

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE SECRETARY OF THE COMMONWEALTH**

**DOCKET NO. 0012-98-00
FILE NO. 2000-98-02634**

**COMMONWEALTH OF PENNSYLVANIA,
BUREAU OF CHARITABLE ORGANIZATIONS**

vs.

CHILDREN'S WISH FOUNDATION INTERNATIONAL, INC.

DECISION AND ORDER

History:

On October 3, 2000, the Commonwealth of Pennsylvania, Department of State, Bureau of Charitable Organizations ("Commonwealth" or "Bureau") filed a 95-count Order to Show Cause against Children's Wish Foundation International, Inc. (CWFI). The Commonwealth charged, in Counts 1 through 41 of the Order to Show Cause, that CWFI made material false statements in the Registration Statement BCO-10 required to be filed under the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §§ 162.1 *et seq.* (Act), Act of December 19, 1990, P.L. 1200, No. 202, §1, by claiming it made certain in-kind contributions to 41 Ronald McDonald Houses. Counts 42 through 95 of the Order to Show Cause charged CWFI with applying contributions made to them in a manner substantially inconsistent with the charitable purpose expressed in the Registration Statement of the organization.

On December 26, 2000, CWFI filed its Answer, New Matter and Additional Defenses to the Order to Show Cause. On December 27, 2000, CWFI filed a "Motion to Dismiss, or In the Alternative, Consolidate Counts in the Order to Show Cause." On January 19, 2001, the Commonwealth filed an Answer to CWFI's Motion to Dismiss and also filed a Reply to CWFI's New Matter.

On March 16, 2001, Presiding Officer Spencer Manthorpe, Esquire denied CWFI's Motion. On April 3, 2001, CWFI filed a Motion to Certify. On April 13, 2001, the Commonwealth filed an Answer to CWFI's Motion to Certify. On April 19, 2001, CWFI replied to the Commonwealth's Answer. On April 21, 2001, Presiding Officer Manthorpe denied the Motion to Certify.

On November 6, 2001, the parties filed a Stipulation relating to evidence concerning Counts 1 through 41.

The hearing in this matter took place from November 13 through 16 and December 3 through 6, 2001. During the hearing, the Commonwealth withdrew certain counts in the Order to Show Cause, which were detailed in a letter dated November 21, 2001, from Deputy General Counsel Steven V. Turner to CWFI's attorney Robert Blume. The Commonwealth withdrew Counts 42, 47, 48, 49, 51, 53, 57, 59, 60, 61, 62, 63, 64, 65, 77, 84, 85 and 90. The Commonwealth also withdrew that part of Count 46 dealing with the purchase of bags at Harrods's Department Store in London for \$316.85 and also that part of Count 87 dealing with the meal at Noodles Café and Avis Rent-A-Car.

II. FINDINGS OF FACT

1. Children's Wish Foundation International, Inc. is a Georgia non-profit organization with primary offices at 8615 Roswell Road, Atlanta, GA 30350-7526. (CWFI's answer to Order to Show Cause)
2. CWFI maintains an affiliate in England, which maintains offices at 7a Wyndham Place, London W1H 1PN ("CWFI-UK"). (CWFI's answer to Order to Show Cause)
3. At all times pertinent to the factual allegations in the Order to Show Cause, CWFI has been registered as a charitable organization with the Commonwealth of Pennsylvania, Department of State, Bureau of Charitable Organizations. (CWFI's answer to Order to Show Cause)
4. CWFI solicited charitable contributions from Pennsylvania citizens. (CWFI's answer to Order to Show Cause)
5. Arthur J. Stein (Stein) is the President and Chairman of the Board of Directors of CWFI. (CWFI's answer to Order to Show Cause)
6. Linda Dozoretz (Dozoretz), also known as Linda Stein, is the Secretary/Treasurer of CWFI. (CWFI's answer to Order to Show Cause)
7. There are between eight and ten members of the CWFI Board of Directors all of whom serve without pay or compensation of any kind other than reimbursement of expenses. (Tr. 1661)
8. Dozoretz and Stein report quarterly to the Board of Directors on the goals, strategies and expansion plans of the organization. (Tr. 1663)
9. Stein and Dozoretz are married. (CWFI's answer to Order to Show Cause)

10. The Board reviews the budgets prepared by Dozoretz and Stein, including the amounts of money spent to expand the organization internationally. (Tr. 1673-4)
11. CWFI provides Stein and Dozoretz with corporate charity credit cards. (CWFI's answer to Order to Show Cause)
12. CWFI pays the bills for charges incurred with the corporate charity credit cards with charitable funds from CWFI. (Tr. 227)
13. The Attorney General's office and CWFI signed a Consent Decree on August 9, 1995 dealing in part with the valuation of non-cash contributions. (Copy attached to CWFI's Motion to Dismiss)
14. The value of any non-cash contributions of donated material recorded as program expense was to be fair market value as determined by the donor or an appraiser. (Copy attached to CWFI's Motion to Dismiss)
15. During the period July 1, 1998 to June 30, 1999 CWFI delivered goods to hospitals and Ronald McDonald Houses (RMH) for distribution to children staying there. (Ex. R-1)
16. The Bureau began examining CWFI's records in 1997. (Tr. 501-3)
17. On April 26, 2000, CWFI forwarded to the Bureau a copy of its 1998 IRS Form 990 for the period July 1, 1998 through June 30, 1999. (Ex. D-265(c))
18. On the signature page for the 1998 Form 990, Linda Dozoretz signed as Secretary of CWFI, dating her signature March 17, 2000. (Ex. D-265(c))
19. Dozoretz signed the Form 990 with the knowledge that the form states, "Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is

true, correct and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.” (Ex. D-265(c) Tr. 196-7)

20. Jeff Fox of the accounting firm of Mayer, Hoffman, McCann, L.C. (MHM) certified public accountants prepared the Form 990 filed with the IRS and the Bureau. (Ex. D-265(c) Tr. 81)

21. On page 2 of this Form 990, line 22 listed \$3,896,204 as “grants and allocations” constituting program services. (Ex. D-265(c))

22. CWFI attached “Statement 21” to this Form 990, which detailed \$3,383,642 in “grants to RMHs and other facilities”. (Ex. D-265(c))

23. A two-page schedule was attached which detailed contributions of “various clothes, toys, books, craft items and supplies” with various “fair market values”. (Ex. D-265(c))

24. The total amount of alleged contributions valued at “fair market value” to 83 individually listed RMHs was \$3,383,642.00 of the total of \$3,896,203.00. (Ex. D-265(c))

25. During the fiscal year July 1, 1998 through June 30, 1999, CWFI received various “in-kind” contributions to send to hospitals and facilities such as RMHs that serve seriously ill children. (Ex. R-1)

26. A primary source for in-kind contributions during this time period was from Gifts In Kind International (“GIK”). (Ex. R-1 Tr. 30-1)

