

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

THE PEOPLE OF THE STATE OF NEW YORK
By ANDREW M. CUOMO, Attorney General of the
State of New York,

Plaintiff,

- against -

DAVID I. WINSTON, MINDY G. WINSTON,
JOSHUA A. WINSTON, RACHAEL L.
WINSTON, REBECCA A. WINSTON,
COALITION FOR BREAST CANCER CURES,
INC., THE RESOURCE HUB, INC. d/b/a THE
RESOURCE CENTER, JOHN DOE NO. 1, A/K/A
"RICHARD GREEN," and JOHN DOE NO. 2,
A/K/A "DR. JEFFREY A. KRAMPNER,"

Defendants.

Index No. 2010-007180

COMPLAINT

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ANDREW M. CUOMO, Attorney General of the State of New York, on behalf of the People of the State of New York, alleges the following against Defendants David I. Winston, Mindy G. Winston, Joshua A. Winston, Rachael L. Winston and Rebecca A. Winston (collectively, "the Winstons"), John Doe No. 1, a/k/a "Richard Green," and John Doe No. 2, a/k/a "Dr. Jeffrey A. Krampner" (together with the Winstons, the "Individual Defendants"), Coalition For Breast Cancer Cures, Inc. ("CBCC"), and The Resource Hub, Inc. d/b/a The Resource Center ("Resource Center").

NATURE OF THE CASE

1. This is a case of outright fraud on the public. Defendants, led by the Winstons, swindle hundreds of thousands of dollars annually from New Yorkers on the false pretense that

the monies raised will help a charitable organization detect, treat, and fight breast cancer. No charity exists, however, and Defendants' entire enterprise is a sham. All of the funds raised for breast cancer causes are used instead to finance vacations and shopping sprees, expensive restaurants, and other personal expenses, in flagrant violation of New York State law.

2. Defendants employ a variety of devices to conduct their fraud. First, using the twin vehicles of CBCC, a sham not-for-profit corporation controlled by the Winstons, and Resource Center, a rogue for-profit fundraising firm owned by the Winstons, Defendants induce compassionate New Yorkers to donate to CBCC by falsely stating that donations will be used to fight breast cancer. Second, Defendants further induce donations by sending fake pledge invoices to New Yorkers, purporting to "remind" them of pledges they have never made. Third, after obtaining credit and debit card numbers via solicitations and other means, Defendants have caused repeated, unauthorized charges to victims' credit and debit card accounts, continuing even after victims demand a stop to the practice and reversal of charges.

3. In furtherance of their scheme to defraud, Defendants falsely claim that CBCC is recognized by the Internal Revenue Service as a tax-exempt 501(c)(3) organization. Defendants also include a "Non-Profit Tax-ID Number" on all correspondence with donors. However, CBCC has not obtained or applied for 501(c)(3) status, and the ID number provided by Defendants does not belong to any tax-exempt organization.

4. None of the hundreds of thousands of dollars Defendants have collected since 2008 has been used to support the fight against breast cancer or any other charitable cause.

5. None of the Defendants is even authorized to solicit charitable contributions in New York. Resource Center is not registered with the Attorney General as a professional fundraiser, and CBCC is not registered with the Attorney General as a charitable organization,

which, in each case, is required by Article 7-A of the Executive Law. Nor have Resource Center or CBCC filed the necessary contracts and fundraising reports as required under Article 7-A of the Executive Law. As a result of their failure to follow New York State's registration and filing requirements, CBCC, Resource Center, and their agents are prohibited from soliciting charitable contributions in New York.

6. The Attorney General is charged with protecting the public from fraudulent solicitation in the name of charity. Accordingly, the Attorney General brings this action in his capacity as the primary regulator of New York not-for-profit organizations and professional fundraisers under Article 7-A of the Executive Law ("Exec. L."), Not-for-Profit Corporation Law ("N-PCL") §§ 112, 706, 714, 720, 1101, and 1102, and the Estates, Powers & Trusts Law ("EPTL") § 8-1.4, as well as his general authority under § 63(12) of the Exec. L. and § 349 of the General Business Law ("GBL").

7. The Attorney General seeks a judgment: (a) permanently enjoining Defendants from soliciting charitable contributions in the State of New York; (b) awarding restitution and damages under Exec. L. Article 7-A, Exec. L. § 63(12), and GBL § 349; (c) imposing upon the Defendants civil penalties in the amount of \$5,000 for each violation of GBL § 349, as authorized by GBL § 350-d; (d) directing the Individual Defendants who are directors and/or officers of CBCC to account and pay damages for all CBCC assets that were misappropriated for their benefit and/or for all CBCC assets lost or wasted as a result of their wrongdoing or breaches of duty, pursuant to N-PCL §§ 720(a) and (b); (e) directing Resource Center and those acting in concert or participation with it to account and pay restitution and damages for all assets obtained through its unlawful charitable solicitation conducted without complying with the requirements of Article 7-A of the Executive Law; (f) dissolving CBCC, as authorized by N-PCL §§ 112,

1101, and 1102, for having conducted itself in a persistently fraudulent and illegal manner and solely for the personal benefit of the Individual Defendants; (g) permanently enjoining the Individual Defendants from serving as officers, directors, trustees, or equivalent positions of any not-for-profit corporation; (h) permanently enjoining each Individual Defendant from serving as a Professional Solicitor, Fundraising Counsel, and/or Professional Fundraiser (as those terms are defined in the Executive Law), or from having any affiliation with the same; and (i) granting such other and further relief as the Court deems just and proper.

