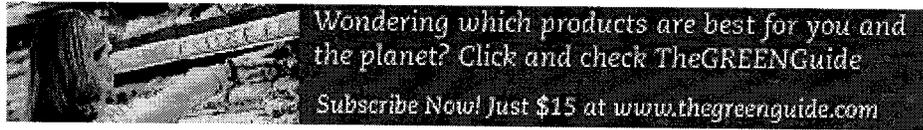
And though many former boosters are now feeling down in the dumps about Freecycle, Beal tries to remain positive. "There's a hell of a lot of flying by the seat of your pants going on, and we're doing the best we can to work with all the interests and wishes that are out there," he said. "It really is half a miracle that this is working at all."

*[Correction, 20 May 2005: This article originally stated that RISE, Inc., is based in Minnesota.]

Matt Weiser is a freelance writer based in Sacramento, Calif.

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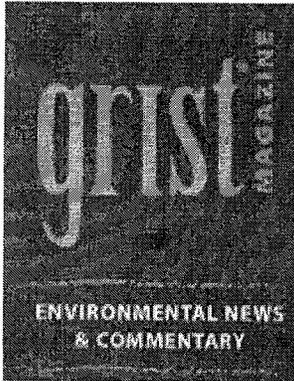
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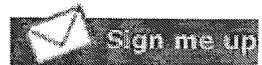


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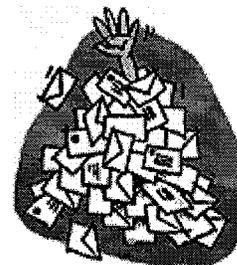
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I Want to Ride My Freecycle

Freecycle founder, fans, and defectors talk back

27 May 2005

*Our article on **Freecycle's** growing pains, by Matt Weiser, elicited a torrent of passionate response, including a lengthy letter from **Freecycle** founder **Deron Beal**. Here's a sample of the commentary, and there's a whole lot more posted in Gristmill, our blog.*



Write your own letter.

Dear Editor:

After having read your article about **Freecycle**, I felt compelled to write to you. I have a real issue with how some members of the press feel the need to tear down everything they come across. I do realize that both sides of the story need to be told, but I do not understand why one side -- usually the downside -- is almost always

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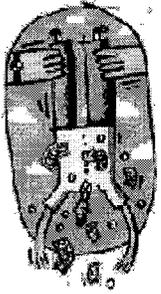
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FROM THE ARCHIVE

Taking Umbrage. Re...



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given more space than the other. Maybe because the naysayers like to say "nay" so much and so loudly?

I, for one, think it would have made a much more compelling story to focus on just how much the members of **Freecycle** are keeping out of landfills, instead of how someone wasn't happy and left the group, only to start up his own group. I want to hear about all the items that aren't clogging up our streams and rivers. I want to hear how someone's life was turned around because a computer was given to them when they were homebound and without work. I want to hear how someone was burned out of their home and bombarded with goods from fellow **Freecycle** members, giving them everything needed to start over. I'm ready to see positive press for a change!

Freecycle and **Deron Beal**, as well as all of the moderators who are properly running their groups and the countless volunteers who keep the organization going, are doing a great and fantastic thing. I intend to keep reminding the press of this every chance I get.

Cara Crosby Miller
Moderator/Owner, Pine Bluff **Freecycle**
Pine Bluff, Ark.

Dear Editor:

Just a note to thank Matt Weiser for his thought-provoking and courageous article on the **Freecycle** network.

I happen to be the very first **Freecycle** moderator who ever "jumped ship." Don't let **Deron** feed you the lies that most of us were removed or asked to step down. The truth is we chose to break away from **Freecycle** because we didn't like what we were seeing. Many of us were chastised or threatened for speaking up.

accuse Umbra of miss mark, and more.

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I took my Eugene, Ore., list of over 800 members (at that time), changed our list name, and announced that we were no longer affiliated with **Freecycle**. It was the best move I could have possibly made, and I have never regretted it.

Deron, however, immediately snapped up my old list name and appointed himself moderator, pointing folks to his list with a link on his national website. He then advertised for a new moderator and has used that list to "compete" with us ever since. If this sounds like someone who was only in this for the sake of recycling, or who had only good intentions for our community, then I would hate to see how someone in it purely for selfish reasons would act!

Annie
Owner/Moderator, Eugene FreeRecycle
Eugene, Ore.

Dear Editor:

This is a very solid and good piece of reporting. I think Matt Weiser struck a good balance between the opportunities and drawbacks of getting funding from Waste Management.

Robert J. Brulle, Ph.D.
Drexel University
Philadelphia, Penn.

Editor's Note: Brulle was quoted in Weiser's story.

*The following letter from **Freecycle** founder **Deron Beal** is posted in unabridged form on our blog.*

Dear Editor:

As the founder and executive director of the **Freecycle** Network, I applaud your desire to cover the challenges that a nonprofit organization faces in seeking underwriters/funding for its cause -- particularly one like ours, with 1,250,000 members, no budget, and no staff, at least until two months ago. I do, however, feel compelled to set the record straight on some of the issues addressed in your article.

