

STATE OF MAINE
YORK, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-06-221

STATE OF MAINE and
ATTORNEY GENERAL,

Plaintiffs

v.

THE GENTLE WIND PROJECT,
f/k/a THE GENTLE WIND
RETREAT,

and

MARY E. MILLER, CAROL R.
MILLER, JOHN D. MILLER,
JOAN G. CARREIRO, PAMELA
RANHEIM, and SHELBOURNE
MILLER,

Defendants

STATE OF MAINE
COUNTY OF YORK
CLERKS OFFICE
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COMPLAINT
(Injunctive Relief Requested)

INTRODUCTION

1. The Attorney General brings this action pursuant to 5 M.R.S.A. §§ 194(2), 194-J(2), and 194-K(1) and (3), and 13-B M.R.S.A. § 1105(2-A); and on behalf of the State of Maine pursuant to the Maine Unfair Trade Practices Act, 5 M.R.S.A. §§ 205-A to 214.

PARTIES

2. Plaintiff State of Maine (the "State") is a sovereign state.

3. The Attorney General is the constitutional officer who appears for the State in all civil actions in which it is a party. Pursuant to 5 M.R.S.A. § 194(4), the Attorney General is also a party to this proceeding because he is performing the duties set forth in section 194(2).

4. Defendant The Gentle Wind Project, f/k/a The Gentle Wind Retreat ("GWP"), the principal address of which is 10 Prince Street, Kittery, Maine 03904, is a Maine charity that is organized as a public benefit corporation pursuant to 13-B M.R.S.A. § 1406(1). GWP is recognized as exempt under Section 501(c)(3) of the Internal Revenue Code, and has been registered in Maine as a "charitable organization" as that term is defined by 9 M.R.S.A. § 5003(1).

5. Defendant Mary E. Miller, f/k/a Mary Elizabeth Carreiro and Claudia Panuthos, is GWP's spokesperson, president, and member of GWP's board of directors (the "Board"). She is the author of numerous articles on GWP that are used in GWP's promotional materials. She is employed by GWP as a "co-director." Her address is 118 Piscataqua Road, Durham, New Hampshire 03824.

6. Defendant Carol R. Miller was a member of the Board for many years until 2005. She is employed by GWP. Her address is 118 Piscataqua Road, Durham, New Hampshire 03824.

7. Defendant John D. Miller exercises substantial influence over the affairs of GWP, and is employed as a "co-director." He directs the

manufacture of, and writes the descriptions for, many of GWP's products. His address is 118 Piscataqua Road, Durham, New Hampshire 03824.

8. Defendant Joan G. Carreiro was a member of the Board for many years until 2005, and is employed by GWP. Her address is 118 Piscataqua Road, Durham, New Hampshire 03824.

9. Defendant Pamela Ranheim was a member of the Board for many years until 2005, and is employed by GWP. Her address is 118 Piscataqua Road, Durham, New Hampshire 03824.

10. Defendant Shelbourne Miller, f/k/a Diane Boyce Koster, is GWP's treasurer and is employed by GWP as its bookkeeper. Her address is 118 Piscataqua Road, Durham, New Hampshire 03824.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 4 M.R.S.A. § 105, 5 M.R.S.A. §§ 194-K and 209, and 13-B M.R.S.A. § 1105.

12. Venue is properly laid in this county pursuant to 5 M.R.S.A. § 209 and 13-B M.R.S.A. § 1105.

STATUTORY BACKGROUND

13. Pursuant to 5 M.R.S.A. § 207, unfair or deceptive acts and practices in the conduct of any trade or commerce are unlawful.

14. Pursuant to 5 M.R.S.A. § 209:

Whenever the Attorney General has reason to believe that any person is using or is about to use any method, act or practice declared by section 207 to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by

temporary or permanent injunction the use of such method, act or practice and the court may make such orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice, any moneys or property, real or personal, which may have been acquired by means of such method, act or practice. . . .

15. Pursuant to 5 M.R.S.A. § 209, each violation of 5 M.R.S.A. § 207 that results from intentional and unfair or deceptive conduct is a civil violation for which a civil penalty of up to \$10,000 may be adjudged. In any case in which a permanent injunction is issued, the Court may order costs of investigation and costs of the suit.

16. Pursuant to 14 M.R.S.A. § 1522(1)(A), the Court shall allow litigation costs, including court costs, reasonable attorney's and expert witness fees, to be deposited into the General Fund should the State prevail in an action brought pursuant to 5 M.R.S.A. § 209.

17. Pursuant to 5 M.R.S.A. § 194(2), "[t]he Attorney General shall enforce due application of funds given or appropriated to public charities within the State and prevent breaches of trust in the administration of public charities."

18. Pursuant to 13-B M.R.S.A. § 715(1), "[e]ach corporation shall keep correct and complete books and records of accounts and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors. . . ."