27. During the 1998-1999 fiscal year, Stein was responsible for requesting products from GIK. (Ex. R-1 Attachment 1)

28. Stein ordered products from GIK using a donation request form. (Ex. R-1 Attachment 1)

29. A sample of a donation request form is attached to Exhibit R-1 as Attachment 1.
30. Stein's secretary would process the order and enter some information from the completed request form onto an Excel spreadsheet. (Ex. R-1 Attachment 2)
31. The Excel spreadsheet for the 1998-1999 fiscal year is included at Exhibit R-1 as Attachment 2.
32. The Excel spreadsheet listed the donor value for the items ordered but did not list a value for the items that were actually received. (Ex. R-1 Attachment 2)
33. No procedure existed in the 1998-1999 fiscal year for preparing and reconciling in-kind donations actually received at the CWFI's warehouse with the amounts of donations requested on the donation forms and entered on the Excel spreadsheet. (Ex. R-1; Tr. 38)
34. GIK did not always ship the amounts ordered by CWFI. (Tr. 41-2)
35. During the 1998-1999 fiscal year CWFI did not employ a formal method for recording the receipt of products into any inventory or tracking system. (Ex. R-1)
36. Robert Hooks was identified as the warehouse manager. (R-1 P; 4 Tr. 66-7)
37. Hooks confirmed that materials were received from GIK and verbally notified Stein of their receipt. (R-1 P 4)
38. However, no comparison or reconciliation of amounts took place when Hooks and Stein spoke. (R-1 p. 4)
39. GIK reports submitted to CWFI did not provide per unit or per piece values. (R-1 P 5)
40. CWFI determined unit value without checking with GIK. (R-1 p. 5)

41. CWFI's documentation of the valuation process was frequently only a handwritten calculation on the interior flap of an internal file. (R-1 p. 5)
42. Wish counselors shipped the donated items to RMHs but did not maintain contemporaneous records of items shipped to individual houses. (R-1 p. 5)
43. At fiscal year end, values for shipments to the RMHs were estimated. (R-1 p. 5)
44. After the fiscal year was over, a donation tracking spreadsheet for the RMHs was actually filled in. (R-1 p. 5)
45. Ricardo J. Zayas, CPA, qualified to testify as an expert witness, prepared the forensic accounting report R-1.
46. Zayas focused on three types of products shipped by GIK - "Miss Piggy books", "NBA books" and "sidewalk chalk". (R-1 pp. 6-7)
47. CWFI did not reconcile actual warehouse receipts of these products with the quantities and values they requested. (R-1 pp. 6-7)
48. The amount of the products received by CWFI was far less than the amount requested on the donation request forms originally submitted by CWFI to GIK. (R-1 pp. 6-7)
49. GIK did not notify CWFI that it had shipped less than ordered. (R-1; Tr. 55, 63)
50. Periodically GIK sent a TAP agency activity report showing what it actually shipped but with a value for the amount ordered. (Tr. 57; Ex. R-441)

51. The total value of amount of the Miss Piggy books, NBA books and sidewalk chalk recorded on Stein's secretary's Excel spreadsheet was over \$1 million more than the value of the amount actually received from GIK. (R-1 pp. 6-7)

52. The value of certain product contributions to RMHs was, at times, determined by "backing into" the value received. (R-1 pp. 6-7)

53. Specifically, the value of the contributions of "Miss Piggy books" to RMHs was determined by first deducting the value of the contributions assigned to hospitals and the remaining inventory amount from the total amount ordered from GIK. (R-1 pp. 6-7)

54. The balance was allocated to the RMH contributions. (R-1 pp. 6-7)

55. This calculation led to an overstatement of the value of the non-cash contribution. (R-1 pp. 6-7)

56. CWFI's former auditor MHM discovered and adjusted a \$54,758 overstatement in the inventory value for the Miss Piggy books. (R-1 p.7)

57. The former independent auditor did not identify the over \$1 million discrepancy in the value of items requested from GIK as compared with the value of items actually received from GIK. (R-1 p.7) A

58. At Zayas' request, CWFI contacted GIK for further documentation. (R-1 Attachment 4)

59. GIK provided a report dated June 23, 2001, which is attached to Exhibit R-1 as Attachment 4.

60. Zayas found it difficult, often impossible, to reconstruct the contents of any specific shipment to a RMH. (R-1 p.8)

61. Based upon Zayas' efforts, he determined that CWFI overstated the value of in-kind contributions it received by \$1,312,556.00 and overstated the amount of claimed program services as recorded on the 1998-1999 Form 990 by \$1,228,099. (R-1 p.7)

62. Zayas was originally retained to substantiate the value of in-kind contributions reported by CWFI. (Tr. 21) I

63. In addition to problems with the "Miss Piggy books", there were also problems with "NBA books" and "children's sidewalk chalk". (Tr. 54)

64. Zayas determined that the value of non-cash contributions reflected on CWFI's 1998 Form 990 was inaccurate. (Tr. 54-60)

65. Zayas did not make a determination as to whether any portion of the \$1,282,856 program service overstatement was attributable to any specific hospital or RMH. (Tr. 61)

66. When Dozoretz signed the 1998 Form 990, she understood she had a legal obligation to be truthful, and declared that she examined the return, including accompanying schedules and to the best of her knowledge, it is true, correct and complete. (Tr. 81-82)

67. The Mayer Hoffman firm was aware of problems with the procedures CWFI had been following concerning the tracking of goods received in the warehouse. Tr.66-68)

68. The documents contained in Commonwealth's Exhibit D-3 are the type of materials that Zayas saw in the files for each hospital and RMH that received in-kind donations. (Tr. 89-94)

69. Zayas found the documents contained in Exhibit D-3, for example, did not contain enough information to reconstruct the amount of in-kind donations shipped to a specific RMH. (Tr. 89-94)

70. Zayas was unable to substantiate what had been shipped to any given RMH. (Tr. 94)

71. Zayas never inquired of any of the personnel at the RMHs about what in-kind donations they had received. (Tr.99)

72. Zayas could not substantiate for any one of the 41 RMHs listed in the Order to Show Cause, the amount of in-kind donations claimed by CWFI on the 1998 Form 990. (Tr. 100)

73. There was no evidence of any contacts by CWFI with any RMH to confirm the values claimed by CWFI on the 1998 Form 990. (Tr.100-101)

74. Exhibit D-276 is the amended 1998 Form 990.

75. Exhibit D-276 does not contain an itemized list of contributions to 83 RMHs.

76. The original 1998 Form 990 listed in-kind contributions to RMHs in the amount of \$3,383,642. (Ex. 265(c))

77. The amended return listed in-kind contributions to 83 RMHs in the amount of \$2,100,786.

78. The difference is \$1,282,856.

79. The parties stipulated on November 6, 2001, that CWFI overstated the value of its non-cash contributions listed in its 1998 Form 990 by \$1,312,566.00. (November 6, 2001 Stipulation)

80. The parties stipulated that CWFI overstated that value of its program services listed in its 1998 Form 990 by \$1,282,857.00. (November 6, 2001 Stipulation)

81. Both MHM, Dozoretz and CWFI were aware, in August 1999, of deficiencies in the tracking of in-kind donations and related issues, and the need to change procedures to correct the deficiencies. (Tr. 114-15)

82. According to Dozoretz, accountant Jeff Fox was alerted by Dozoretz to the problem with tracking goods received at the warehouse. (Tr. 486)

83. Fox stated he would take 15% off the top. (Tr. 486)

84. Ms. Dozoretz testified that MHM reduced the value of non-cash contributions in the original Form 990 to 15% to be conservative. (Tr. 210, 487, 1118)

85. There are no documents in evidence to substantiate the 15% reduction.

86. Dozoretz testified that August 1999, was the first time she looked at Stein's secretary's spreadsheet. (Tr. 202-204)

87. Dozoretz realized that goods were not being tracked and at that time began working on it with her bookkeeper, Susan Sprague. (Tr. 202-204)