You claimed that groups are "crying 'hypocrisy' and leaving by the score" as a result of our receiving our first-ever substantial funding -- aside from my own personal savings -- from our first-ever underwriter, Waste Management and the Recycle America Alliance. That I weighed carefully the decision to accept external underwriting is very true. But that groups are "leaving by the score" couldn't be further from the case. I can count on one hand the groups that have left, out of our several thousand local groups in over 50 countries worldwide.

Any local moderator would confirm this, as local moderators are all members of a worldwide moderator group which we use to trade thoughts and ideas with each other -- no secrets here, believe me. Also, in [Matt] Weiser's interview with me, he himself stated that the fact that groups actually were not leaving was also reflected by his own research and is certainly reflected by the exuberant growth in groups across the globe.

In regards to our trademark, you say, "Success in that endeavor has been elusive: an unrelated Florida company beat **Beal** to the trademark office by just a few months." This is an "almost truth," but tainted by misinformation. Actually we *have* a trademark whether or not another company applies a couple months before us for "future use." The company in Florida that applied for future use has a snowball's chance in Miami of being registered, based on any competent copyright and trademark lawyer's opinion. So, actually, we are in very good shape trademark-wise and success is not at all "elusive," but rather all but assured.

You mention that my previous day job was in "recycling and job training, run by Rise, Inc., a Minnesota-based nonprofit." The nonprofit is called Rise, but last time I checked it was a nice, little local recycling group right here in Tucson, Ariz.

You refer to past legal issues Waste Management has had. This is where I believe the article could have sprouted some interesting wings. It's a dilemma that multinationals and nonprofits face together. A multinational like WM knows it will be labeled "greenwasher" by supporting a cause that eliminates waste from its own landfills and reduces its own bottom line. And a nonprofit knows that will inevitably lead to articles such as your own. What does it mean for a multinational corporation to be willing to take a huge risk? This would have been an interesting article on corporate civic responsibility.

In making the difficult decision as to whether or not to accept underwriter funding, please note that I also consulted a nonprofit ethicist who does contract work for green mutual funds, and he stated that WM and the Recycle America Alliance were appropriate as funders.

I was misquoted as saying that there wasn't time to ask the moderators if they would vote for or against such support. The fact is that, like all other fiduciary issues with all major conservation nonprofits, including *Grist*, those liable for the results must vote for or against binding contracts: this means the **Freecycle** Network's board. All the time in the world doesn't change that situation. What was unfortunate was that the announcement of WM's support came out in the press without my knowledge before I was able to talk to the moderators.

As regards "control" you stated, "[L]ast summer, **Beal** required every local moderator to add him as an 'owner' with full moderator powers. **Beal** said this was essential, because some moderators had abandoned their groups.

or failed to control spammers." In reality I didn't require this of anyone, nor am I an owner of any group but my own local group. Moderators felt it made sense to have a backup address as a co-owner of every real "**Freecycle**" group worldwide.

A further quote: "Those who refuse to add **Beal** as moderator have been told to stop using the **Freecycle** name, and in some cases, he has convinced Yahoo! to shut down groups that don't comply." This is simply not correct. The only local group I am a moderator of is my own local group, as explained above. There is a detailed new approval process run by other volunteer moderators and there have always been rules which are required of all groups.

And finally, a parting quote from you: "And though many former boosters are now feeling down in the dumps about **Freecycle**, **Beal** tries to remain positive." Well, duh! As we continue to grow by leaps and bounds (we are growing by 100,000+ members a month), as we continue to keep 50 tons a day out of landfills, and as the humblest among us becomes a philanthropist/gifter, I find strength in these countless acts of beauty. We are creating a worldwide gift economy with a paid staff of one. In every program must come a little static. But I'm hearing lots of beautiful music, I assure you -- no "trying" required.

By the way, I still think *Grist* is very cool, and urge you to reference other *Grist* articles about **Freecycle** that present a much different picture.

Sincerely,

Deron Beal

Founder & Executive Director, The **Freecycle** Network
Tucson, Ariz.

Matt Weiser replies:

Case 4:06-cv-00173-RCC Document 25-14 Filed 05/05/2006 Page 28 of 30

<http://72.14.203.104/search?q=cache:YENzqgb4I60J:www.grist.org/etc/letters/2005/05/27/letters-freecycle/+...> 5/2/2006

*The energetic response to my story makes it clear that **Freecycle's** growing pains raise real concerns for many of its followers. My goal was merely to get people thinking about these concerns, and I must say **Deron Beal** was refreshingly cooperative and candid when I interviewed him.*

*However, several points in his letter demand a response. He is correct that we goofed on the location of Rise, Inc., an editing mistake that we promptly corrected. But he also claims that I told him during our interview that groups were not leaving **Freecycle**. That is not true. At that time I knew of numerous groups that had already left, and I later learned of many more. He also claims that he never told me there wasn't time for the moderators to vote on the Waste Management sponsorship. In fact, that was his first explanation, and he only added the second (that moderators shouldn't vote on "binding" issues at all) after further discussion.*

I must also make it clear that the story is based upon contact with many moderators on both sides of the issue -- not just those quoted in the story. Thanks to all involved for sharing your opinions and time.

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