19. Pursuant to 13-B M.R.S.A. § 717(1):

A director [of a public benefit corporation] shall discharge the director's duties:

- A. In good faith;
- B. With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- C. In a manner the director reasonably believes to be in the best interests of the corporation.

20. Pursuant to 13-B M.R.S.A. § 720(1):

An officer of a corporation with discretionary authority shall discharge that officer's duties under that authority:

- A. In good faith;
- B. With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- C. In a manner the officer reasonably believes to be in the best interests of the corporation and its members.

21. Pursuant to 13-B M.R.S.A. § 721(1):

The funds or assets of a public benefit corporation may not be transferred or applied and a director or officer of a public benefit corporation may not authorize the transfer or application of funds or assets of the public benefit corporation if:

- B. The transfer misapplies the funds or assets in violation of statute . . . ;
- C. The transfer is to a director or officer of the public benefit corporation or to another person in a position to exercise substantial influence over the affairs of the corporation and constitutes private inurement or excess benefits that exceed the fair market value of the property or services received in return. . . .

22. Pursuant to 13-B M.R.S.A. § 1105(2-A)(B) and (D), respectively, the Attorney General may bring an action for dissolution of a public benefit corporation if “[t]he corporation has exceeded or abused the authority conferred upon it by law,” or if “[t]he assets of the corporation are being misapplied or wasted.” The affairs of the public benefit corporation may be liquidated before the dissolution decree is entered.

23. Pursuant to 13-B M.R.S.A. § 1106(1), the Court has the power in liquidation proceedings “to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the activities of the corporation until a full hearing can be had.”

24. Pursuant to 5 M.R.S.A. § 194-K(3), the Attorney General may bring an action to seek a civil penalty against the following individuals:

An individual officer, director, trustee or manager in a position to exercise substantial influence over the affairs of a public charity. . . if that person, in violation of the standards established under Title 13-B for conduct of directors or officers or for avoiding conflicts of interest:

- A. Receives property or consideration from the public charity that constitutes private inurement; or
- B. Receives excess benefits that exceed the fair market value of anything provided in return.

25. Pursuant to 5 M.R.S.A. § 194-J(2), “[t]he penalties and remedies provided in section 194-K are in addition to and are not a replacement for

any other civil or criminal action the Attorney General may take under common law or statute, including an action . . . to obtain injunctive relief or a combination of injunctive relief and other remedies available under common law or statute.”

FACTS

26. GWP was incorporated as a Maine nonprofit corporation in 1983. Defendants claim that it is a “world healing organization” dedicated to emotional and physical healing and well-being.

27. In furtherance of that purpose, Defendants manufacture various products including so-called “healing instruments” the designs of which, they claim, are received by John Miller in the form of telepathic impressions from the “Spirit World.”

28. Via an Internet web site (www.gentlewindproject.org) (GWP’s Web Site”) or through their “seminars,” among other means, Defendants have promoted, labeled, distributed and sold directly to the public these healing instruments including, but not limited to, the *Rainbow Puck V*; *City Block, Sweep & Decompression*; *Healing Bar Ver 1.3*; *Healing Arc Accelerator V 1.3*; *Universal Healing and Alignment Symbol*; *Life Long Healing Symbol Set*; *Trauma, Pain & Decompression*; and *Healing Puck V*.

29. Defendants claim that they do not sell the healing instruments, but that they instead offer them to consumers as “gifts” in exchange for payments of “suggested donations” that are 80% tax deductible, and that,

based on information and belief, vary in amount from hundreds to many thousands of dollars, depending on the instrument.

30. To induce consumers to acquire the healing instruments, Defendants have disseminated, or have caused to be disseminated, via the Internet or at their seminars, among other means, promotional materials for GWP's healing instruments including, but not limited to, the *Rainbow Puck V*; *City Block, Sweep & Decompression*; *Healing Bar Ver 1.3*; *Healing Arc Accelerator V 1.3*; *Universal Healing and Alignment Symbol*; *Trauma, Pain & Decompression*; and *Healing Puck V*. These promotional materials include, but are not necessarily limited to, the attached Exhibits A – E, which contain the following statements, among others:

Exhibit A from versions of "Our Instrument Catalogue" found at GWP's Web Site:

- i) **RAINBOW PUCK V:** This Advanced Instrument measures 4 inches in diameter and 1 ½ inches thick and is held between the left and right hands for 3 minutes. . . . It will provide a mental and emotional healing using different forces than other Gentle Wind Instruments and may solve many of the problems found in humanity. This Instrument provides several additional functions including a comprehensive Physical Realignment. The Rainbow Puck V can be used as a maintenance Instrument for emotional and physical balance. . . .
- ii) **CITY BLOCK, SWEEP & DECOMPRESSION:** This Instrument is to be placed on the wall of your home, office, school, hospital, clinic, business or government building of any type. It is intended to relieve excessive stress from confinement, transactional and territorial

disputes, and other abnormalities consistent with all manner of human interactions. We think it is one of our most amazing Instruments to date. . . .