PARTIES

8. The Attorney General is responsible for regulating the activities of New York not-for-profit corporations and professional fundraisers that solicit charitable donations from members of the public, under the authority of the N-PCL and Article 7-A of the Executive Law. Charitable organizations that solicit in New York must register with the Office of the Attorney General (“OAG”) and file annual reports under Exec. L. §§ 172 and 172-b (subject to certain exceptions not applicable here). Similarly, persons seeking to raise funds on behalf of a charitable organization must register with the OAG and file copies of fundraising contracts as required by Exec. L. §§ 173 and 173-a (subject to certain exceptions not applicable here).

9. The Attorney General maintains offices at 120 Broadway, New York, New York; 200 Old Country Road, Suite 240, Mineola, New York; and other locations throughout New York State.

10. CBCC is a New York Type B, not-for-profit corporation, incorporated on May 30, 2008 under § 201 of the N-PCL. According to its Certificate of Incorporation, its principal place of business is 44 Old Pond Road, Great Neck, New York. CBCC correspondence also lists two post office boxes: P.O. Box 1163 in Great Neck, New York, and P.O. Box 280 in

Hicksville, New York. CBCC bank documents list a fourth address: 366 N. Broadway, Suite 410, Jericho, New York.

11. Resource Center is a New York business corporation, incorporated on September 27, 2005. Resource Center's principal place of business is 100 Lauman Lane, Hicksville, New York. Resource Center receives mail at P.O. Box 280 in Hicksville, New York.

12. David I. Winston is President and Secretary of Resource Center, as well as one of its directors. He owns 10% of Resource Center. He is also a founding director of CBCC, and has identified himself in CBCC-related documents as its Secretary. His last known address is 15 Central Drive, Great Neck, New York, but on information and belief he currently resides at 14 Locust Drive, Great Neck, New York.

13. Mindy G. Winston is Treasurer of Resource Center. She owns 10% of Resource Center. She has also identified herself as President of CBCC, as well as Vice President and "Manager." Her last known address is 14 Locust Drive, Great Neck, New York.

14. Joshua A. Winston is Vice President of Resource Center; he has also identified himself as its President. He owns 40% of Resource Center. His last known address is 14 Locust Drive, Great Neck, New York.

15. Rachael L. Winston is Resource Center's Vice President and Secretary, as well as one of its directors. She owns 40% of Resource Center. She is also a founding director of CBCC. Her last known address is 1365 York Avenue, Apt. 4H, New York, New York, 10021.

16. Rebecca A. Winston is the Executive Director of CBCC, as well as a member of its board of directors. Her last known address is 14 Locust Drive, Great Neck, New York; however, on information and belief, she attends university in Ann Arbor, Michigan.

17. On information and belief, David and Mindy Winston are the parents of Joshua, Rachael, and Rebecca Winston.

18. John Doe No. 1, a/k/a “Richard Green,” is identified on CBCC correspondence as CBCC’s Secretary and a member of its board of directors. “Richard Green” is also identified on Resource Center correspondence as “Floor Manager” of Resource Center. His address is currently unknown to the OAG.

19. John Doe No. 2, a/k/a “Dr. Jeffrey A. Krampner” is identified on CBCC correspondence as CBCC’s Treasurer and a member of its board of directors. His address is currently unknown to the OAG.

JURISDICTION AND VENUE

20. The Attorney General brings this action on behalf of the People of the State of New York under Exec. L. §§ 63(1) and (12) and Article 7-A (§§ 171-a – 177), GBL § 349, and N-PCL §§ 112, 706, 714, 720, 1101, and 1102.

21. Under Exec. L. § 63(12), the Attorney General is authorized to bring an action for injunctive relief, restitution, damages, costs, and other relief in connection with repeated and persistent fraudulent or illegal acts in the transaction of business.

22. Under GBL § 349, the Attorney General is authorized to seek an order enjoining deceptive acts or practices in the conduct of any business.

23. Under GBL § 350-d, the Attorney General can seek the imposition of civil penalties in the amount of \$5,000 against a corporation or an individual for each deceptive act or practice under GBL § 349.

24. Executive Law § 175 authorizes the Attorney General to bring an action against any charitable organization and persons acting for or on behalf of such organization to address

any violation of Article 7-A (Exec. L. §§ 171-a – 177), which governs the solicitation activities of charitable organizations and their professional fundraisers. In particular, under Executive Law § 175(2), the Attorney General is authorized to bring an action to enjoin the solicitation and collection of charitable funds; to seek restitution, damages, penalties and costs; and to seek any other relief the Court may deem proper.

25. The Attorney General is also responsible for overseeing the activities of New York not-for-profit corporations and the conduct of their officers and directors under the N-PCL. Under N-PCL §§ 720(a) and 720(b), the Attorney General is authorized to bring an action to require the directors and officers of a New York not-for-profit corporation to account for the mismanagement of corporate assets and for transfers, loss, or waste of corporate assets in violation of their fiduciary duties and to recover all resulting damages from such officers and directors.

