

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-98-

STATE OF MAINE,

Plaintiff

v.

MAINE CHILDREN AND FAMILY
CANCER AID, a Maine corporation,
GLENA ACKLEY, CENTERLINE
ASSOCIATES, INC., a Maine
corporation, and WILLIAM WELCH,

Defendants

VERIFIED COMPLAINT
(Injunctive Relief)

INTRODUCTION

1. This is an action under 5 M.R.S.A. § 194, which provides the Attorney General with the authority to enforce the due applications of funds contributed to public charities and to prevent breaches of trust in the administration of such funds, the Unfair Trade Practices Act, 5 M.R.S.A. §§ 206-216 (1989 and Supp. 1997) and the Charitable Solicitations Act, 9 M.R.S.A. §§ 5001-5016 (1980 and Supp. 1997) to enjoin Maine Children and Family Cancer Aid, Glena Ackley, Centerline Associates Inc., and William Welch ("Defendants") from engaging in unfair and deceptive fund raising practices, a permanent injunction, civil penalties, costs and attorneys fees.

2. This action arises from a course of conduct engaged in by the named Defendants as a result of which the public has been deceived into contributing funds to MCFCA, a public charity, under the belief that the contributed funds would be used to further MCFCA's stated charitable mission, namely, the provision of financial assistance to underinsured and uninsured Maine families with a member with cancer.

3. In fact, Defendants Ackley and MCFCA have paid eighty percent of the charitable contributions from the public to an unscrupulous professional fund raiser, wholly unsupervised by

by Defendants Ackley and MCFCA, who obtained contributions on MCFCA's behalf through fund raising efforts around the State of Maine grounded in misrepresentations and deceit. Defendants Ackley and MCFCA expended the majority of the remaining charitable funds on Defendant Ackley's salary and office expenses. Defendants Ackley and MCFCA have donated to financially needy cancer victims or their families less than five percent of the more than \$120,000 raised from the Maine public since July 1997. As a result of the Defendants' conduct, there has been a complete breach of public trust, charitable funds have been misapplied and MCFCA has failed to fulfill its charitable mission.

PARTIES AND JURISDICTION

4. Plaintiff State of Maine, a sovereign state, by and through the Attorney General, commences this action under 5 M.R.S.A. § § 206-214 (1989 and Supp. 1997), commonly known as the Unfair Trade Practices Act, and 9 M.R.S.A. § § 5001-5016 (1980 and Supp. 1997), commonly known as the Charitable Solicitations Act, to protect the public by preventing and restraining Defendants from engaging in violations of the Unfair Trade Practices Act and the Charitable Solicitations Act.

5. Defendant Maine Children and Family Cancer Aid is a charitable organization registered with the Maine Department of Professional and Financial Regulation and incorporated in the State of Maine. Its principal place of business is Saco, Maine.

6. Glena Ackley is the director and member of the board of directors of Maine Children and Family Cancer Aid. She resides in Saco, Maine.

7. Defendant Centerline Associates Inc. is a corporation duly incorporated under the laws of Maine with a principal place of business in Portland, Maine. Centerline Associates Inc. is registered to engage in fund raising in the State of Maine as a professional solicitor.

8. Defendant William Welch is the principal of Centerline Associates Inc. and resides in Saco, Maine. Defendant Welch is also a member of the board of directors of Maine Children and Family Cancer Aid.

JURISDICTION AND VENUE

9. This court has jurisdiction over this action pursuant to 5 M.R.S.A. §§ 194 and 209 , 4 M.R.S.A. § 105, and 9 M.R.S.A. § 5014.

10. Venue is properly laid in Kennebec County pursuant to 5 M.R.S.A. § 209.

STATUTORY BACKGROUND

Unfair Trade Practices Act

11. The operative provision of the Unfair Trade Practices Act (“UTPA”), 5 M.R.S.A. § 207, renders it unlawful to engage in unfair or deceptive acts or practices in the conduct of any trade or commerce. Intentional violations of the UTPA are subject to a penalty of up to \$10,000 per violation.