- iii) HEALING BAR VER 1.3: This is our most Advanced Healing Instrument and a new technology never before thought possible. . . . The Healing Bar represents the new leading edge of the healing technology, significantly surpassing the Rainbow Puck III and IV. The Bar adds a complexity of well over 6 – 60 Mhz minimum of temporal shifting combined with millions of predefined etheric modifications operating in a vertically and horizontally oriented polarization within an individuals [sic] system. This ultra complex process is set in motion by this healing instrument through a temporal and spatial gate set up when a healing instrument is held. (The last two sentences may sound like a lot of crap but that is how it happens from our point of view and the proof is in the results – real results.) The Healing Bar provides an initial healing that eliminates some mental and emotional harm and rebuilds the natural psychogenetic nature of each person, reducing the effects of negligent or incomplete child care and improper educational practices. The Healing Bar provides a comprehensive Physical Realignment aspect. This Instrument can also be used for personal maintenance providing ongoing mental and emotional balance. . . .

- iv) HEALING ARC ACCELERATOR V 1.3: This Instrument is the top-of-the-line and most advanced made by this project. It is used in conjunction with the Unified Health Builder Symbol. . . to improve the mental, emotional and physical wellbeing of the user. Although anyone can make use of it, it is primaly [sic] designed for the professional health care worker and clinical use. . . .

- v) **UNIVERSAL HEALING AND ALIGNMENT SYMBOL:** This Instrument is an 8 ½ by 11 inch laminated Symbol that provides a complete mental and emotional healing. This Symbol can be used as a maintenance Instrument to correct for emotional imbalances. A person places his or her hand on the Symbol for five minutes. Two Universal Healing and Alignment Symbols may provide a mental and emotional healing and may correct for most problems not solved with a single Symbol. The two Symbols can be used as a maintenance Instrument to correct for emotional imbalances. Two Symbols also provide an additional aspect called Physical Realignment. This aspect may correct for some physical imbalances caused by such events as car accidents, invasive treatments and some forms of emotional harm. The Physical Realignment aspect is also a maintenance aspect and may be used for physical balancing after some trauma to the body. . . .
- vi) **TRAUMA, PAIN & DECOMPRESSION:** This 4" X 6" card provides a similar healing as some advanced instruments plus release from some traumas, physical realignment plus pain relief. . . . Health Care Professionals can get one in a slightly smaller size that fits suit, lab coat, and uniform pockets. . . .
- vii) **HEALING PUCK V:** This Healing Puck measures 3 inches in diameter and is approximately 1 1/8 inches thick. It is designed to be held in a person's right hand for five minutes. The Healing Puck V provides a complete mental and emotional healing with some additional aspects not available through the Universal Healing and Alignment Symbols. The Healing Puck V contains a more powerful version of the Physical Realignment aspect. It can be used as a maintenance Instrument to correct for emotional imbalances. The Healing Puck V contains a particular element called Tranquility. This Instrument was

designed with health care professionals and other helping people in mind. These professionals tend to build up mental and emotional stress over the course of the day. The Healing Puck V also has a more powerful Physical Realignment aspect than the two Universal Healing and Alignment Symbols. Because of its specialized functions and small, easy-to-carry size, this Instrument has become popular with health care professionals. . . .

Exhibit B from "Feedback. . ." and "More Feedback. . ." found at

GWP's Web Site:

- i) 'Recently I received the Healing Puck V along with the Trauma Card. . . . A recent patient informed me that following the last treatment (the removal and replacement of mercury fillings) that she felt bad for 2 weeks following the treatment. She was extremely nervous and her face was flushed. She stated that during the past 2 weeks that her blood pressure was elevated. I had her use the Trauma Card for 5 minutes. When I returned her face was not flushed and she stated "this is the best I have felt in 2 weeks." Her blood pressure was 132/84. I am getting positive responses like this very frequently after having patients use the Instruments.'
- ii) 'As a brief solution focused therapist, I have revised my therapeutic model to include the Gentle Wind technology with all of my clients. This technology has enabled my clients to lower the amount of sessions needed by one half. It is amazing, to myself and my peers, that a highly traumatized person can find healing in four to eight sessions instead of four to eight years.'
- iii) 'I am a nurse on a medical-surgical unit. The patients who use my Healing Instrument recover faster, are calmer and stronger, and they sleep better at night. The terrible

anxieties that go along with being seriously ill just disappear. . . .’