26. Under N-PCL §§ 112(a)(4), 706(d), and 714(c), the Attorney General is authorized to seek removal of corporate officers and directors for cause, including violations of their fiduciary duties.

27. Under N-PCL § 112(a)(1), the Attorney General is authorized to bring an action to dissolve a corporation that has acted beyond its capacity or power, or to restrain it from carrying on unauthorized activities. Also, under N-PCL § 1101(a)(2), the Attorney General is authorized to bring an action to dissolve a corporation that has exceeded the authority conferred upon it by law, or has carried on, conducted, or transacted its business in a persistently fraudulent or illegal manner.

28. Under N-PCL § 112(a)(7), the Attorney General is authorized to bring an action to enforce any right given under the statute to an officer or director of a not-for-profit

corporation. Accordingly, the Attorney General may bring an action for dissolution in accordance with N-PCL § 1102(a)(2)(D), which authorizes a director to petition for a judicial dissolution of a corporation where the “directors . . . in control of the corporation have looted or wasted the corporate assets, have perpetuated the corporation solely for their personal benefit or have otherwise acted in an illegal, oppressive or fraudulent manner.”

29. In addition to an interest in protecting donors and the integrity of charitable organizations, the State of New York has an interest in upholding the rule of law generally. Defendants’ conduct has injured these interests.

30. Because all of the parties maintain residences and/or business addresses in Nassau County, and Defendants’ actions originated there, venue is properly laid in Nassau County, as provided in New York Civil Practice Law and Rules § 503 and N-PCL § 1110.

STATEMENT OF FACTS

31. Defendants exploit the generosity of New Yorkers by using various false and deceptive devices, schemes, and artifices to defraud the public annually out of hundreds of thousands of dollars intended for breast cancer causes.

32. Taking advantage of public good will and support for breast cancer-related charities, the Winstons and their co-defendants have managed to enrich themselves by fraudulently collecting money for breast cancer-related charitable programs and then spending it on themselves.

33. The Winstons have used at least two corporate entities to perpetuate their scheme and to shield themselves from scrutiny: CBCC, their not-for-profit corporation, and Resource Center, their professional fundraising company.

Fraudulent Solicitation in the Name of Charity

34. CBCC was created by the Winstons, with David Winston, Rachael Winston, and Rebecca Winston identified as CBCC's directors in its Certificate of Incorporation. In various records, Mindy Winston is listed as CBCC's President and Rebecca Winston as its Executive Director, although these titles are entirely illusory since CBCC conducts no operations. To create the perception that CBCC is a legitimate charity with proper governance, Defendants John Doe No. 1, a/k/a "Richard Green," and John Doe No. 2, a/k/a "Dr. Jeffrey A. Krampner," are listed in solicitation materials as the organization's secretary and treasurer, respectively, and, together with Rebecca Winston, as members of its board of directors.

35. The Winstons gave their sham charity a legitimate-sounding name—"Coalition For Breast Cancer Cures, Inc."—to deceive sympathetic donors into believing that their money would support legitimate breast cancer programs, and to cause confusion with other similarly named charities.

36. As set forth in its Certificate of Incorporation, CBCC's mission is:

[T]o reduce the rate of breast cancer fatalities by organizing charitable events to finance research and increase awareness of breast cancer. The corporation will also facilitate testing services for breast cancer for low income women by disseminating information on free and low cost services in their areas.

37. In reality, however, CBCC is not a bona fide charity, but a sham. CBCC's real mission is to generate money for the Winstons and others acting in concert with them. None of the funds it collects are used for the charitable purposes set forth in its Certificate of Incorporation.

38. Moreover, CBCC has never registered with the OAG, in violation of Exec. L. § 172's registration requirement for charitable organizations that solicit contributions in New

York. Nor has it ever submitted an annual financial report to the OAG, in violation of Exec. L. § 172-b.

39. Resource Center serves as the fundraising arm of the Defendants' scheme and uses CBCC, which is an alter ego, as an instrumentality or business conduit to conduct the fraud. Resource Center is owned by David Winston, Joshua Winston, Mindy Winston, and Rachael Winston, who also serve as its officers.

40. Resource Center was once registered as a professional fundraiser with the OAG pursuant to Exec. L. § 173 and filed fundraising contracts with the OAG pursuant to Exec. L. § 173-a. However, its registration expired on December 31, 2007 and has never been renewed. Nor has Resource Center filed any fundraising contracts with the OAG since that date.

41. CBCC and/or Resource Center solicit charitable contributions from the public via a combination of telephone calls and letter mailings.

42. Letters mailed by or on behalf of CBCC have a signature block stating the correspondence came from Rebecca Winston, Executive Director.

43. Individuals are able to donate by writing a check or by providing a credit or debit card number. (Hereinafter, "credit card" will be used to refer to both credit and debit cards).

44. Since June 2008, Defendants have collected hundreds of thousands of dollars in checks and credit card payments from victims who believed they were donating to a breast cancer charity.

45. In fact, none of these funds went to a bona fide breast cancer charity or any other charity. Instead, the money went primarily to pay personal expenses, as described further below.