88. MHM who prepared the original 1998 Form 990, set up the two-page schedule listing the values for in-kind contributions purportedly made to RMHs. (Tr. 207)

89. The schedule the accountants produced was based upon a chart prepared by CWFI employee Tanya Finley. (Tr. 207-208)

90. To Dozoretz' knowledge, neither she nor Stein checked with Finley after she prepared the chart to determine if the numbers on the chart were accurate. (Tr. 207)

91. CWFI, Dozoretz and MHM knew the figures in the original Form 990 were not accurate when it was filed. (Tr. 207-210)

92. In August 1999 MHM and CWFI instituted procedures to prevent the inventory tracking and valuation problems, which caused the previous overstatement of values. (Ex. R-1, Tr. 66-67)

93. CWFI changed accountants. (Tr. 1114)

94. CWFI now values non-cash gifts at wholesale value. (Tr. 1121)

95. CWFI's Form 990 is available in the Secretary of the Commonwealth's offices and on its website for anyone who would like to see it. (Tr. 211)

96. The returns are posted for donor information. (Tr. 211)

97. The Department's experience is that potential donors are interested in how much is given away for charitable purposes versus the fund raising expenses. (Tr. 1169-1172)

98. The Department relies on the statements contained in the return to perform its oversight function for its citizens. (Tr. 1169-1172)

99. On September 19, 1997, Renee Werbin issued a memo to all staff at SRI Travel and Promotions Limited. (Ex. R-136; R-369)

100. Werbin is the owner and operator of SRI Travel. (Ex. R-136; R-369)

101. Werbin advised that she had spoken with Stein concerning travel arrangements regarding Children's Wish Foundation. (Ex. R-136; R-369)

102. Werbin stated in a memo that "we are at all times to request the lowest possible airfares, hotel rooms, cars, tours, cruises, etc.," for all travel for Children's Wish Foundation. (Ex. R-136; R-369)

103. This policy regarding the lowest possible price for travel expenses was for all travel for the Foundation including that of Stein and Dozoretz. (R. 229-231)

104. Expenses incurred in Counts 42 through 95 were charged to CWFI's American Express card issued to Stein and Dozoretz. (R. 227)

105. When the American Express bill would come in, the bill would be paid for utilizing funds of CWFI. (R. 227)

106. Counts 42, the portion of Count 46 relating to Harrod's bags, 47, 48, 49, 51, 53, 57, 59-65, 77, 84, 85 and 90 were withdrawn by the Commonwealth on November 21, 2001.

107. CWFI decided to become an international organization when it was incorporated in 1985. (Tr. 292)

108. CWFI-UK has its own charity status in Britain; the relationship between CWFI and CWFI-UK is like that of corporate parent and child. (Tr. 241)

109. From June 19, 1996, until July 5, 1996, Ms. Dozoretz and Mr. Stein traveled to the United Kingdom to offer assistance to the CWFI-UK office. (CWFI's Answer to Order to Show Cause)

110. Ms. Dozoretz and Mr. Stein are both on the Board of Directors of CWFI-UK. (TR. 521)

111. The purpose for their traveling to the United Kingdom at this time was to assist CWFI-UK to better fulfill its missions and to try to have the organization expand into Scotland and Ireland. (TR. 521-522)

112. During the June 1996 trip to London, Ms. Dozoretz and Mr. Stein reviewed the records of CWFI-UK as well as the accounting procedure/methods being used. (Tr. 527-528)

113. They also sought to help Mark Reuben, then Director, and other CWFI-UK personnel on wish granting and general administrative matters. (Tr. 527-528)

114. While they were in the United Kingdom, Ms. Dozoretz and Mr. Stein traveled to Scotland and Ireland. (Ex. R-4 to R-8)

115. The purpose of the trips to the UK was to improve the outreach function of CWFI-UK. (TR. 521)

116. In particular, Ms. Dozoretz and Mr. Stein sought to have medical personnel at the various hospitals in Scotland and Ireland identify children who could be recipients of wishes. (Ex. R-4 to R-12)

117. In follow-up letters, CWFI requested "information about the child's home life, if the child has had a previous wish, and if the wish is actually the child's wish . . ." (Ex. R-4 to R-12)

118. The purpose of the trips to Scotland and Ireland was to expand the reach of CWFI-UK. (Tr. 522)

119. Among the things that Ms. Dozoretz and Mr. Stein accomplished was to lay the groundwork in Scotland and Ireland so that CWFI-UK could then use that groundwork as a basis for expanding into those two countries. (Tr. 522)

120. In London, Ms. Dozoretz and Mr. Stein stayed at Flat 8 Cedar House, which is part of the Park Lane Apartments that were managed by Mark Reuben who was the director of CWFI-UK at the time. (Tr. 524-525)

121. They stayed at Cedar House from June 18, 1996, until June 27, 1996. The cost of the flat was \$178.33/night. (Ex. R-15)

122. The Cedar House apartments were the least expensive and most economical apartments that were part of the Park Lane complex. (R-526)

123. The Park Lane Apartments describes itself as providing “the comforts of first-class hotels but with the privacy and freedom of self-contained apartments.” (D-117)

124. Dozoretz testified that “I would not consider it luxury by any means” when referring to the Park Lane Apartments. (Tr. 521)

125. Dozoretz told Mark Reuben to make the most economical arrangements for she and Stein that Reuben could. (Tr. 252)

126. One can stay in London for \$40-\$50 per night. (Tr. 984)

127. Ms. Dozoretz and Mr. Stein ate dinner at the Vecchio Alpino, which was a business dinner. (D-110, R-256, Tr. 528, 531)

128. Dozoretz and Stein used CWFI’s corporate charity credit card to charge \$201.38 for a meal for four persons, including themselves, at Vecchio Alpino. (D-110, R-256)

129. Four people in attendance included Dozoretz, Stein and Mark and Linda Reuben. (Tr. 528, 531)

130. Vecchio Alpino was within walking distance of Cedar House apartments. (Tr. 531)

131. Reuben selected the restaurant because he was familiar with it and it was close to the apartments. (Tr. 531)

132. Ms. Dozoretz and Mr. Stein ate dinner at Villa Rosa, which was a business dinner. (D-110, R-257, R-520)

133. Reuben chose Villa Rosa, which is a neighborhood restaurant and across the street from Cedar House. (Tr. 532-533)

134. Dozoretz and Stein used CWFI's corporate charity credit card to charge \$194.02 for a meal at Villa Rosa. (D-110, R-257, R-520)

135. The four people who ate at Villa Rosa included Dozoretz, Stein and Mark and Linda Reuben. (Tr. 532-533)

136. Ms. Dozoretz and Mr. Stein went to Scotland for the purpose of seeking to expand CWFI-UK's outreach. (Tr. 548, 551)

137. They went rather than Mark Reuben because Reuben had failed to expand in these areas despite the fact that Ms. Dozoretz and Mr. Stein had continually requested that he engage in this kind of outreach and expansion. (Tr. 548, 551)

138. During the time they were in Scotland, Ms. Dozoretz and Mr. Stein were able to make the type of contacts that they had urged Mark Reuben to do in the past. (Tr. 549)

139. The goal and purpose of the trip to Scotland was to reach out to hospitals in Scotland. (Tr.550)

140. Educating hospital personnel about the availability of wishes is an important purpose and goal of CWFI. (Tr. 554)

141. Ms. Dozoretz and Mr. Stein stayed four nights at the Caledonian Hotel because it was centrally located. (Tr. 559)

142. The total bill for the Caledonian was \$2,115.72 and included charges for items other than accommodations. (Ex. R-13)