- iv) ‘I am a charge nurse at a Long Term Care facility for Alzheimer’s patients. After using the Healing Instrument, patients are less angry and combative. They are less anxious and I have noticed a reduction in the use of anti-anxiety medications.’
- v) ‘As a Complementary Medicine Nurse Practitioner I utilize the Healing Instruments with my patients, family, friends and colleagues. Patients state an increase in their perception of health both emotionally and physically, and consistently report a feeling of inner peace.’
- vi) ‘I am a practicing Lawyer and an Alcoholic. On April 21, 1997 I held your Rod of Light. I have not had a drink or craved a drink since that day. My life is a complete reverse from what it used to be. I have a new view of my life; of other people, a new approach to my work. I have a peace of mind and a serenity that has been enduring. I am filled to overflowing with thankfulness for healing my disease and I thank you for your hard work in producing the Rod and making it available to so many people.’

(Note: We estimate that as of 3/99 over 50% of alcoholics and drug users end their habit immediately or soon after using this healing technology. However, most people also need AA or some type of rehab services for support. Most people who have already stopped using alcohol or drugs say that after holding a Healing Instrument they feel like a real person for the first time in their lives and the tension to drink is greatly reduced.)

- vii) ‘I can definitely say that after using the Trauma Card for several weeks, it is the first time I can remember being without pain. I am prone to arthritis and I have a metal plate and

pins in my right leg from a ski injury when I was 16 years of age. It has always hurt me and now at 56 I am free of (all) this pain.'

Note: When using the Trauma Card where multiple sources of pain exist it can take a few weeks for most of the discomfort to subside. This is because each pain source must be treated as a discrete entity unless the patterns of multiple pain generation are identical.

viii) 'In coworkers and patients complaining of pain with whom I have shared the Trauma Card 90% of the time people have expressed a lessening of pain and discomfort. I never withheld pain medications for complaints of pain. However, I know that pain medications do not act immediately while using the Trauma Card resulted in reduced pain or no pain at all after one or two uses. . . .'

ix) 'I was a teacher in a classroom for severely challenged children when I met a 5-year-old, whom I will call Tony. He was a child who was transported in a wheelchair, had severe and frequent seizures, had a diagnosis of autism, cortical blindness, and was developmentally delayed and had self-injurious behaviors. Tony was cranky all the time, which was expressed by his constant grunting and groaning and wiggling in his chair. He had no language with which to express himself.

'Tony held the Healing Instrument on an average of 1 to 2 times a week throughout the school year. By the end of the school year, Tony's seizures had decreased in intensity, frequency and duration. He was walking (he has not returned to his wheelchair), he can see and he has ceased all self-injurious behaviors. Tony is still developmentally delayed, does not use words and continues to have numerous needs. However, his quality of life has improved tremendously!'

Exhibit C from "About Us..." at GWP's Web Site:

This healing technology was designed to restore and regenerate a person's energetic structure when used one time in a person's life. Your energetic structure is the invisible etheric web in which you exist. The energetic web is, generally speaking, oval in shape. It extends 8 to 10 feet in height and 4 to 6 feet in width, with your physical body in the middle. Within this system, there are 32 different levels. Over 90 percent of the world's population is missing between 10 and 15 levels. If you had etheric vision and could see 32 layers deep, you would see fragmented, burnt-out, sub-atomic spiritual nets in just about everyone, including all the great spiritual leaders past and present. . . .

The vast majority of human beings in the world today are trying to get through their lives with very damaged structures. The mental and emotional stress and pain that human beings suffer is a result of structural damage. Unless a damaged structure is repaired, lasting behavioral change is all but impossible.

The technology available through The Gentle Wind Project comes from the Spirit World, not the human world. Human psychology tries to help people change their behaviors without doing anything to repair the damaged structures. The most that human psychology can offer is a system of adjustment into the existing pain and suffering. Psychotherapists and counselors are not without a place in all of this, because some people really need to talk about themselves. But talking about oneself all by itself will not restore a person's energetic structure.

The research regarding this healing technology shows that functioning improves for most people when they obtain this healing. The Gentle Wind Project has studied the results of this technology on thousands of people representing a wide variety of human conditions. The project has adhered to the highest research standards using both blind and double-blind studies. The research shows that the

vast majority of people who obtain this healing report positive, consistent, lasting changes in their lives. This research has been duplicated by independent health care professionals. . . .

Exhibit D from a flyer for a seminar given by GWP:

The healing technology has been researched in blind and double-blind studies and proven to be effective in hospital settings. The Gentle Wind Project Instruments have been tested on medical surgery units and in cancer clinics with patients suffering from AIDS, diabetes, cancer, Alzheimer's and heart disease. . . .

Exhibit E from "Code of Ethics and Compassion" found at GWP's Web

Site:

This Project is a serious scientific effort to end the mental and emotional suffering of humanity. . . . There is no placebo effect in the performance of these instruments. None.