46. Under the direction and control of the Winstons, CBCC and Resource Center use a variety of fraudulent tactics to induce people to donate money by check and credit card, including:

- (a) Stating in written solicitation materials that “[CBCC’s] tireless efforts on your behalf and of all women will help facilitate our mission to make Awareness, Detection, and a Cure a reality in the coming year,” and “[o]ur mission is to provide support to those individuals in great need, provide information about the importance of early detection, and to lend support to those institutions which are tirelessly searching for a cure,” when in fact CBCC did not expend any funds on awareness, detection of, or cures for breast cancer.
- (b) Telling prospective donors that a donation of \$120 would cover the cost of a mammogram for a low-income individual who could not otherwise afford it, when in fact no CBCC funds were used to provide mammograms for low-income individuals.
- (c) Claiming that CBCC is a “tax-exempt 501c-3 charitable organization,” even though CBCC has never been granted that status from the Internal Revenue Service.
- (d) Providing a purported “Non-Profit Tax I.D. #” for CBCC to fool people into thinking that CBCC has received an identification number for tax-exempt status from the Internal Revenue Service, when in fact the number does not belong to any tax-exempt organization.

47. CBCC and/or Resource Center also send out phony CBCC pledge notice forms marked "Official Invoice and Receipt," claiming that the recipient owes a payment for a donation pledged to CBCC, when the recipient had never made a pledge. These forms provide a purported "pledge" date that is up to nine months prior to the date of the reminder, to encourage recipients to believe they had forgotten an old pledge, when, in fact, they had never pledged.

48. In some cases, the pledge notice forms were mailed out repeatedly to the same recipients in the hope of prompting a "donation" to CBCC. Recipients of the phony pledge forms include:

- (a) A resident of Great Neck who never pledged to CBCC, but received two purported pledge forms, nine months apart. The first pledge form was dated May 13, 2009 and listed a purported pledge date of November 10, 2008; the second pledge form was dated February 10, 2010 with a purported pledge date of May 23, 2009.
- (b) A resident of Garden City who never pledged to CBCC, but received three purported pledge forms over the course of ten months. The first pledge form was dated April 14, 2009 and listed a purported pledge date of October 10, 2008; the second pledge form was dated November 20, 2009 and listed a purported pledge date of April 22, 2009; the third pledge form, sent in February 2010, was a repeat of the second.
- (c) A resident of Bedford who never pledged to CBCC, but received two purported pledge forms. The first pledge form was dated August 6, 2009 and falsely claimed that she had pledged \$120 on January 10, 2009. The

second form was dated March 9, 2010 and falsely claimed that she had pledged \$120 on June 10, 2009.

Unauthorized Credit Card Charges

49. Individuals who chose to donate by credit card unwittingly became fodder for a central component of the Winstons' scheme: credit card fraud.

50. Not content with the "voluntary" donations obtained by lying to members of the public about CBCC's tax-exempt status and charitable activities, the Winstons have caused thousands of fraudulent charges to credit card accounts. These charges show up on victims' credit card statements as charges by Resource Center or CBCC.

51. The victims of these unauthorized credit card charges include:

- (a) A resident of Yorktown Heights who agreed, by phone, to make a one-time donation in early 2009, but then suffered three subsequent unauthorized charges, totaling \$180.
- (b) A resident of White Plains who agreed, by phone, to make a one-time donation of \$120 in January 2008, after being told that this would cover the cost of a mammogram for a low-income individual. She subsequently suffered two additional unauthorized charges in February and April 2008 of \$120 each, for a total of \$240 in unauthorized charges.
- (c) A resident of Hartsdale who agreed to make a donation in late 2007 and subsequently suffered a series of unauthorized charges for \$50 each. After he complained to Resource Center, the charges stopped temporarily, only to resume again in 2009. His credit card was charged nine more times by Resource Center, for a total of \$450 in unauthorized charges in 2009.

52. The Winstons, or those acting under their direction and control, have also managed to obtain credit card numbers of individuals who never authorized a donation to CBCC or knowingly provided the Winstons or their corporate alter egos with their credit card information. Those victims also suffered recurring, unauthorized charges to their credit cards, in the name of Resource Center.

53. These victims include:

- (a) A resident of East Williston who suffered a series of unauthorized charges in the name of Resource Center from June 2007 through May 2009, totaling over \$1,000.
- (b) A resident of Yonkers who suffered a series of unauthorized charges in the name of Resource Center from September 2008 through June 2009, totaling over \$1,000.
- (c) A resident of Bedford who suffered a series of unauthorized charges in the name of Resource Center from September 2008 through December 2008, totaling \$600.

54. Many victims have tried to call Resource Center at the telephone number shown on their credit card statements to dispute the charges. Most callers have difficulty reaching a live person, typically reaching only an answering machine. Resource Center rarely returns calls to those who leave messages.

55. Even when calls are answered or returned, Resource Center often continues to make charges to accounts after the victims have complained and demanded that unauthorized charges be reversed. On occasion, Resource Center will temporarily stop making charges after

victims complained, but thereafter resume making unauthorized charges to the donor's account—sometimes after a hiatus of months or even years.

56. In addition to calling Resource Center, numerous individuals have contacted their credit card companies to dispute the unauthorized charges that Resource Center made to their accounts.