143. The Caledonian Hotel describes itself as a "bastion of Victorian splendor" and "a landmark on Princes Street, the Fifth Avenue of Edinburgh." (Ex. R-13)

144. The Caledonian Hotel says it is a member of “‘The Leading Hotels of the World’ and provides ‘the finest possible base from which to explore Scotland’s capitol.’” (Ex. D-113)

145. The Caledonian is also listed at www.luxurytravel.com. (Ex. D-113)

146. Dozoretz testified that she does not know what a five-star hotel is. (Tr. 243-244)

147. Dozoretz has stayed at better hotels than the Caledonian and at worse, Dozoretz described the Caledonian as “a nice hotel, I don’t know what luxury, what goes into the term luxury.” (Tr. 243-244)

148. Dozoretz testified there were lower priced hotels available than the Caledonian in Edinburgh. (Tr. 250)

149. The trip to Ireland was added because it was more economical to visit Ireland as part of the June 1996 trip, rather than take a separate trip to Ireland. (Tr. 556)

150. Ms. Dozoretz and Mr. Stein visited the same types of hospitals in Ireland that they had visited in Scotland. (Ex. R-9, R-12)

151. While in Ireland, Ms. Dozoretz and Mr. Stein stayed at Jury's Hotel, which had a corporate rate of 128 pounds or \$206.00/night. (R-14)

152. The accommodations represented 68% of the total cost actually alleged in the OSC, with the balance representing breakfasts, telephone calls and service charges. (R-14)

153. The trip to Ireland and Scotland was entirely business. There was no personal activity whatsoever. (Tr. 556-557)

154. Jurys Hotel in Dublin describes itself as a four-star hotel offering “discreet luxury.” (Ex. D-115)

155. Dozoretz testified there were probably lower priced hotels than Jurys in Dublin. (Tr. 250)

156. Dozoretz and Stein used CWFI’s corporate charity credit card to purchase \$40.45 for cosmetics at Harrods’s Limited in London. (Ex. D-120, D-121, D-122; R-258)

157. Dozoretz testified she charged the make-up and received a free makeover because she wanted to be professionally made up since she was going to give a speech at the ball. (Tr. 256, 257)

158. From July 16 through July 23, 1997, Dozoretz and Stein traveled from Atlanta, Georgia through San Juan, Puerto Rico to Aruba, back to San Juan, Puerto Rico and returning to Atlanta. (CWFI’s Answer to Order to Show Cause)

159. In 1997, a public relations firm employed by CWFI arranged an introduction with government officials of Aruba. (Tr. 574; Ex. R-32)

160. The goal of the introduction was to have Aruba consider naming CWFI as the official charity of the Island of Aruba. (Tr. 574; Ex. R-32)

161. Among the people with whom Ms. Dozoretz and Mr. Stein planned to meet were Anton Black, Minister of Economic Affairs, Jan W. Van Mes and Janju Daryanani of the Aruba Tourism Authority, and Lincoln Gomez of the Ministry of Justice. (Ex. R-32)

162. The purpose of the Aruba trip was to work with government officials who were going to promote CWFI as the charity for the island of Aruba. (Tr. 574)

163. In order to arrive in Aruba at a reasonable time, Ms. Dozoretz and Mr. Stein were required to stay in San Juan, Puerto Rico overnight. (Ex. R-48; Tr. 576)

164. Ms. Dozoretz and Mr. Stein stayed at the El San Juan Hotel because it was near the airport. (Tr. 575)

165. Among the non-governmental people with whom Ms. Dozoretz and Mr. Stein met while in Aruba were Steve Hammond of Lou Hammond & Associates, CWFI's public relations firm; Elaine Farley, who worked for Sports Illustrated and ended up becoming a member of CWFI's Board; and Adwina M. Arends of the Aruba Hotel Association. (Ex. R-32; Tr. 578-579)

166. Had it been selected as the official charity of Aruba, CWFI would have received ten to twelve trips for wish children and their families, displays of CWFI materials at Aruba Tourism Authority booths, collection containers in hotels, casinos and airports, CWFI literature in hotel rooms, and charity golf, tennis, and baseball tournaments benefiting CWFI. There would also have been a link to CWFI on the Aruba web site. (Ex. R-34; Tr. 584, 585)

167. While in Aruba, Ms. Dozoretz and Mr. Stein visited the Dr. Horacio E. Oduber Hospital to determine if there were wish opportunities. (Ex. R-42)

168. The hospital also told Ms. Dozoretz and Mr. Stein that items such as cassettes, baby playthings and coloring pencils would be appreciated. (Ex. R-42)

169. CWFI contributed toys, high chairs, a car seat, books, videotapes and a VCR to the hospital. (Ex. R-44; Tr. 594)

170. The hospital wrote to CWFI expressing its thanks and "the appreciation of the press and the reaction of the community for your gifts and caring for our children's ward." (R-43)

171. On July 16, 1997, the Steins stayed one night at the Wyndham El San Juan Hotel and Casino in San Juan, Puerto Rico. (Ex. D-1311, D-133, R-47, R-263)

172. Dozoretz and Stein used CWFI's corporate charity credit card to make a room charge of \$241.90, a restaurant charge of \$232.05 and miscellaneous charges for a total of \$522.05. (Ex. D-1311, D-133, R-47, R-263)

173. The Wyndham El San Juan Hotel and Casino calls itself a deluxe five-star luxury hotel. (Ex. D-132)

174. It describes itself as being the most happening, exciting resort in the Caribbean, reminiscent of Havana in its heyday and *New York Magazine's* best hotel in Puerto Rico. With its "carved mahogany ceilings, rose-toned Italian marble floors and a huge crystal chandelier", it also features an "opulent and elegant casino" and is featured at www.luxurytravel.com. (Ex. D-132)

175. The hotel is also a member of "The Leading Hotels of the World." (Ex. R-47)

176. The meal charged at the Aguarrela Restaurant for \$232.05 was for Stein and Dozoretz. (Tr. 276)

177. On or about July 22, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$241.90 for a room and \$131.10 for a meal at the Wyndham El San Juan Hotel and Casino in San Juan, Puerto Rico. (Ex. D-135, 136)

178. The restaurant charge at the Aguarrela Restaurant was for Dozoretz and Stein for \$131.10. (Tr. 281)

179. Dozoretz was not able to determine whether the Wyndham El San Juan was a five-star hotel. (Tr. 279)

180. Dozoretz testified, "I can't qualify that as being - I'm not qualified to make any judgment on the quality of the hotel." (Tr. 279)

181. From September 7 through September 21, 1997, the Steins traveled to London, England and Switzerland. (CWFI's Answer to Order to Show Cause)

182. From September 12 through September 14, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge a room for two nights at the Combe Grove Manor Hotel, Bathe, England. (Ex. D-138, D-139, R-273)

183. The Combe Grove Manor Hotel is a hotel located in what it says is "the prettiest village in England." (Ex. D-140, R-274)

184. On September 9, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$142.23 for a meal at Fleming's Mayfair Hotel, London. (Ex. R-141, R-142)

185. On or about September 15, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$155.25 for a meal for two at Travelor's Old Compton, London. (Ex. D-138)