31. Through the means described in Paragraph 30, Defendants have represented, expressly and by implication, that there are health benefits to using the healing instruments including, but not limited to, representations that:

- A. The healing instruments repair damage to one's energetic, or "etheric" structure, which is the cause of emotional and mental stress and pain, resulting in mental and emotional healing that significantly reduces or obviates the need for psychotherapy.
- B. The healing instruments solve, among other things, most of the problems found in humanity, lower blood pressure,

reduce the need for anti-anxiety medications, reduce the combativeness in Alzheimer's patients, increase one's perceptions of emotional and physical health, cure 50% of alcoholics and drug users of their alcohol- or drug-using habits, enable surgical patients to recover more quickly, cure or significantly reduce chronic or severe pain, reduce seizure activity, cure self-injurious behavior, and enable the wheelchair-bound to walk.

32. The representations set forth in Paragraph 31 are false and were not substantiated by competent and reliable scientific evidence at the time that the representations were made.

33. Through the means described in Paragraph 30, Defendants have represented, expressly and by implication, that the healing instruments have been scientifically tested and have proven to be effective. Their representations include, but are not limited to, the following:

- A. The healing instruments have proven to be effective in hospital settings.
- B. Defendants have tested the healing instruments using blind and double-blind studies on thousands of people in different types of populations.
- C. Defendants have adhered to the highest research standards in testing the healing instruments.

- D. Defendants' research findings have been duplicated by independent health care professionals.
- E. The healing instruments are endorsed by various health care professionals.
- F. There is no placebo effect in the performance of the healing instruments.

34. In truth and in fact, the healing instruments have not been scientifically tested and proven to be effective.

35. A number of the consumers and health care professionals who endorse, or who have given testimonials for, the healing instruments in GWP's promotional literature have a material relationship with Defendants that is not disclosed.

36. GWP is governed by a board of directors comprised of eight individuals who, until 2003, which was after the Attorney General began an investigation of GWP, were all "financially interested persons," as that term is defined in 13-B M.R.S.A. § 713-A(1).

37. The six individual Defendants have acted, singly or collectively, as the alter ego of GWP, without regard to their fiduciary responsibilities as officers and directors of a charitable organization.

38. Mary Miller, John Miller and/or Carol Miller (collectively, the "Millers") purchased real property at various times in their individual names, including a house in Blue Hill, Maine that was sold in 1998; a house in Melbourne Beach, Florida that was sold in 2003; and their current

residence, purchased in 1999, on the Oyster River in Durham, New Hampshire (the "Durham Property") that they share with the other individual Defendants, and whose sale is currently being negotiated.

39. GWP has paid the expenses for these properties including, but not limited to, mortgage payments, taxes, insurance, maintenance and improvements.

40. On January 30, 2004, more than a year after the Attorney General began an investigation of GWP, and five years after purchasing the Durham Property, the Millers conveyed a portion of it to GWP by deed that characterized the earlier conveyance to the Millers, instead of to GWP, as a "scrivener's error."

41. Until November 28, 2005, GWP owned real property located at 10 Prince Street in Kittery, Maine, which was once the shared residence of the individual Defendants.

42. GWP has paid the entire cost of lodging and most of the expenses for food for the individual Defendants who have lived at the properties owned by the Millers and GWP, in addition to their individual salaries which, for example, exceeded \$36,000 in 2000, \$69,000 in 2003, and \$42,000 in 2004.

43. In their own names, the individual Defendants have purchased valuable personal property that was paid for by GWP including, but not limited to, boats, motorcycles, electronic equipment and musical instruments.

44. On February 1, 1999, GWP's Board approved a loan to Paul Carreiro, a brother of Mary Miller and Joan Carreiro, to pay the cost of his personal medical care.

45. GWP has never loaned money to any other individual for medical care.

46. Between February 19, 1999 and February 14, 2003, GWP loaned a total of \$204,525, more or less, to Paul Carreiro, in approximately 173 separate payments that are evidenced by individual "on demand" promissory notes in which no interest rate is specified. The promissory notes are signed by Mary Miller, as GWP's president, and Paul Carreiro.

47. GWP did not require any security from Paul Carreiro for the loan, or any documentation that the funds were actually used to pay his medical expenses.

48. Paul Carreiro did not make any payments on the loan until sometime in 2003 when he began making monthly payments.

49. Sometime in early 2003, allegedly following Board approval and at Mary Miller's direction, GWP began disbursing so-called "medical grants" to approximately 68 chronically ill "patients," or to "advocates" on their behalf, to pay for medical care or personal expenses. Patients who received medical grants were asked to use the healing instruments and to fill out questionnaires provided by GWP.

50. A number of patients received several or more of these grants. Two individuals received funds totaling more than \$16,000 each.