57. In response to complaints about unauthorized charges, Defendants, including but not limited to “Richard Green,” provide false documentation to credit card companies, such as phony receipts and forged pledge forms, purporting to show that disputed charges were authorized by the cardholder.

58. At least two credit card processing companies—First Data Merchant Services Corporation (“First Data”) and American Express—have terminated their relationship with Resource Center as a result of disputed charges.

59. Prior to canceling its contract with Resource Center, effective October 18, 2009, First Data received complaints concerning over 400 credit card charges by Resource Center.

60. Additionally, American Express canceled Resource Center's merchant account in February 2010, because American Express was unable to collect charge reversals owed to it by Resource Center.

Funds Used by Insiders for Personal Expenses

61. None of the funds raised by the Resource Center or CBCC through the schemes described above has gone to breast cancer-related causes, or indeed to any charity. Neither Resource Center nor CBCC provides funds for breast cancer research, information campaigns, mammograms or other testing, or any other charitable activity listed in CBCC's Certificate of Incorporation or described to potential donors in oral and written solicitations.

62. Funds collected by Defendants are deposited into various bank accounts maintained by the Winstons in the name of Resource Center, CBCC, and other corporate entities created and/or controlled by the Winstons.

63. From there, the funds are dispersed to the Winstons via check, transferred back and forth among the various corporate accounts they control, used for personal expenditures, or are simply siphoned off in the form of unaccounted-for cash withdrawals. Examples follow below.

*CBCC Account
(Wachovia)*

64. CBCC maintained a checking account at Wachovia Bank, N.A. (the “CBCC Account”), from June 2008 through November 2009.

65. Over \$120,000, mostly from donor checks, was deposited into the CBCC Account, from its opening in June 2008 until its closing in November 2009.

66. Bank records show that these CBCC funds—raised in the name of combating breast cancer—were instead used for personal expenditures, including but not limited to:

- (a) purchases from Louis Vuitton and other boutiques;
- (b) a hotel stay in Amsterdam;
- (c) airfare for various trips;
- (d) retail purchases at Best Buy, Costco, Loehmann’s, the Home Depot, Pet Supplies Plus, and other stores;
- (e) thousands of dollars in restaurant meals, ranging from McDonald’s to Peter Luger Steak House;
- (f) Netflix charges;
- (g) cable television bills; and

(h) gas and other automotive expenses.

67. None of the expenditures reflected in the CBCC Account records bear any relationship to the charitable purposes set forth in CBCC's Certificate of Incorporation, such as breast cancer research, awareness, or testing services, or to any other charitable purposes for which the funds were solicited.

68. In addition to the money spent on personal items, approximately \$90,000 in cash was withdrawn from the CBCC Account.

69. David Winston wrote at least \$2,500 of checks on the CBCC Account to insiders of the organization, including himself. David Winston also wrote checks on the CBCC Account totaling over \$70,000 to the Resource Center and other corporate entities owned or controlled by the Winstons.

70. Though the Wachovia account is now closed, CBCC maintains at least one bank account elsewhere where similar patterns of personal expenditures, insider transactions and cash withdrawals continue.

*Resource Center Account
(Citibank)*

71. David Winston and/or Joshua Winston opened a checking account for Resource Center at Citibank (the "Resource Center Account").

72. According to bank records, the authorized users of the Resource Center Account were David Winston, Joshua Winston, Mindy Winston and Rachael Winston, who had authority to sign checks, make deposits and withdrawals, and conduct other business with the bank on behalf of Resource Center. Bank records also show that David Winston, Joshua Winston, Mindy Winston, and Rachael Winston each received a debit card for the Resource Center Account.

73. Donations collected by CBCC and Resource Center via credit card were deposited in the Resource Center Account.

74. None of the expenditures reflected on Resource Center Account records bear any relationship to breast cancer-related causes or any other charitable purposes or activity.

75. Instead, bank records show that these funds were used for various personal expenditures, including but not limited to:

- (a) travel costs, including \$1,389 for a spring break travel package;
- (b) retail purchases at Costco, Home Depot, Macy's, Urban Outfitters, and others;
- (c) hundreds of dollars for pet supplies and veterinary expenses;
- (d) sorority fees and other expenses at the University of Michigan;
- (e) over \$16,000 in groceries and restaurant meals.

76. In addition, nearly \$150,000 in cash was withdrawn from the Resource Center Account.

*Community Hub Account
(Wachovia)*

77. The Winstons created yet another corporation, Community Hub, Inc. ("Community Hub"), which helped shelter the proceeds of their fraud.

78. Mindy Winston opened a checking account at Wachovia Bank in Community Hub's name (the "Community Hub Account"). The authorized users of the Community Hub Account are David Winston, Mindy Winston, and Rachael Winston.

79. The Winstons deposited, or caused to be deposited, at least 25 donation checks written out to CBCC into the Community Hub Account, notwithstanding that the backs of the checks were stamped "FOR DEPOSIT ONLY COALITION FOR BREAST CANCER CURES, INC." and included CBCC's account number.

80. As with the other accounts controlled by the Winstons, funds deposited in the Community Hub Account were used to support various personal expenditures, such as hotel stays in Las Vegas, and substantial cash withdrawals.

81. None of the expenditures reflected on Community Hub Account records bear any relationship to breast cancer-related causes or any other charitable purposes or activity.