Charitable Solicitations Act

12. The Charitable Solicitations Act, 9 M.R.S.A. § § 5001-5016 (1980 and Supp. 1997), regulates charitable fund raising by requiring professional solicitors (fundraisers) which intend to solicit contributions in this State on behalf of a charitable organization to register and file a financial statement with the Commissioner of Professional and Financial Regulation (“Commissioner”). 9 M.R.S.A. 5004.

13. A “charitable organization” is defined as any person which is or holds itself out to be organized or operated for any charitable purpose and which solicits, accepts or obtains contributions from the public for any charitable purpose. 9 M.R.S.A. § 5003(1) (Supp. 1997). “Charitable purpose” means “charitable, benevolent, educational, philanthropic, humane, patriotic or eleemosynary purpose.” 9 M.R.S.A. § 5003(2) (Supp. 1997).

14. A charitable organization which employs the services of a professional solicitor must file the results of completed fund raising campaigns, including the amount of contributions collected during the campaign, the total dollars that have been or will be expended on program services, the fund raising campaign and management within 30 days of the completion of each individual campaign.

15. All persons acting as a professional solicitor (must register and post bond in the amount of \$10,000 with the Commissioner before engaging in any fund raising activities on behalf of any charitable organization in the State. 9 M.R.S.A. § 5008(1) (Supp. 1997).

16. A true copy of each contract entered into between a professional solicitor and any charitable organization must be filed by the professional solicitor with the Commissioner prior to services being performed under the contract. 9 M.R.S.A. § 5009.

17. A professional solicitor must maintain accurate and complete books and records of his activities and must books and records available for inspection by the Attorney General for a period of three years after the conclusion of each specific instance in which he acts as a professional solicitor. 9 M.R.S.A. § 5008(2).

18. A professional solicitor must file an annual report with the commissioner which states the names and addresses of all charitable organizations for whom any solicitation was conducted, the total amount of funds raised and the amount of funds paid to the charitable organization. 9 M.R.S.A. §5008(3).

19. All persons acting as a professional solicitor must disclose, prior to requesting a contribution, his name and address and the name and address of the charity on behalf of which he is soliciting. In addition, a professional fund raising counsel or professional solicitor must also make the following statement prior to requesting a contribution:

“[name of fund raising counsel or solicitor] is a professional fund raiser.”

9 M.R.S.A. § 5012(2)(B)

20. No person, in the course of soliciting contributions, may use the name of any other person with the specific written consent of the other person. 9 M.R.S.A. § 5013(1). “Person” means “any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them. 9 M.R.S.A. § 5003(7)

21. Any violation of the Charitable Solicitations Act constitutes a violation of the UTPA. 9 M.R.S.A. § 5014.

22. Pursuant to 5 M.R.S.A. § 194, the Attorney General is authorized to enforce the due application of funds given or appropriated to public charities and to prevent breaches of trust in the administration of those funds.

FACTUAL BACKGROUND

23. Maine Children and Family Cancer Aid ("MCFCA") incorporated in the State of Maine in July 1997. It registered with the Department of Professional and Financial Regulation as a charitable organization on August 1, 1997. (Pulire Affidavit at 3).

24. MCFCA's stated mission is to "help ease the pain" for families with a member with cancer by providing as many families as possible with cash assistance that may be used for any purpose. A copy of MCFCA's mission statement is attached to this Complaint and made a part hereof as Exhibit A.

25. The founder and self-termed chief executive officer of MCFCA is Glena Ackley of Saco, Maine. The MCFCA office is located in her home. (Pulire Affidavit at 3).

26. On or about August 1997, MCFCA contracted orally with Centerline Associates of Waterboro, Maine ("Centerline") to conduct fundraising on its behalf. Maine Children and Family Cancer Aid is Centerline's sole client. (Pulire Affidavit at 13, 33 and 35).

27. Centerline, which registered with the State of Maine as a professional solicitor in November 1997, is operated by William Welch. Although the registration statement submitted by Centerline to the State of Maine is signed by John Welch, described by William Welch as his brother and the owner of Centerline, Centerline is under the direction and control of Defendant Welch. (Pulire Affidavit at 4, 5, 11, 15, 34; Griffen Affidavit at 15, 16); and Homans Affidavit at 7, 9).