51. There is no record in the Board's minutes that the medical grants were approved by the Board.

52. There is no record in the Board's minutes that Mary Miller established, and that the Board approved, any written policy or protocol for the medical grants, including, but not limited to, how one could apply for a grant, the supporting documentation required, the criteria for receiving a grant, who would make the decision, how much could be disbursed to each recipient, and the substantiation required to prove that the grant was used for its intended purpose.

53. GWP and Mary Miller obtained little information on the patients who received the medical grants, including such basic information as the patient's, and his or her advocate's, full name, address and telephone number.

54. Mary Miller, Joan Carreiro, and/or Shelbourne Miller paid the medical grants in cash to the patients, or their advocates, after cashing checks made out to "Cash" that were drawn on GWP's account. The patients or their advocates then signed simple forms containing only the month and the year, the patient's last name, and the amount given for "General Medical Services & Maintenance."

55. GWP has little other documentation to substantiate that disbursements for the medical grants were actually made or received as claimed.

56. The checks from which the medical grants were paid were booked in GWP's accounting software by Shelbourne Miller as payments to Massachusetts General Hospital.

57. Said payments were not made to Massachusetts General Hospital.

58. GWP disbursed more than \$500,000 in medical grants in 2003 and 2004.

COUNT I

(Unlawful Claims Concerning Health Benefits)

59. The State repeats, realleges, and incorporates herein by reference Paragraphs 1 through 58 of this Complaint.

60. Defendants' representations, made expressly and by implication, of the health benefits to using the healing instruments are not substantiated by competent and reliable scientific evidence, and therefore constitute an unfair or deceptive practice in violation of 5 M.R.S.A. § 207.

61. Defendants' conduct as described herein was intentional.

COUNT II

(False Testing Claim for Healing Instruments)

62. Plaintiff repeats, realleges, and incorporates herein by reference Paragraphs 1 through 58 of this Complaint.

63. Defendants' representations, made expressly and by implication, that the healing instruments have been scientifically tested and have proven

to be effective are false, and therefore constitute an unfair or deceptive practice in violation of 5 M.R.S.A. § 207.

64. Defendants' conduct as described herein was intentional.

COUNT III

(Failure to Disclose Material Relationships)

65. Plaintiff repeats, realleges, and incorporates herein by reference Paragraphs 1 through 58 of this Complaint.

66. Defendants' failure to disclose material relationships between Defendants and a number of consumers and health care professionals whose endorsements are used in GWP's promotional materials constitutes an unfair or deceptive practice in violation of 5 M.R.S.A. § 207.

67. Defendants' conduct as described herein is intentional.

COUNT IV

(Unfair or Deceptive Use of Charity)

68. Plaintiff repeats, realleges, and incorporates herein by reference Paragraphs 1 through 58 of this Complaint.

69. Defendants' inducement of consumers to acquire the healing instruments by characterizing the funds that Defendants receive as charitable donations for which income tax deductions can be claimed, instead of as sales proceeds subject to the state sales tax, constitutes an unfair or deceptive practice in violation of 5 M.R.S.A. § 207.

70. Defendants' conduct as described herein was intentional.

COUNT V

(Failure to Keep Correct and Complete Records)

71 Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

72. Defendants' failure to keep correct and complete books and records of accounts or minutes of the proceedings of GWP's Board constitutes a violation of 13-B M.R.S.A. § 715(1), and a breach of fiduciary duties by directors and officers named herein in violation of 13-B M.R.S.A. §§ 717(1) and 720(1).

COUNT VI

(Misapplication of Charitable Funds or Assets)

73. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

74. The transfer of charitable funds to Paul Carreiro in the form of a loan constitutes a misapplication of charitable funds in violation of 13-B M.R.S.A. § 721(1)(B), and a breach of fiduciary duty by the directors named herein in violation of 13-B M.R.S.A. § 717(1).

COUNT VII

(Misapplication of Charitable Funds or Assets)

75. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

76. The transfer of charitable funds to patients or their advocates in the form of so-called medical grants constitutes a misapplication of

charitable funds in violation of 13-B M.R.S.A. § 721(1)(B), and a breach of fiduciary duty by the directors named herein in violation of 13-B M.R.S.A. § 717(1).

COUNT VIII

(Breach of Fiduciary Duty by Officer)

77. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

78. Mary Miller's failure, as president of GWP directing the medical grants, to institute a written policy or protocol for them and to keep adequate records on the recipients and disbursements of funds constitutes a violation of 13-B M.R.S.A. § 715(1), and a breach of fiduciary duty by an officer in violation of 13-B M.R.S.A. § 720(1).

COUNT IX

(Breach of Fiduciary Duty by Officer)

79. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

80. Shelbourne Miller's failure to correctly book the disbursements for the medical grants in GWP's accounting software constitutes a violation of 13-B M.R.S.A. § 715(1), and a breach of fiduciary duty by an officer in violation of 13-B M.R.S.A. § 720(1).