82. On information and belief, the Defendants also used additional bank accounts to receive and shelter the illicit gains from their fraudulent scheme.

FIRST CAUSE OF ACTION

Scheme to Defraud – Exec. L. § 172-d(2) (Against All Defendants)

83. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

84. The Defendants, and those acting in concert or participation with them, or under their direction or control, have violated Exec. L. § 172-d in that they have engaged in a fraudulent scheme in connection with charitable solicitations, including but not limited to: (a) soliciting charitable contributions using false and materially misleading statements about the intended charitable uses of donated funds, when in fact the funds went for their personal use and benefit; (b) representing that CBCC was a tax-exempt charitable organization when it was not; (c) obtaining money under false pretenses, by claiming that individuals had pledged donations to CBCC when they had not; and (d) failing to apply charitable donations consistent with solicitations.

85. In addition, Resource Center has (a) solicited charitable donations without being a registered professional fundraiser; (b) solicited donations without having a fund raising contract with a registered charity; (c) solicited donations on behalf of a charity, CBCC, that was not

registered with the OAG; and (d) sent out written solicitation material without disclosing that the material came from a professional fundraiser.

86. Accordingly, as authorized by Exec. L. §§ 175(2)(c) & 175(5), Defendants should be enjoined from the solicitation and collection of charitable funds and ordered to make restitution and pay damages, costs, and penalties in an amount to be determined at trial.

SECOND CAUSE OF ACTION

Persistent Fraud or Illegality In Business – Exec. L. § 63(12)

(Against All Defendants)

87. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

88. The Defendants engaged in repeated fraudulent and illegal acts and demonstrated persistent fraud and illegality in the conduct of Resource Center and CBCC business, in that they: (a) falsely represented to donors and potential donors that their donations would be used for charitable purposes, when in fact they were used to pay personal expenses; (b) falsely represented to donors that CBCC was a tax-exempt 501(c)(3) charitable organization when it was not; (c) sent invoices falsely claiming that the recipient had made a pledge to CBCC when no such pledge had been made; (d) made unauthorized charges to credit and debit cards without the consent of the cardholder; and (e) conducted charitable solicitation activities in violation of Article 7-A of the Exec. L., *e.g.*, by failing to register with the Attorney General, failing to file a fundraising contract with the Attorney General, soliciting donations in New York on behalf of a charity not registered with the Attorney General, using false and materially misleading promotional material, and sending out solicitation material without disclosing that it was being sent by a professional fundraiser.

89. Accordingly, as authorized by Exec. L. § 63(12), Defendants should be enjoined from conducting any CBCC or Resource Center business activity and of any fraudulent and illegal acts, and ordered to pay restitution and damages in an amount to be determined at trial.

THIRD CAUSE OF ACTION

Deceptive Acts or Practices – GBL § 349 (Against All Defendants)

90. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

91. Defendants engaged in a pattern of deceptive acts and practices in the conduct of Resource Center and CBCC business, in that Defendants: (a) falsely represented to donors and potential donors that their donations would be used for charitable purposes, when in fact they were pocketed by the Individual Defendants or used to pay personal expenses; (b) falsely represented to donors that CBCC was a tax-exempt 501(c)(3) charitable organization when it was not; (c) sent invoices falsely claiming that the recipient had made a pledge to CBCC when no such pledge had been made; (d) made unauthorized charges to credit and debit cards without the consent of the cardholder; and (e) conducted charitable solicitation activities in violation of Article 7-A of the Exec. L., *e.g.*, by failing to register with the Attorney General, failing to file a fundraising contract with the Attorney General, soliciting donations in New York on behalf of a charity not registered with the Attorney General, using false and materially misleading promotional material, and sending out solicitation material without disclosing that it was being sent by a professional fundraiser.

92. Accordingly, as authorized by Exec. Law § 349, Defendants should be enjoined from such unlawful acts and practices and ordered to pay restitution of any monies or property obtained directly or indirectly by any such unlawful acts, in an amount to be determined at trial.

93. As authorized by GBL § 350-d, Defendants should be ordered to pay civil penalties of \$5,000 for each violation, in a total amount to be determined at trial.

FOURTH CAUSE OF ACTION

Failure to Apply Funds Solicited from the Public in a Manner Consistent with Charitable Purposes and Solicitations –

Exec. L. §§ 175(2)(e)(i)
(Against Individual Defendants and CBCC)

94. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

95. The Individual Defendants and CBCC have failed to apply funds solicited from the public in a manner consistent with CBCC's stated charitable purposes, *e.g.*, research, awareness and testing for breast cancer, or consistent with their solicitations on CBCC's behalf, which claimed that funds would go to breast cancer-related causes. Funds did not go toward any breast cancer-related causes, but instead went for the personal benefit of the Individual Defendants.

96. Accordingly, as authorized by Exec. L. § 175(2)(e)(i), the Individual Defendants and CBCC should be permanently enjoined from the solicitation and collection of charitable funds.

FIFTH CAUSE OF ACTION

Solicitation by Unregistered Charitable Organization –

Exec. L. §§ 172-d(10)
(Against CBCC)

97. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

98. CBCC has solicited for charitable purposes and engaged in fundraising activities in violation of Exec. L. § 172-d(10), because it has never registered with the OAG as a charitable

organization, as required by Exec. L. § 172, or filed annual reports with the OAG, as required by Exec. Law § 172-b.