186. The meals at Fleming's Mayfair and Travelor's Old Compton were for Stein and Dozoretz. (Tr. 306)

187. The initial purpose of the September 1997 trip to London was to meet with Princess Diana at Kensington Palace to discuss the activities of CWFI in the United Kingdom. (Ex. R-50, Tr. 603)

188. In addition to the meeting with Princess Diana, Ms. Dozoretz and Mr. Stein also planned to meet with the outgoing chairman of CWFI-UK and the incoming chairman

Marc Granger, along with various board members concerning the wish granting procedures being used by CWFI-UK. (Tr. 605, 615; Ex. R-50)

189. Ms. Dozoretz and Mr. Stein also planned to visit three (3) hospitals (Great Ormond, Northwick and Sargent Cancer Care), CWFI attorneys, accountants and a public relations firm. (Ex. R-50)

190. Ms. Dozoretz and Mr. Stein also visited Combe Grove Manor, where they stayed, in order to determine if it was an appropriate location to do a promotional video. (Tr. 613)

191. As a result of Ms. Dozoretz and Mr. Stein's visit, Sargent Cancer Care for Children announced a link-up with CWFI. (Ex. R-70)

192. A press release issued by Sargent states that CWFI:

“will provide regular funds so that youngsters undergoing months of treatment can enjoy morale-boosting treats . . . We [Sargent's] were delighted when Children's Wish Foundation approached us and we look forward to working with them very much. They have already been enormously helpful, providing us a new minibus for Malcom Sargent House, our holiday house in Scotland.” (Ex. R-70)

193. While in London, Ms. Dozoretz and Mr. Stein visited the following hospitals whose patients were beneficiaries of CWFI gifts:

- a. Great Ormond Street Hospital for Children ("Thanks to the great generosity of the Children's Wish Foundation, twenty-three wards in the Hospital were able to give the children parties such as they never had before"); (Ex. R-78)

- b. Northwick Park Hospital; (Ex. R-79) and
- c. Royal Marsden Hospital. (Ex. R-80)

194. On or about September 15, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$1,123.92 at Asprey, a shop in London for the purchase of a decanter and an ornamental horse. (Ex. D-138, D-143, R-83, R-84)

195. This charge reflected the purchase of a decanter for Mark and Linda Reuben and an ornamental horse figurine for Marc and Helena Granger. (Tr. 307-309, 629-630)

196. The "thank you" notes for these gifts were addressed personally "to two very special people Linda and Arthur" and "Linda and Arthur".

197. On September 21, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$2,930.76 for a five night stay at the Hotel Baur Au Lac in Zurich, Switzerland. (Ex. D-144, R-283)

198. Ms. Dozoretz and Mr. Stein traveled to Switzerland in part to meet with representatives of the Pediatric Burn Center, University Children's Hospital, Zurich. (Ex. R-85)

199. Which hospital advised CWFI "we do have a project to help our little patients . . . we would like to renew our television, video and hifi equipment because it is not . . . operational". (Ex. R-85)

200. Ms. Dozoretz and Mr. Stein identified the need for, and agreed to provide to, the hospital for the following items:

- a. Television/video;
- b. Television/video trolley;
- c. Voice recorder/player;

d. Video recorder, television, notebook computer, modem, computer software.

(Ex. R-86, R-89, R-91, R-94; Tr. 642-644)

201. While in Switzerland, CWFI also met with attorneys in Zurich for the purpose of forming a new entity to expand CWFI's operations in Switzerland and to obtain trademark registration/protection for the new entity. (Ex. R-66, R-76; Tr. 605, 623)

202. The lawyers in Zurich selected the hotel in which Ms. Dozoretz and Mr. Stein stayed while in Zurich because of its close proximity to the offices of CWFI's attorneys. (Tr. 310-311)

203. The Hotel Baur Au Lac calls itself a five-star deluxe, five-star Diamond Award hotel, and member of the "Leading Hotels of the World", "Preferred Hotels and Resorts Worldwide", "Swiss Deluxe Hotels". ((Ex. D-144, R-283)

204. Dozoretz testified that the Hotel Baur Au Lac was "a very nice hotel." (Tr. 310)

205. The Steins stayed at the hotel based upon the recommendation of their Swiss law firm. (Tr. 310-311)

206. When Dozoretz was asked whether there were more reasonably priced accommodations available in Zurich, she testified that the Swiss lawyers "were very aware that we were a charity and that we do try to make the best use of our money and we trusted their judgment when they said we should stay there." (TR. 311)

207. From November 10 through November 21, 1997, the Steins traveled from Atlanta, Georgia to Germany and Austria and returned to Atlanta, Georgia. (CWFI's Answer to Order to Show Cause)

208. The purpose of the trip to Germany was to meet with a group of businessmen who ran a prominent children's charity in Germany called CCC Christliche Kinderhilfe ("CCC"). (TR. 677-679; Ex. R-118, 119, 120, 135)

209. They were also to visit hospitals in Salzburg, Munich and Vienna. (Ex. R-106-R-111)

210. While in Germany, Ms. Dozoretz and Mr. Stein visited the following hospitals:

- a. Kinderspitl, Salzburg, Austria; (Ex. R-107, R-108)
- b. University Children's Hospital, Munich; (Ex. R-109)
- c. Stadt Krankenhaus Munchen-harlachem, Munich; (Ex. R-110)
- d. Kinderklinik An Der Lachnerstrasse, Munich. (Ex. R-111)

211. While in Germany, Ms. Dozoretz and Mr. Stein attended a meeting with representatives of CCC. (Ex. R-294; Tr. 683-684)

212. The purpose of the meeting was to explore an alliance between CWFI and CCC in Europe. (Ex. R-294; Tr. 683-684)

213. While in Garmisch, Ms. Dozoretz and Mr. Stein stayed at the Dorint Sporthotel and ate dinner at the hotel. (Ex. D-158, D-159)

214. They stayed at this hotel based on the recommendations of Thomas Radke of CCC. (Ex. R-135)

215. The rates paid were low season rates since November is off-season. (Ex. R-133)

216. They used the credit card to charge two night accommodations for \$370.34 at the Dorint Sport Hotel in Garmisch Partenkirchen, Germany. (Ex. D-158, D-159)

217. The Dorint Sport Hotel describes itself as an international first-class hotel.
(Ex. D-160)
218. Garmisch is a ski resort and an “R&R” place for servicemen. (Tr. 334, 692)
219. On November 16, 1997, Dozoretz and Stein used CWFI’s corporate charity credit card to charge \$251.98 for miscellaneous charges at the Dorint Sport Hotel in Garmisch Partenkirchen, Germany. (Ex. D-158, R-308)
220. The total charge for two night accommodations and miscellaneous charges for the Steins at the Dorint Sport Hotel was \$622.32. (Ex. D-158)
221. According to Renee Werbin, CEO/President of SRI Travel and Promotion, November is low season in Garmisch. (Ex. R-133)
222. From November 11 through November 16, 1997, the Steins stayed at the Kempinski Hotel in Munich, Germany. (Ex. D-161)
223. The Steins used CWFI’s corporate charity credit card to charge \$2,100.09 for five night accommodations in a standard double room. (Ex. D-161)
224. They stayed at the hotel because it was centrally located with easy access to hospitals Ms. Dozoretz and Mr. Stein wished to visit. (Tr. 680)
225. The side trip to Salzburg, Austria was for the purpose of visiting hospitals.
(Ex. R-107; Tr. 714-715)
226. The Kempinski Hotel styles itself as a deluxe luxury hotel that is also a member of the “Leading Hotels of the World”. (Ex. D-161, D-162)
227. Dozoretz testified that while she and Stein were walking around at night, they found hotels much nicer than the Kempinski. (Tr. 339)