28. The contract entered into between MCFCA and Centerline provides that eighty percent of the funds raised on behalf of MCFCA will be paid to Centerline and MCFCA will retain twenty percent of the funds raised. (Pulire Affidavit at 14, 17).

29. As of the end of May, 1998, Centerline had raised more than \$120,000 on behalf of

MCFCA. Pursuant to the terms of their contract, Centerline has been paid more than \$96,000 of that sum and MCFCA retained approximately \$34,000. (Pulire Affidavit at 42).

30. As of the end of May 1998, of the more than \$120,000 raised, only \$5500 had been distributed by MCFCA to families with a member with cancer. Fifteen hundred dollars was distributed to two families in December 1997 and four thousand dollars has been distributed in 1998 to four families. All of the 1998 distributions were made after the Defendants were contacted in April by Det. Pulire of the Department of the Attorney General. (Pulire Affidavit at 21, 22).

31. As of the end of April 1998, MCFCA's bank account had a total of \$4,374.61 on deposit. The account is controlled by Defendant Ackley. (Pulire Affidavit at 44, 15).

32. Centerline's fund raising efforts consist of telephone solicitations from offices established on behalf of MCFCA around the State of Maine. Centerline rents commercial space for a period of approximately three months and sets up a telemarketing office in the rented space. The offices are set up by Defendant Welch who also hires an office manager to run the fund raising efforts from each site. The office managers work under the direction and control of Defendant Welch. (Pulire Affidavit at 11; Griffen Affidavit at 7, 13, and 15; Homans Affidavit at 8).

33. Fund raising offices have been established in York, Portland, Brunswick, Newport, Augusta, Waterville, Bangor, Belfast, Rockland and South Portland. The York, Portland, Brunswick, and Waterville fund raising campaigns have concluded and those offices are closed. The South Portland campaign was initiated within the past two weeks. (Pulire Affidavit at 11; Homans Affidavit at 8,9).

34. The York fundraiser was the first effort by Centerline on behalf of MCFCA and consisted of a Red Sox alumni baseball game held in the fall of 1997. Cash contributions were solicited and advertisements were sold in a program distributed at the game. Twenty six thousand dollars was raised by the event. The other fund raising offices established by Defendants Welch and Centerline have focused on raising money by selling advertisements in a home health journal and tickets for raffles and other fund raising events, and by soliciting cash donations from the

public. (Labbe Affidavit at 3; Wahlstrom Affidavit at 3; Griffen at 7, 13 ; Pulire Affidavit at 6).

35. Telephone solicitors work at the fund raising offices and contact members of the public for cash donations and to purchase tickets and advertising space. A driver is dispatched from each fund raising office to pick up donations on a daily basis. The solicitors and drivers are supervised by the office managers hired by Defendants Welch and Centerline. (Griffen Affidavit at 7,13 ; Rothwell Affidavit at 3, 4, and 12; Homans Affidavit at 9).

36. The telephone solicitors are provided with a script, written by Defendants Centerline and Welch, to follow when they contact members of the public and businesses to make a contribution or purchase advertising. The script used in the Waterville solicitation, stated as follows:

Hi _____, How are you _____. I am on the Drummond Ave. with the Maine Children and Family Cancer Aid. The reason for my _____ call is we are having our ~~first ever~~ second annual fund drive for the kids here in Kennebec County with Cancer. Being a nonprofit is our soule (sic) way of raising funds for the underinsured and non-insured children and families with cancer. We are also putting together a Kennebec County Home Health Journal and directory. We'll be distributing 50,000 copies through the Kennebec County area. The directory will be put together by category of all _____ the buinsenses (sic) that are helping the kids this year and I was calling in _____ hopes that we could include _____ support for the children this year.

A copy of the Waterville fund raising script is attached hereto and made a part hereof as Exhibit B. The script for the Rockland fund raiser is similar to the Waterville script. A copy of the Rockland script is attached hereto and made a part hereof as Exhibit C.

37. As the scripts indicate, Defendants' solicitors represent that a home health journal will be distributed in various locations around each respective community. Advertisements in the journals range in price from \$55-1295. (Wahlstrom Affidavit at attachment).

38. The journal was created by Defendant Welch who obtained articles on a variety of health issues, ranging from AIDS prevention to broken bones, from the Internet and other public sources. (Pulire Affidavit at 7).