99. Accordingly, as authorized by Exec. Law § 175(2)(a), CBCC should be permanently enjoined from the solicitation and collection of charitable funds.

SIXTH CAUSE OF ACTION

Solicitation by Unregistered Professional Fundraiser – Exec. L. §§ 172-d(12) & 173 (Against Resource Center)

100. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

101. Resource Center has acted as an unregistered Professional Fund Raiser since the expiration of its registration on December 31, 2007, in violation of Exec. L. §§ 172-d(12) and 173(1). Moreover, it has acted as a Professional Fund Raiser for CBCC despite failing to file a CBCC fundraising contract with the Attorney General, in violation of Exec. L. § 172-d(12) and 173-a.

102. Accordingly, as authorized by Exec. L. § 175(2)(a), Resource Center should be permanently enjoined from the solicitation and collection of charitable funds.

SEVENTH CAUSE OF ACTION

Solicitation for Unregistered Charitable Organization – Exec. L. §§ 172-d(6) and 174 (Against Resource Center)

103. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

104. Resource Center has engaged in charitable solicitation on behalf of CBCC, an unregistered charitable organization, in violation of Exec. L. §§ 172-d(6) and 174.

105. Accordingly, as authorized by Exec. L. § 175(2)(a), Resource Center should be permanently enjoined from the solicitation and collection of charitable funds.

EIGHTH CAUSE OF ACTION

Violation of Statutory Fiduciary Duties – N-PCL §§ 717 and 720

(Against David Winston, Mindy Winston, Rachael Winston, Rebecca Winston, John Doe No. 1 a/k/a “Richard Green,” and John Doe No. 2 a/k/a “Dr. Jeffrey A. Krampner”)

106. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

107. The directors and officers of CBCC, including David Winston, Mindy Winston, Rachael Winston, Rebecca Winston, John Doe No. 1 a/k/a “Richard Green,” and John Doe No. 2 a/k/a “Dr. Jeffrey A. Krampner,” have failed to discharge their duties as officers and directors of CBCC with the degree of care, skill, prudence, diligence, and undivided loyalty required of them in that, among other things, they have: (a) diverted, or permitted others to divert, funds belonging to CBCC for the personal use of themselves and others; (b) failed to ensure that CBCC’s operations adhere to the purposes set forth in its Certificate of Incorporation; (c) made, caused to be made, or allowed to be made, false and misleading statements in connection with the solicitation of charitable donations on its behalf; (d) failed to apply funds solicited for CBCC in a manner consistent with its solicitation statements and with CBCC’s charitable purposes; and (e) failed to register CBCC as a charitable organization with the Attorney General and to file annual financial statements with the Attorney General.

108. By engaging in the foregoing and other improper conduct, CBCC’s directors and officers breached their fiduciary duties to CBCC in violation of N-PCL § 717. Accordingly, they are liable under N-PCL §§ 720(a)(1) to account for their misconduct.

NINTH CAUSE OF ACTION

Waste of Corporate Assets – N-PCL §§ 719(a)(1) & 720(a)(1)(B)

(Against David Winston, Mindy Winston, Rachael Winston, Rebecca Winston, John Doe No. 1 a/k/a “Richard Green,” and John Doe No. 2 a/k/a “Dr. Jeffrey A. Krampner”)

109. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

110. The officers and directors of CBCC, including David Winston, Mindy Winston, Rachael Winston, Rebecca Winston, John Doe No. 1 a/k/a “Richard Green,” and John Doe No. 2 a/k/a “Dr. Jeffrey A. Krampner,” diverted funds from CBCC’s account for their personal use and/or permitted CBCC’s corporate assets to be diverted for purposes unrelated to its charitable mission.

111. Accordingly, they have caused loss and waste of CBCC corporate assets and acquired CBCC corporate assets for themselves, rendering them liable to CBCC under N-PCL §§ 719(a)(1) and 720(a)(1) to account for their misconduct.

TENTH CAUSE OF ACTION

Conduct Necessitating Removal of Officers and Directors – N-PCL §§ 706 & 714

(Against David Winston, Mindy Winston, Rachael Winston, Rebecca Winston, John Doe No. 1 a/k/a “Richard Green,” and John Doe No. 2 a/k/a “Dr. Jeffrey A. Krampner”)

112. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

113. CBCC’s officers and directors, including David Winston, Mindy Winston, Rachael Winston, Rebecca Winston, John Doe No. 1 a/k/a “Richard Green,” and John Doe No. 2 a/k/a “Dr. Jeffrey A. Krampner,” have, among other things, consistently and repeatedly (a) breached their fiduciary obligations as officers and directors of CBCC; (b) caused loss and waste of CBCC’s charitable assets, for their own personal gain, and for the benefit of others; (c) consistently and repeatedly made, caused to be made, or allowed to be made, solicitation

statements that are materially false and misleading; (d) consistently and repeatedly failed to apply solicited funds in conformity with CBCC solicitations and its stated charitable purposes; (e) failed to register CBCC and file annual financial statements with the Attorney General.