228. Dozoretz does not recall finding hotels that were less expensive, but did find some that were much more luxurious. (Tr. 339)

229. Dozoretz testified that there are some less expensive hotels in Munich. (Tr. 339)

230. On November 16, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge miscellaneous charges totaling \$375.12 at the Kempinski Hotel in Munich. (Ex. D-158, D-163, R-309)

231. The miscellaneous charges included costs for "mini-bar, Bistro, bar, lobby and telephone." (Ex. D-158, D-163, R-309)

232. From December 7 through December 20, 1997, Dozoretz and Stein traveled to London, England. (CWFI's Answer to Order to Show Cause)

233. On November 24, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to purchase round trip airfare for themselves at a total cost of \$10,751.84 (\$5,375.92 per person). Ex. D-164, D-278, R-310, R-311)

234. CWFI paid for Ms. Dozoretz and Mr. Stein to travel business class airfare from Atlanta to London on this trip. Business class tickets were purchased because economy class tickets were not available during this time period. (Ex. D-278; Tr. 1139-1142)

235. Dozoretz and Stein booked business class and upgraded to first class using frequent flyer miles upgrade certificates. (Ex. D-278; Tr. 1139-1142)

236. On December 20, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$6,773.15 for accommodations at the Athenaeum Hotel, London, England. (Ex. D-166, R-154)

237. The Athenaeum Hotel describes itself as an elegant four-star luxury hotel prized for its high standards of service and welcoming atmosphere. (Ex. D-167)

238. Dozoretz testified that the Athenaeum had “nice rooms.” She further testified “superbly appointed, what does that really mean? We’re not talking velvet drapes or anything like that. It’s just, you know, it’s English. It’s nice, you know.” (Tr. 348)

239. Although the Athenaeum is more expensive than the previous apartment hotel at which Ms. Dozoretz and Mr. Stein had stayed, the Athenaeum has attempted to keep the costs of Ms. Dozoretz and Mr. Stein's stay at the hotel to a minimum because of its on-going relationship with CWFI-UK. (Tr. 736)

240. The Athenaeum Hotel has provided free rooms for wish children in the past and continues to do so. (Tr. 737, 738)

241. By staying at the Athenaeum Hotel Ms. Dozoretz and Mr. Stein were able to meet a number of high profile potential supporters who were staying at the hotel at the same time, including Lorna Luft, Charlton Heston, Steve Webster (Fox Television), John Black (LA Lakers), Herb Lazarus of the Carsey Warner Production Company, Carl Reiner and his wife, Richard Thomas, and Ernest Borgnine. (Tr. 725-727)

242. Shelley Lazarus, the wife of Herb Lazarus, and the Reiners all donated items that were part of a CWFI auction. (Tr. 728, 805-806)

243. In their opinion the rewards and benefits obtained by CWFI as a result of Ms. Dozoretz and Mr. Stein's stay at the Athenaeum surpassed the cost of the hotel. (Tr. 736-737)

244. While in London Ms. Dozoretz and Mr. Stein also attended meetings dealing with the management of CWFI-UK; met with their attorneys; met with

representatives of Sky TV, which agreed to film the meeting with the Duchess of York and provide free satellite dishes to a number of hospitals; organized a Toys-R-Us fun run for Norwood Ravenswich Hospital; and met with direct mail marketing companies. (Tr. 733-734, 744-747)

245. While in London in December 1997, Ms. Dozoretz and Mr. Stein met with Hugh Brian Duffy of Pretty Polly Limited which is a hosiery firm owned by Sara Lee Corporation. (Tr. 751)

246. Pretty Polly agreed to donate a portion of its sales to CWFI. "Pretty Polly is bringing can-can to a store near you . . . with every can-can sold, Pretty Polly will donate 10p to the Children's Wish Foundation". (Tr. 750)

247. This resulted in a donation of 50,000 British Pounds to purchase a mini-bus with CWFI's name to be used for transporting children for treatment. (Tr. 750)

248. In addition, Duffy contacted the CEO of Sara Lee for the purpose of assisting CWFI. (Ex. R-142)

249. On December 9, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$306.69 for a meal for four persons at Bice Restorante. (Ex. D-168, R-318)

250. The four people at dinner were Dozoretz, Stein and Mark and Linda Reuben. (Tr. 350, 760)

251. Dozoretz described the restaurant as follows:

"Bice is a chain restaurant. It's a neighborhood Italian restaurant. It's very close to the hotel. It's about six short blocks away. And it's very comfortable and we usually get the same thing each time. Pasta and coffee and dessert." (Tr. 351)

252. On December 13, 1997, Dozoretz and Stein charged \$499.76

to CWFI's corporate charity credit card for a meal for four at Hyatt Carlton Tower Hotel in London. (Ex. D-69, D-70, R-319)

253. The four people in attendance at dinner were Dozoretz, Stein, Marc Granger and his wife, Helena Granger. (Tr. 353-354)

254. Dozoretz testified that she and Stein did not know where to go for dinner and Granger chose it because it was his wife's favorite restaurant. (Tr. 353-354)

255. Dozoretz recognized during the meal that it "was on the expensive side of dinners." Dozoretz testified "Did we realize it was expensive? Of course, we did. How could you not?" (Tr. 756-757)

256. On December 15, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$103.25 for a meal at Bice Restorante. (Ex. D-171, R-155)

257. This charge was for a meal for Dozoretz and Stein. (Tr. 355-356)

258. On December 18, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$256.46 for a meal for four at Koshi Noki in London. (Ex. D172, R-320)

259. The four people participating in that dinner were Dozoretz, Stein and Mark and Linda Reuben. (Tr. 356)

260. Koshi Noki was chosen by Mark and Linda Reuben. (TR. 759)

261. Dozoretz testified that they had no knowledge of any Japanese restaurants and Reuben wanted some Japanese food. (TR. 759)

262. On December 16, 1997, Dozoretz used CWFI's corporate charity credit card to charge \$79.15 for a make-up application at MAC Cosmetics in London. (Ex. D-173)

263. Dozoretz testified that professional make-up was being done on her because they were being filmed for Sky Television. (Tr. 357-358)

264. Dozoretz stated, "I don't have the expertise to put on make-up the way they do. And this was for the meeting with the Duchess and so it would attract a lot of attention and also we would have videotape of it that we would use in the future. I wasn't the only one who got professional make-up for that day." (Tr. 357-358)

265. When asked whether other people had professional make-up paid for by CWFI, Dozoretz replied, "No. No. I don't know what the Foundation in London did. I know that we from the U.S. did not. I didn't treat anybody else to it." (Tr. 357-358)

266. Dozoretz testified that her face was actually shown on TV but she did not have a copy of that video. (Tr. 357-358)

267. From April 23 through May 3, 1998, Dozoretz and Stein traveled to London, England. (Tr. 763-764, Ex. R-159, R-160)

268. Ms. Dozoretz and Mr. Stein traveled to London for the purpose of meeting with the incoming chairman of CWFI-UK, Mark

Granger and to direct the transition from past chairman Mark Reuben to Mark Granger. (Tr. 763-764, Ex. R-159, R-160)

269. On May 1, 1998, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$4,045.44 for accommodations at the Athenaeum Hotel, London, England. (Ex. D-136, R-332, R-333)