39. The Greater Portland journal was recently distributed by Centerline. Defendant Ackley believes that one thousand copies were printed and distributed. As soon as the journal was

distributed, the South Portland office was opened and the greater Portland area is being solicited for advertisements and donations for the second time in the past six months. (Pulire affidavit at 32; Homans Affidavit at 8).

40. The Greater Portland journal was not reviewed by Defendant Ackley prior to its publication nor has she reviewed a copy to date. Defendant Ackley is unaware of the locations where the journal was distributed. Defendant Welch informed her that one thousand copies of the journal was a standard number in the industry to distribute. (Pulire Affidavit at 32).

41. In addition to seeking monetary donations, Centerline also solicits gift certificates and merchandise from local businesses to be used as raffle prizes. (Griffin Affidavit at 13).

42. On at least one occasion, Centerline gave a gift certificate donated by a Brunswick restaurant to an employee for the employee's own use. (Rothwell Affidavit at 8). Centerline has also solicited merchandise and gift certificates desired by particular employees and allowed the employees to keep the merchandise. (Griffin Affidavit at 13).

43. Defendant Welch was informed of the practices described in the preceding paragraph. The employee who contacted Welch to inform him of the conduct was subsequently fired. (Griffin Affidavit at 16, 17, and 18).

44. Defendants routinely make misrepresentations to the public in the course of raising funds for MCFCA. The misrepresentations include, but are not limited to, the following:

- a. misrepresenting that contributions to MCFCA will be used to provide financial assistance to as many families with a cancer victim as possible;
- b. misrepresenting that MCFCA has an association with well known cancer programs such as the American Cancer Society; (Wahlstrom Affidavit at 5 ; Labbe Affidavit at 9; Grieco Affidavit at 3; Anthony Affidavit at 2, 4);
- c. misrepresenting the percentage of the funds raised that will be used to help people with cancer; (Labbe Affidavit at 4);
- d. misrepresenting the identity of recipients of financial assistance

from MCFCA, including misrepresenting that an eight year old boy with leukemia would receive free tickets and the proceeds of the Red Sox alumni baseball game, and make a personal appearance with his mother at home plate during the baseball game; (Rodrigue Affidavit at 5, 6, 9, 10; Morrisette Affidavit 1-5; Labbe Affidavit at 4; Exhibits B and C (scripts);

e. misrepresenting the identity of sponsors of fundraising events; (Wahlstrom Affidavit at 4,5);

f. misrepresenting the identity of sources of referrals to MCFCA of cancer patients and their families; (Grieco Affidavit at 3-7; Labbe Affidavit at 9,10, 15 and 16);

g. misrepresenting the number of Home Health Journals that will be distributed; (Pulire Affidavit at 32)

h. misrepresenting that a fund raiser is the second annual one, or that other fund raisers for MCFCA have been conducted previously, in that regional area; (Pulire Affidavit at 31 ; Wahlstrom Affidavit attachment; and Exhibits B and C); and

45. Centerline routinely fails to disclose to solicited individuals and businesses that it is a "professional charitable fundraiser". It also routinely fails to disclose its name and address or the address of MCFCA. (Labbe Affidavit at 17; Exhibits B and C).

46. Centerline does not maintain any books or records of its fund raising activities on behalf of MCFCA. It also does not maintain a written copy of the contract entered into with MCFCA and did not file a copy of the contract with the Department of Professional and Financial Regulation. (Pulire Affidavit at 13).

47. Defendant Welch visits each fund raising office once each week in order to pick up the donations collected that week. He delivers the donations to Defendant Ackley who writes checks to Welch, for his forty five percent of the weekly take, and to Centerline's agents (office

managers, drivers, solicitors) for the remaining thirty five percent of Centerline's share. Welch meets with Ackley for approximately two hours per week. (Pulire Affidavit at 14,15).

48. With a single exception, Defendant Ackley does not visit or supervise the fund raising offices established around the state nor does she have any communication with the office managers or other fund raising staff. ((Pulire Affidavit at 37, 31).