114. Accordingly, CBCC's officers and directors should be removed for cause as officers and directors of CBCC, and permanently barred from re-election, under N-PCL §§ 706(d) and 714(c).

ELEVENTH CAUSE OF ACTION

Persistently Fraudulent and Illegal Conduct of Business –

N-PCL § 1101(a)(2)

(Against CBCC for Judicial Dissolution)

115. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

116. CBCC has conducted its business in a persistently fraudulent and illegal manner, in that CBCC has, among other things, (a) solicited charitable donations without having registered with the Attorney General and filed annual financial reports, in violation of Exec. L. §§ 172 & 172-d; (b) persistently made false and misleading solicitation statements to the public, in violation of Exec. L. § 172-d(2)-(4); and (c) been used to commit a fraud on the public.

117. Accordingly, the corporation should be dissolved pursuant to N-PCL § 1101(a)(2) and its remaining assets and future assets, if any, applied to charitable uses consistent with CBCC's mission, as authorized by N-PCL §§ 1115(a) and 1008(a)(15).

TWELFTH CAUSE OF ACTION

Wasting of Corporate Assets and Perpetuation of Corporation Solely for Personal Benefit – N-PCL § 1102(a)(2)(D)

(Against CBCC for Judicial Dissolution)

118. The Attorney General repeats and re-alleges, as though fully set forth herein, all of the preceding paragraphs.

119. Under N-PCL § 112(a)(7), the Attorney General may maintain an action to “enforce any right given under this chapter to . . . a director or an officer of a Type B . . . corporation.” Under N-PCL § 1102(a)(2)(D), any director of a not-for-profit corporation may petition the court for judicial dissolution where “the directors . . . in control of the corporation have looted or wasted the corporate assets, have perpetuated the corporation solely for their personal benefit, or have otherwise acted in an illegal, oppressive or fraudulent manner.”

120. The officers and directors of CBCC, including Rebecca Winston, David Winston, Mindy Winston, Rachael Winston, John Doe No. 1, a/k/a “Richard Green,” John Doe No. 2, a/k/a “Dr. Jeffrey A. Krampner,” and others to be identified, have wasted its corporate assets, perpetuated the corporation for their personal benefit, and otherwise acted in an illegal, oppressive, or fraudulent manner.

121. Accordingly, CBCC should be dissolved in accordance with N-PCL §§ 1102(a)(2)(D) and 112(a)(7) and its remaining assets and future assets, if any, applied to charitable uses consistent with the CBCC’s mission pursuant to N-PCL §§ 1115(a) and 1008(a)(15).

PRAYER FOR RELIEF

Plaintiff demands judgment against Defendants as follows:

- A. Permanently enjoining Defendants and all other persons (real or corporate) acting or claiming to act on their behalf or acting in concert or participation with them from soliciting charitable contributions in the State of New York;
- B. Awarding restitution and damages under Exec. L. § 63(12), Exec. L. Art. 7-A, and GBL § 349;

C. Imposing civil penalties against each Individual Defendant and Resource Center in the amount of \$5,000 for each violation of GBL § 349, under GBL § 350-d;

D. Directing Defendants to account and pay damages for all CBCC assets misdirected for their benefit and/or for all CBCC assets lost or wasted as a result of their wrongdoing or breaches of duty;

E. Directing Resource Center and those acting in concert or participation with it to account and pay restitution and damages for all assets obtained through its unlawful charitable solicitation without registering or having a valid fundraising contract on file;

F. Dissolving CBCC and transferring its remaining assets and any future assets to charitable uses consistent with CBCC's stated mission;

G. Removing David Winston, Mindy Winston, Rachael Winston, Rebecca Winston, John Doe No. 1 a/k/a "Richard Green," and John Doe No. 2 a/k/a "Dr. Jeffrey A. Krampner," as officers and directors of CBCC, and directing them to make an accounting to CBCC;

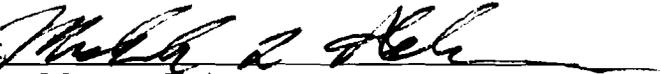
H. Permanently enjoining the Individual Defendants from serving as officers, directors, trustees, or equivalent positions of any not-for-profit corporation;

I. Permanently enjoining the Individual Defendants from serving as Professional Solicitors, Fundraising Counsel, and/or Professional Fundraisers, or from having any affiliation with the same, or from otherwise engaging in the solicitation of charitable funds; and

J. Granting such other and further relief as the Court deems just and proper.

Dated: April 13, 2010
New York, New York

ANDREW M. CUOMO
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**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

THE PEOPLE OF THE STATE OF NEW YORK By **ANDREW M. CUOMO**, Attorney General of the State of New York,

Plaintiff,

- against -

DAVID I. WINSTON, MINDY G. WINSTON, JOSHUA A. WINSTON, RACHAEL L. WINSTON, REBECCA A. WINSTON, COALITION FOR BREAST CANCER CURES, INC., THE RESOURCE HUB, INC. d/b/a THE RESOURCE CENTER, JOHN DOE NO. 1, A/K/A "RICHARD GREEN," and JOHN DOE NO. 2, A/K/A "DR. JEFFREY A. KRAMPNER,"

Defendants.

SUMMONS AND COMPLAINT

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