270. While at the Athenaeum Hotel, they had the opportunity to meet actress/singer Lorna Luft, who was introduced to them by the manager of the hotel. (Tr. 777, Ex. R 178)

271. At that time, Luft had a book on the New York Times bestseller list about her mother, Judy Garland, entitled "Me and My Shadow." (Tr. 777, Ex. R 178)

272. Since that meeting, Luft has performed at several CWFI functions, without compensation, and has provided CWFI with introductions to other individuals who expressed an interest in assisting CWFI. (Tr. 777)

273. Luft also provided two (2) wish children the opportunity to appear as extras in the movie she was producing about her mother. (Tr. 1150)

274. On April 25, 1998, Dozoretz and Stein charged \$103.79 to CWFI's corporate charity credit card for a meal at Bice Restorante. (Ex. D-177, R-335)

275. This meal was for Dozoretz and Stein. (Tr. 372)

276. On May 1, 1998, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$454.09 for retail goods at Thomas Good and Company, London, England. (Ex. D-178, D-179, R-180, R-181)

277. Dozoretz and Stein purchased two vases for Mark and Linda Reuben. (Tr. 373)

278. The gift was for the outgoing chairman, Mark Reuben and his wife, to thank them for over ten (10) years of his service to CWFI-UK. (Tr. 785)

279. Dozoretz and Stein bought Marc and Helena Granger a vase. (Ex. R-181)

280. The vase was for Mark and Helena Granger welcoming Mark Granger to his new position as chairman of CWFI-UK and thanking him for his previous years of volunteer service. (Tr. 787-789)

281. Helena Granger wrote a "thank you" note addressed personally to "Linda". (R-181)

282. Dozoretz and Stein bought the Reuben's a gift in order to promote a feeling of goodwill and gracious feelings. (Tr. 785-786)

283. Stein later wrote a letter to Reuben dated May 22, 1998, threatening legal action against him unless he turned over records and documents from the U.K. Children's Wish Foundation. (Ex. R-331)

284. Marc and Helena Granger received a vase and flowers to develop their relationship with Dozoretz and Stein. (Tr. 788)

285. On May 3, 1998, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$1,258.48 for accommodations at the Athenaeum Hotel, London, England. (Ex. D-176, R-333, R-336)

286. On May 4, 1998, Dozoretz and Stein purchased first-class airline tickets from Atlanta, Georgia to London, England roundtrip with CWFI's corporate charity credit card for \$11,070.96. (Ex. D-180, D-278, Tr. 1145)

287. First class tickets were purchased because of Stein's bad back, and coach class tickets and upgrades were unavailable on short notice. (Ex. R-182, Tr. 1143-1151)

288. From June 18 through June 29, 1998, Dozoretz and Stein traveled to London, England. (Ex. D-180, D-278, Tr. 1145)

289. Because CWFI-UK asked Ms. Dozoretz and Mr. Stein to speak at the CWFI Annual Ball in London and because Lorna Luft had agreed to perform at the ball without charge, Ms. Dozoretz and Mr. Stein concluded that it was necessary for them to attend the Ball. ((Tr. 790, Tr. 1149)

290. The value of Luft's volunteer services to the ball was in excess of \$15,000.00. (Tr. 1149)

291. Ms. Dozoretz was to be the featured speaker at the CWFI-UK Ball, which was attended by 500 people. (Ex. R-183)

292. The Duchess of York wrote the welcoming letter for the Ball. (Ex. R-184)

293. On or about June 20, 1998, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$705.81 at Mosimann's Limited, London, England. (Ex. D-182, R-198, R-351, R-352)

294. The six people in attendance at the dinner were Dozoretz, Stein, Marc and Helena Granger and Simon and Melanie Ross. (Tr. 811-812)

295. Dozoretz testified that Mosimann, the owner of the restaurant, was a great supporter of the Foundation and gave quite a few things at the Ball to be auctioned off. (Tr. 381-382)

296. When Mosimann heard that Dozoretz and Stein were coming to town, "he wanted to meet us or, you know, Marc [Granger] wanted us to meet him. I don't know which. We just went along." Mosimann's is a "fine" restaurant. (Tr. 381-382)

297. From April 24 through April 28, 1996, the Steins traveled to Naples, Fort Myers and Tampa, Florida. (CWFI's Answer to Order to Show Cause)

298. On April 27, 1996, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$691.71 for accommodations for three nights at the La Playa Beach Resort in Naples, Florida. (Ex. D-185, D-186)

299. The La Playa Beach Resort calls itself a five-star luxury hotel (Ex. D-187).

300. It has received a five-diamond rating from AAA, five-star rating from the *Mobile Travel Guide*, and awards from *Zagat*, *Innercircle*, *Travel and Leisure Magazine*, *Gourmet Magazine* and *Conde Nast Traveler*. (Ex. D-187)

301. On April 26, 1996, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$111.73 meal at Tommy Bahama's Tropical Café in Naples, Florida. (Ex. D-189, D-190, R-201, R-357)

302. The meal at Tommy Bahama's Tropical Café was for Dozoretz and Stein. (Tr. 387-388)

303. On June 14, 1996, the Steins traveled from Atlanta, Georgia to Valdosta, Georgia to attend the wedding of Jarrett Gayle. (CWFI's answer to Order to Show Cause)

304. At that time, Gayle was head wish coordinator for CWFI. (CWFI's answer to Order to Show Cause)

305. Dozoretz and Stein charged wedding gifts for Gayle in the amount of \$165.36 to CWFI's corporate charity credit card. (Ex. D-191, D-192, D-193, R-202)

306. Dozoretz testified that there was a lot of pressure on her and Stein to come to the wedding. (Tr. 833-835)

307. Jarrett Gayle would have taken it personally and it would have a negative impact on CWFI. (Tr. 833-835)

308. Gayle was not their friend and Dozoretz testified, “We didn’t know anybody at the wedding. It was not a social event.” “It was against their desires to go, but they felt it was necessary to go.” (Tr. 833-835)

309. Dozoretz testified that her decision to go to Valdosta, Georgia for Gayle’s wedding was based partly on Gayle’s immaturity. (Tr. 833-835)

310. On June 17, 1996, Dozoretz and Stein charged \$179.82 on CWFI’s corporate charity credit card for a two night stay at the Clubhouse Inn in Valdosta, Georgia. (Ex. D-194, D-195, D-197)

311. The Clubhouse Inn and Suites describes itself as a beautiful hotel with first-class service and amenities. (Ex. D-196)

312. From April 8 through April 14, 1997, Dozoretz and Stein traveled to San Francisco, St. Helena and San Rafael, California. (Tr. 840)

313. On April 14, 1997, Dozoretz and Stein used CWFI’s corporate charity credit card to charge \$1,063.60 for accommodations for six nights at the Radisson Miyako Hotel in San Francisco, California. (Ex. D-199, D-200)

314. Dozoretz testified that there are more expensive hotels in San Francisco and also cheaper hotels. (Tr. 402)

315. The Miyako was clean and adequate for their needs. (Tr. 402)

316. On April 10, 1997, Dozoretz and Stein used CWFI’s corporate charity credit card to charge \$271.31 for a meal at Rubicon in San Francisco. (Ex. D-201, D-202)

317. The cost per person for this meal was \$67.75. (Ex. D-201, D-202)

318. A total of four people ate at Rubicon - Dozoretz, Stein and two other persons, not identified, who are representatives of a corporation who made an in-kind donation to CWFI. (Tr. 403-407)