49. Defendant Ackley did not review the fund raising scripts used by Centerline, which were drafted by Defendant Welch. Defendant Ackley had never seen a copy of a script used to raise funds on behalf of MCFCA until one was provided to her by Det. Pulire of the Department of the Attorney General. (Pulire Affidavit at 31).

50. Defendant Ackley is fully employed with non-MCFCA employment. Defendant Ackley is also the sole employee of MCFCA and pays herself compensation in the amount of \$ 500 per week. Although MCFCA is a corporation with a Board of Directors, Defendant Ackley determines the amount of her salary. (Pulire Affidavit at 36, 38).

51. The Board of Directors for MCFCA consists of Defendants Ackley and Welch, and three other individuals. The Board has never held a meeting. Defendant Ackley is the primary decision maker for MCFCA. (Pulire Affidavit at 38).

52. Defendant Ackley attributes the lack of funds distributed by MCFCA to a lack of applications for assistance received by MCFCA. For example, according to Defendant Ackley, no financial assistance was given out by MCFCA after its Portland area solicitation because no applications for assistance had been received. (Pulire Affidavit at 25).

53. Defendant Ackley has made no efforts on behalf of MCFCA, other than hiring Centerline, to publicize the existence of MCFCA and the availability of financial assistance for uninsured and underinsured families. Defendant Ackley has not made contact with any cancer organizations, physicians, hospitals or other entities that regularly come into contact with cancer victims and their families nor has she established any semblance of a referral system by which eligible families could be put in touch with MCFCA. (Pulire Affidavit at 27; Homans Affidavit at

4,-6).

54. Defendant Ackley relies solely on the issuance of press releases issued by Centerline to notify the public of MCFCA's existence. Defendant Ackley does not know how many press releases, drafted by Defendant Welch, were released or how many such releases were printed in area newspapers. ((Pulire Affidavit at 26).

55. Defendant Ackley does not restrict financial assistance from MCFCA to families with a cancer victim. Defendant Ackley considers anyone with a critical illness to be eligible for MCFCA's assistance, despite the fact that MCFCA's mission statement, which she drafted, and all solicitation materials state that MCFCA exists to provide cash assistance to families with a cancer victim. (Pulire Affidavit at 40).

56. Defendants Ackley and MCFCA failed to file financial reports with the Commissioner of Professional and Financial Regulation within 30 days of the close of each fund raising event. (Homans Affidavit at 3).

COUNT ONE

(Abuse of Funds Raised on Behalf of Charitable Organization/Failure to Fulfill Charitable Mission/Defendants Ackley and MCFCA)

57. Plaintiff repeats, realleges and incorporates herein by reference 1 through 56 of this Complaint.

58. Defendants Ackley and MCFCA negligently and recklessly failed to fulfill the stated charitable mission of MCFCA and abused the funds raised on behalf of MCFCA by entering into a long term contract pursuant to which eighty percent of the funds contributed by the public are paid to a professional solicitor, by Defendant Ackley taking an unreasonably large salary in relation to the amount of money used to fulfill the charitable mission, by failing to make any substantive effort to educate the public about MCFCA or establish a system under which eligible individuals could be referred to MCFCA and by donating less than five percent of the funds raised from the public to families with a member with cancer.

59. Defendants Ackley and MCFCA's conduct constitutes a misapplication of funds given or appropriated to a public charity and a breach of the public trust in the administration of those funds, all in violation of 5 M.R.S.A. §194.

COUNT TWO

(Misrepresentations/Defendants MCFCA and Ackley)

60. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1 through 59 of this Complaint.

61. Defendants Ackley and MCFCA's practice of misrepresenting to the public that funds raised on behalf of MCFCA will be used to provide financial assistance to as many families with a cancer victim as possible constitutes a pattern or practice of unfair and deceptive conduct in violation of 5 M.R.S.A. § 207.

COUNT THREE

(Misrepresentations/Defendants Centerline and Welch)

62. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1 through 61 of this Complaint.