COUNT X

(Private Inurement or Excess Benefits to Officers and Directors)

81. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

82. The application of GWP funds and/or assets to provide free lodging and food to the individual Defendants constitutes private inurement or excess benefits to officers and directors of a public benefit corporation in violation of 13-B M.R.S.A. § 721(1)(C), and a breach of fiduciary duties by the directors and officers named herein in violation of 13-B M.R.S.A. §§ 717(1) and 720(1).

COUNT XI

(Misapplication of Charitable Funds or Assets)

83. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

84. The application of GWP funds and/or assets to fund expenditures for so-called research projects that were consistently carried out, or directed, by GWP's co-directors in an unscientific manner constitutes a misapplication of charitable funds in violation of 13-B M.R.S.A. § 721(1)(B), and a breach of fiduciary duty by the directors named herein in violation of 13-B M.R.S.A. § 717(1).

COUNT XII

(Private Inurement or Excess Benefits to Officers and Directors)

85. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

86. The application of GWP funds and/or assets to pay the expenses on real property owned by Mary Miller, John Miller, and/or Carol Miller constitutes private inurement or excess benefits to officers and directors of a public benefit corporation in violation of 13-B M.R.S.A. § 721(1)(C), and a breach of fiduciary duties by the directors and officers named herein in violation of 13-B M.R.S.A. §§ 717(1) and 720(1).

COUNT XIII

(Private Inurement or Excess Benefits to Officers and Directors)

87. Plaintiff repeats, realleges, and incorporates herein by reference paragraphs 1 through 58 of this Complaint.

88. The application of GWP funds and/or assets to pay the expenses incurred by the individual Defendants who purchased valuable items of personal property in their individual names constitutes private inurement or excess benefits to officers and directors of a public benefit corporation in violation of 13-B M.R.S.A. § 721(1)(C), and a breach of fiduciary duties by the directors and officers named herein in violation of 13-B M.R.S.A. §§ 717(1) and 720(1).

RELIEF REQUESTED

Wherefore, Plaintiff requests that this Court enter the following relief:

1. Declare that Defendants have violated 5 M.R.S.A. § 207 of the Maine Unfair Trade Practices Act by making false and unsubstantiated claims about the health benefits of using the healing instruments; by making false claims that scientific research has been done on the healing instruments and that they have been proven to be effective; and by characterizing the funds received from consumers who wanted healing instruments in exchange as donations rather than sales.

2. Pursuant to 5 M.R.S.A. § 209 and M.R.Civ.P. 65, permanently enjoin Defendants, their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of this injunction, from representing in any manner, directly or indirectly, in connection with the manufacturing, promotion, packaging, labeling, sale, or distribution of the healing instruments that there are health benefits to using the healing instruments, and that the healing instruments have been scientifically tested and have proven to be effective including, but not limited to, making statements that:

- a. The healing instruments repair damage to one's energetic or "etheric" structure, which is the cause of emotional and mental stress and pain, resulting in mental and emotional healing that significantly reduces or obviates the need for psychotherapy.

- b. The healing instruments solve, among other things, most of the problems found in humanity, lower blood pressure, reduce the need for anti-anxiety medications, reduce combativeness in Alzheimer's patients, increase one's perceptions of emotional and physical health, cure 50% of alcoholics and drug users of their alcohol- or drug-using habits, enable surgical patients to recover more quickly, cure or significantly reduce chronic or severe pain, reduce seizure activity, cure self-injurious behavior, and enable the wheelchair-bound to walk.
- c. The healing instruments have proven to be effective in hospital settings.
- d. Defendants have tested the healing instruments using blind and double-blind studies on thousands of people in different types of populations.
- e. Defendants have adhered to the highest research standards in testing the healing instruments.
- f. Defendants' research findings have been duplicated by independent health care professionals.
- g. There is no placebo effect in the performance of the healing instruments.

3. Declare that the funds received by Defendants from a consumer who obtained a healing instrument in exchange are sale proceeds and not a

charitable donation, and order Defendants to pay to Maine Revenue Services any sales tax owing for each such sale.

4. Declare that GWP's transfer of funds in the form of a loan to Paul Carreiro constitutes a misapplication of charitable funds or assets in violation of 13-B M.R.S.A. § 721(1)(B), and a breach of fiduciary duty by the directors named herein in violation of 13-B M.R.S.A. § 717(1).

5. Declare that GWP's transfer of charitable funds in the form of so-called medical grants to patients or their advocates constitutes a misapplication of charitable funds or assets in violation of 13-B M.R.S.A. § 721(1)(B), and a breach of fiduciary duty by the directors named herein in violation of 13-B M.R.S.A. § 717(1).