63. Defendants' practice of making misrepresentations to potential donors, in the course of raising funds from the public, including, but not limited to misrepresenting: that funds donated to MCFCA will be used to provide financial assistance to as many families with a cancer victim as possible; that MCFCA has an association with better known cancer programs such as the American Cancer Society; the percentage of the funds raised that will be used to help people with cancer; the identity of recipients of financial assistance from MCFCA; the identity of sponsors of fundraising events; the number of Home Health Journals that will be distributed; and the number of other fund raisers for MCFCA that have been conducted previously in that regional area constitutes a pattern or practice of unfair and deceptive conduct in violation of 5 M.R.S.A. § 207.

64. Defendants' unlawful conduct as described herein is intentional.

COUNT FOUR

(Unauthorized Use of names/ Defendants Welch and Centerline)

65. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1 through 64 of this Complaint.

66. Defendants Welch and Centerline's practice of using the names of other charitable organizations in the course of soliciting contributions from the public without first obtaining the written consent of such organizations constitutes a pattern or practice of unfair and deceptive conduct in violation of 9 M.R.S.A. § 5013(1).

67. Defendants' violations of the Charitable Solicitations Act also constitute violations of the Unfair Trade Practices Act pursuant to 9 M.R.S.A. § 5014 (1980 and Supp 1997).

68. Defendants' conduct as described herein is intentional.

COUNT FIVE

(Failure to Make Mandatory Disclosures/Defendant Centerline)

69. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1 through 68 of this Complaint.

70. Defendant's failure to disclose, prior to requesting contributions: (a) the address of Maine Children and Family Cancer Aid ; (b) Centerline's name and business address; and (c) the fact that Centerline is a "professional charitable fundraiser", constitutes separate and distinct violations of the Charitable Solicitations Act, 9 M.R.S.A. §§ 5008(1)-(3) (Supp. 1997).

71. Defendants' violations of the Charitable Solicitations Act also constitute violations of the Unfair Trade Practices Act pursuant to 9 M.R.S.A. § 5014 (1980 and Supp 1997).

COUNT SIX

(Failure to File Maintain Financial Records/Defendants Centerline and Welch)

72. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1-71 of this Complaint.

73. Defendant Centerline's failure to maintain financial records of its fund raising

activities, as described in paragraph constitutes a violation of 9 M.R.S.A. § 5008(2).

74. Defendants' violations of the Charitable Solicitations Act also constitute violations of the Unfair Trade Practices Act pursuant to 9 M.R.S.A. § 5014 (1980 and Supp. 1997).

COUNT SEVEN

(Failure to Use Written Contract/Defendants Centerline and Welch)

75. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1-74 of this Complaint.

76. Defendants Welch and Centerline's failure to use a written contract to memorialize the agreement entered into with Defendant Maine Children and Family Cancer Aid constitutes a violation of 9 M.R.S.A. §5009.

77. Defendants' violations of the Charitable Solicitations Act also constitute violations of the Unfair Trade Practices Act pursuant to 9 M.R.S.A. §5014 (1980).

COUNT EIGHT

(Failure to File Copy of Contract/Defendants Centerline and Welch)

78. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1-77 of this Complaint.

79. Defendant Centerline's failure to file with the Commissioner a copy of the contract entered into with Defendant Maine Children and Family Cancer aid constitutes a violation of 9 M.R.S.A. §5009 .

80. Defendants' violations of the Charitable Solicitations Act also constitute violations of the Unfair Trade Practices Act pursuant to 9 M.R.S.A. §5014 (1980).

COUNT NINE

(Failure to File Fund Raising Campaign Reports/Defendants Ackley and MCFCA)

81. Plaintiff repeats, realleges and incorporates herein by reference paragraphs 1-80 of this Complaint.

82. Defendants Ackley and MCFCA's failure to file with the Commissioner the results of completed fund raising campaigns conducted by Centerline on MCFCA's behalf, including the amount of contributions collected during the campaign, the total dollars that have been or will be expended on program services, the fund raising campaign and management, within 30 days of completion of each individual campaign constitutes violations of 9 M.R.S.A. § 5005(4).

83. Defendants' violations of the Charitable Solicitations Act also constitute violations of the Unfair Trade Practices Act pursuant to 9 M.R.S.A. § 5014 (1980 and Supp 1997).

RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

1. Pursuant to 5 M.R.S.A. § 194:

A. Issue a preliminary and permanent injunction restraining the named Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise from engaging in any fund raising efforts on behalf of Defendant MCFCA or any other charitable organization unless such fund raising is conducted as an uncompensated volunteer for said organization;

B. Order Defendants MCFCA and Ackley to provide to the Department of the Attorney General, an accounting of all funds raised on behalf of Defendant MCFCA, including the manner in which the funds were dispersed;

C. Order the named Defendants to pay to the Department of the Attorney General all funds in their possession and control belonging to MCFCA, said funds to be transferred by the Department of the Attorney General to one or more Maine charitable organizations whose mission includes the provision of assistance to cancer victims and their families.

2. Pursuant to 5 M.R.S.A. § 209, issue a preliminary and permanent injunction:

A. restraining the named Defendants, their officers, agents, servants, employees, and attorneys and all persons in active concert or participation with them who receive actual notice of

the order by personal service or otherwise from conducting or otherwise participating in fund raising efforts on behalf of charitable and other not for profit organizations, with the exceptions of making personal financial contributions to such organizations and working as an uncompensated volunteer.

3. Order revocation of Defendant MCFCA's registration with the State of Maine as a charitable organization.
4. Order revocation of Defendant Centerline's registration with the State of Maine as a professional solicitor.
5. Order Defendants to pay restitution to all persons who were injured as a result of Defendants' unlawful conduct.
6. Order Defendants to pay civil penalties in an amount not to exceed \$10,000 for each intentional violation of the Unfair Trade Practices Act.
7. Order Defendants to pay Plaintiff's attorneys fees and costs of investigation and suit.
8. Order such other relief as may be necessary to ameliorate the effects of Defendants' unfair and deceptive practices.

I solemnly affirm upon knowledge, information and belief that the facts set forth in this Verified Complaint are true and that I believe them to be true.

Dated: *June 11, 1995*


ANDREW KETTERER
ATTORNEY GENERAL



AMY M. HOMANS
Assistant Attorney General
Public Protection Division
6 State House Station
Augusta, Maine 04333
(207) 626-8800

STATE OF MAINE
KENNEBEC, SS.

Personally appeared before me the above- named Amy M. Homans and swore upon information and belief that the facts set forth in the Verified Complaint are true and that she believes them to be true.



Notary Public/Attorney

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-98

STATE OF MAINE, }
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 Plaintiff }
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 v. }
 }
 Maine Children and Family Cancer Aid, }
 a Maine corporation, Glena Ackley, }
 Centerline Associates, Inc., a Maine }
 corporation, and William Welch, }
 }
 Defendants }

ORDER GRANTING
TEMPORARY RESTRAINING
ORDER WITHOUT NOTICE

This matter came to be heard on Plaintiff's request for a Temporary Restraining Order Without Notice. The Court, has reviewed the Verified Complaint, Exhibits and Affidavits presented by the Plaintiff. It appears to the Court that immediate and irreparable injury, loss and damage will result to Plaintiff before the adverse parties or their attorneys can be heard in opposition, in that if Defendants' violations of law, as set forth in the Complaint, continue unrestrained, an increasing number of members of the public will contribute money to the Defendants' under the misimpression, created by Defendants, that the funds will be used to provide financial assistance to families with a child with cancer and said funds will be continue to be misapplied by the Defendants. Accordingly, notice before granting this Temporary Restraining Order should not be required because the provision of notice will permit the Defendants to conceal or remove funds from the State or otherwise make them unavailable, thereby greatly impairing the

State's ability to obtain restitution for injured consumers or to apply funds to fulfill Defendant MCFCA's charitable mission.

This Court finds that:

1. The conduct sought to be enjoined is in violation of state law, specifically 5 M.R.S.A. sec. 207, 5 M.R.S.A. 194, and numerous provisions of the Charitable Solicitations Act, 9 M.R.S.A. 5001-5016;

2. Plaintiff has demonstrated a likelihood of success on the merits;

3. The public interest is not adversely affected by the granting of the Temporary Restraining Order; and

4. If the conduct complained of continues unrestrained, consumers will suffer irreparable harm in that;

a. The public trust will continue to be breached in that members of the public will be led to pay to Defendants charitable contributions which are being obtained by Defendants as a result of unfair and deceptive practices in violation of Maine law;

b. MCFCA's charitable mission, to provide financial assistance to as many families with a cancer victim as possible, will continue to be unfulfilled as a result of Defendants misapplication of charitable contributions; and

c. The likelihood that donors will ever obtain restitution from Defendants can fairly be described as minimal.