6. Declare that Mary Miller's failure to institute a written policy or protocol for the medical grants, and to keep adequate records of the disbursements and on the recipients of the funds constitutes a violation of 13-B M.R.S.A. § 715(1), and a breach of fiduciary duty by an officer in violation of 13-B M.R.S.A. § 720(1).

7. Declare that Shelbourne Miller's failure to correctly book the disbursements made for medical grants in GWP's accounting software constitutes a violation of 13-B M.R.S.A. § 715(1), and constitutes a breach of fiduciary duty as an officer in violation of 13-B M.R.S.A. § 720(1).

8. Declare that the application of GWP funds and/or assets to provide free food and lodging to the individual Defendants constitutes private inurement or excess benefits to officers and directors in violation of 13-B

M.R.S.A. § 721(1)(C), and a breach of fiduciary duties by the directors and officers named herein in violation of 13-B M.R.S.A. §§ 717(1) and 720(1).

9. Declare that the application of GWP funds and/or assets to fund expenditures for so-called research projects that were conducted, or directed, by GWP's co-directors constitutes a misapplication of charitable funds or assets in violation of 13-B M.R.S.A. § 721(1)(B), and a breach of fiduciary duty by the directors named herein in violation of 13-B M.R.S.A. § 717(1).

10. Declare that the application of GWP funds and/or assets to pay the expenses for real property owned by John Miller, Mary Miller and/or Carol Miller constitutes private inurement or excess benefits in violation of 13-B M.R.S.A. § 721(1)(C), and a breach of fiduciary duties by the directors and officers named herein in violation of 13-B M.R.S.A. §§ 717(1) and 720(1).

11. Declare that the application of GWP funds and/or assets to pay for personal property owned by the individual Defendants constitutes private inurement or excess benefits in violation of 13-B M.R.S.A. § 721(1)(C), and a breach of fiduciary duties by the directors and officers named herein in violation of 13-B M.R.S.A. §§ 717(1) and 720(1).

12. Pursuant to 5 M.R.S.A. § 194-J(2), permanently enjoin the individual Defendants from serving as directors and/or officers for any Maine charity.

13. Pursuant to 5 M.R.S.A. § 194-K(3), order the individual Defendants to pay a civil penalty in an amount equal to 100% of the property

or consideration that they received from GWP that constitutes private inurement, or 100% of the excess benefits that they received from GWP that exceed the fair market value of what they provided in return.

14. Pursuant to 5 M.R.S.A. § 194-J(2) and 13-B M.R.S.A. § 1106, enjoin the Defendants from selling any real estate or personal property owned by GWP or in which GWP has an equitable interest.

15. Order GWP's dissolution pursuant to 13-B M.R.S.A. §1105(2-A)(B) and (D).

16. Prior to the entry of a decree of dissolution and pursuant to 13-B M.R.S.A. § 1105(4), appoint a liquidating receiver to liquidate GWP's affairs, and grant the receiver all powers necessary to carry out that purpose, pursuant to 13-B M.R.S.A. § 1106.

17. Order Defendants to execute all documents, and to take any actions, that are necessary to facilitate and complete the liquidation of GWP's affairs.

18. Order the receiver to pay any remaining sums, after the just debts and costs of the proceeding have been paid, to the Attorney General for distribution as restitution.

19. Pursuant to 5 M.R.S.A. § 209, order restitution to be paid, as determined by the Attorney General, to any consumer who submits a claim for reimbursement for money given to GWP from 2000 to the present in exchange for a healing instrument.

20. Pursuant to 5 M.R.S.A. §209, order the Attorney General to distribute any funds remaining, as *cy pres* restitution, to a charity or charities, chosen by the Attorney General, that provide services to the mentally ill.

21. Pursuant to 5 M.R.S.A. § 209, permanently enjoin the individual Defendants, their officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of this injunction from using the names "The Gentle Wind Project" or "The Gentle Wind Retreat" in connection with any future business or nonprofit venture.

22. Pursuant to 5 M.R.S.A. § 209, order Defendants to pay a civil penalty of up to \$10,000 for each intentional violation of the Maine Unfair Trade Practices Act.

23. Pursuant to 5 M.R.S.A. § 209 and 14 M.R.S.A. § 1522, order Defendants to pay to the Office of the Attorney General the State's costs of investigation and suit, including attorney's fees.

24. Order such other and further relief as the Court may deem necessary to remedy the effects of Defendants' unfair and deceptive practices, and for misapplying or wasting GWP's funds or assets.

Dated: June 29, 2006

G. STEVEN ROWE
Attorney General

Carolyn A. Silsby

CAROLYN A. SILSBY

Maine Bar No. 3030

LINDA J. CONTI

Maine Bar No. 3638

Assistant Attorneys General

Consumer Protection Division

6 State House Station

Augusta, ME 04333-0006

Tel. (207) 626-8800

Attorneys for Plaintiffs