Therefore, on Plaintiff's motion, it is ORDERED that Defendants, their officers, agents, servants, employees and all persons in active concert with them are hereby restrained from :

1. Engaging in any fund raising efforts on behalf of Maine Children and Family Cancer Aid or any other charitable organization;
2. Violating any provision of the Unfair Trade Practices Act, 5 M.R.S.A. 206-216; and
3. Violating any provision of the Charitable Solicitations Act, 9 M.R.S.A. 5001-516.

It is further Ordered that Defendant Centerline's registration as a professional solicitor and Defendant Maine Children and Family Cancer Aid's registration as a charitable organization are suspended.

Nothing in this Order shall prohibit Defendants from conducting the rubber duck race in the Kenduskeag Stream in Bangor scheduled for June 13, 1998 or from distributing prizes to members of the public who purchased tickets for the event, except that Defendant shall not sell any additional tickets or otherwise engage in fund raising on or after the day of the event.

It is further Ordered that Plaintiff's Motion for Preliminary Injunction shall be heard before this Court at the Kennebec County Courthouse on June 23, 1998 at 1:00 ~~PM~~/PM.

This Temporary Restraining Order Without Notice is issued without the requirement of security, which is waived pursuant to M.R.Civ. P. 65(c) for good cause, namely, the Plaintiff is the State of Maine.

C-23-98


Justice, Maine Superior Court

A TRUE COPY

ATTEST:



Nancy A. Desjardins
Clerk of Courts

AFFIDAVIT OF KATHY RODRIGUE

I, Kathy Rodrigue, being duly sworn, do depose and say on personal knowledge :

1. My name is Kathy Rodrigue. My husband and I operate a Dunkin Donuts franchise in Wells, Maine.
2. At some time in 1997, the business owned by my husband and I was solicited by Maine Children and Family Cancer aid to place an advertisement in the program magazine for a Red Sox alumni baseball game.
3. I told the man who solicited us that I knew of a family who could probably use some help from Maine Children and Family Cancer Aid. I told him about my friend Leslie Morrisette whose son Graham had leukemia and would soon be going for a bone marrow transplant. I asked if Maine Children and Family Cancer Aid had a poster child for its fund raiser. When he said that it did not, I suggested that Graham would be a good one.
4. The man stated that he could contact the Morrisettes. I purchased an advertisement from him for \$125 before he left.
5. I received a telephone call from the man from Maine Children and Family Cancer Aid a short time later. He told me that he had spoken with Leslie Morrisette and that the Morrisette family would be receiving the proceeds from the baseball game. He also told me that the Morrisette family would be given free tickets to the game.
6. Months later I asked Leslie if the family had received any money from Maine Children and Family Cancer Aid. She told me that she had never heard from the

organization again after the initial telephone call promising the proceeds from the game and free tickets for the family. During that same conversation, Leslie told me that the man who contacted her had asked if Maine Children and Family Cancer Aid could use Graham's name in the course of their fund raising efforts for the game and she had said yes.

7. I was angry that no money had been given to the Morrisettes after the organization had promised the game proceeds to them. I was also angry that the organization may have used Graham's name in the course of the fund raising efforts.

8. I was solicited again this spring by Maine Children and Family Cancer Aid. I asked the woman who contacted me, by telephone, why the Morrisette family had not received any tickets to the game or any money. The woman told me that she would check it out and get back to me.

9. The woman called me back and told me that someone had gone to the Morrisettes' house with the money and that the boy's father had been too proud to take the money. According to the woman who called me, she said that Graham's father had refused the money and had stated that he could take care of his family himself.

10. I contacted Leslie and asked her if the information that had been given to me was true. She told me that no one had come to the house with any money.

I solemnly affirm that the facts set forth in paragraphs 1-10 above are true.

Date:

Kathy Rodrigue

State of Maine
York, SS.

Sworn and subscribed to before me this day of June, 1998.

Notary Public/Attorney