319. On April 13, 1997, Dozoretz and Stein used CWFI's corporate charity credit card to charge \$143.22 for a meal at the Culinary Institute of America at St. Helena, California. (Ex. D-204, D-205)

320. Three people were present for the meal at the Culinary Institute of America - Dozoretz, Stein and one of the two people present at the meal at Rubicon. (Tr. 407)

321. Dozoretz later testified that her son David who worked for George Lucas' Industrial Light and Magic a CWFI contributor and creator of CWFI's web site was the one treated to lunch at the Culinary Institute of America. (Tr. 840, 856, 858)

322. During 1995 and 1996 Dozoretz used CWFI's credit card to purchase a number of gifts at Tiffany's and Victoria's Secret for birthday, Christmas, baby, graduation and corporate gifts. (Ex. D-206, D-207, R-228, R-236)

323. CWFI offers no incentives to its employees in the form of parties, bonuses or other encouragements. Tr. 429-430, 867-868)

324. The gifts were usually less than \$50.00 in value. (Tr. 867)

325. For a charity to be successful, it must motivate its employees.
(Tr. 1607)

326. A key motivator is recognition and it is appropriate to expend charitable funds for this type of recognition. (Tr. 1607)

327. Providing employees with thank-you gifts is type of recognition that builds employee good will. (Tr. 1607, 1720-1722)

328. The initial mission of CWFI was to grant wishes to children who are critically ill. (Tr. 151-153, 452)

329. CWFI has expanded its program since then. (Tr. 151-153, 454)

330. Stein and Dozoretz are members of the Board of Directors.
(Tr. 154)

331. For a period of time, they were both voting members of the Board of Directors. (Tr. 154)

332. Social marketing is a way of changing people's behavior, attitudes and motivation to support a particular charitable cause. (Tr. 1586)

333. Marketing is critical in order to attract people to support a particular charity. (Tr. 1591)

334. For a charity to be successful it must attract "names" to catch the public's attention. (Tr. 1591)

335. All charities use contributions to pay for their marketing programs and to target potential donors. (Tr. 1593)

336. In order to attract potential donors it is not unusual for a charity to expend money entertaining them by paying for lunches or dinners. (Tr. 1595)

337. Donor cultivation requires the charity to expend funds contributed to the charity on non-program purposes. (Tr. 1597)

338. Many charities authorize their executives to travel by business class, especially on international flights. (Tr. 1601)

339. A meal, a trip or other similar expenditure made for marketing purposes or for meeting with potential donors is an investment in the organization. (Tr. 1706)

III. CONCLUSIONS OF LAW

1. The Secretary has jurisdiction over this subject matter under Section 17(a)(3) of the Act, 10 P.S. §162.17(a)(3).
2. CWFI made 41 false material statements in its 1998 IRS Form 990 filed with the Bureau under the requirements of the Act.
3. The Secretary is empowered to impose an administrative fine of \$1000.00 for each of the 41 false material statements CWFI made in its 1998 IRS Form 990 filed April 26, 2000 with the Bureau under the requirements of the Act.
4. There is no substantial competent evidence to find that the travel and gift activities of Linda Dozoretz and Arthur Stein were substantially inconsistent with the charitable purpose expressed in CWFI's registration statement under the Act.
5. The Secretary is not empowered by the Act to order reimbursement of the investigation expenses of the Department in determining violations of the Act, such expenses can be recovered from any fine.

IV. DISCUSSION

The Bureau charged Respondent (CWFI) under Section 17(a)(3) of the Act, 10 P.S. §162.17(a)(3), with 41 counts of making false material statements in the 1998 IRS Form 990 required to be filed with the Department. There is no argument that the statements were false. In fact, the evidence supports a finding that 83 false material statements were made by CWFI, but they have been charged with only 41. They were corrected by CWFI in an amended Form 990 filed August 2001. The statements were comprised of a list of individual Ronald McDonald Houses (RMHs) in 83 cities across the country with a dollar figure for each listed house for contributions of "Various Clothes, Toys, Books, Craft Items and Supplies" in 1999. The total was \$3,383,642.00. The corrected total in the amended return (non itemized) was \$2,100,786.00, a difference of \$1,282,856.00.

The testimony concerning how the first return figures were obtained further illustrates their falsity. The items sent to the RMHs were ordered from GIK, another charity, which collects donations from manufacturers and others. It distributes the items collected, through a catalog, to other charities, indicating their donor value. CWFI orders the items from a catalog and pays a small administrative fee. The items are delivered to CWFI's warehouse. During the time relevant to this action no one reconciled the amount of items received with the amount of those ordered. GIK would frequently send less than the quantity ordered. That information was not recorded. The ordering information was recorded including the donor value stated by GIK. Wish counselors shipped the items to RMHs without keeping records of amounts shipped. At year-end, values were estimated by, in some cases, deducting the amounts shipped to hospitals and retained inventory from the totals ordered from GIK and assigning the balance to RMH's. In 1999 CWFI's former auditor did discover and adjust a \$54,758.00 error in inventory overstatement of Miss Piggy books. He did not discover the \$1,282,856.00 error in the rest of the shipments. (The parties stipulated the overstatement of the value of program services on the 1998 return was \$1,282,857.00)

It is important to keep in mind that in August 1999 Dozoretz and the former accountant were aware of the valuation problems. The accountant, supposedly in an effort to be conservative, took 15% off the value of the items before they were listed in the return. Therefore when, after several extensions of filing dates, the Form 990 was filed in March of 2000 Dozoretz, CWFI and its accountant had known for eight months that the figures they were putting in the return were made up. Yet they meticulously made up figures for 83 RMHs in cities all across the country and, knowing them to be false, listed them in the return. They could have, as they did in the amended return, lump all the donations into one sum as non-cash grants on statement 6 and line 22 of the return. Instead they made the conscious effort to list individually false numbers for 83 RMHs.

The Bureau's evidence concerning valuations of donated items made by the 41 individual RMHs is hearsay and not admissible. There is no way to rely on the truth of valuations by unknown persons of unknown expertise relayed to other non-experts in the Department. The proffered evidence is unnecessary, however, because the record is clear that the individual valuations were false.

CWFI argues that the false statements made in the 1998 Form 990 were not material. In arguing this it relies on calculations using the big number totals from the returns to come up with Program Service Cost Ratios for the original return and 1998 amended. CWFI then compares the two ratios and finds a 1.7% decrease. CWFI argues that this small deviation would not affect the donors giving because there was a decrease of 19.98% in the Program Service Cost Ratio between 1999 and 2000 and yet donors increased donations \$1.7 million. It is not clear when that increase in donations occurred. A review of the returns does not reveal a Program Service Cost Ratio entry. It apparently is something potential donors would have to compute for themselves. If donors are unable to compute a Program Service Cost Ratio then any increase or decrease in it is meaningless to a donor.

The Department, on the other hand, produced substantial evidence that the returns program service numbers are most meaningful to donors. This is because they reflect how much the charity spends on its charitable function and can be easily compared with the fundraising cost entries. They can look at the returns and see the program service numbers and find the fund raising numbers. (Interestingly enough, in CWFI's returns, those fund raising numbers are written with out the usual commas, which make the millions easier to see.) A simple visual comparison will inform them how much goes to charity and how much to fundraising.

What is easy for the potential donors to see in CWFI's 1998 return and easy to comprehend is the STATEMENT 21 contained in the original return showing the grants to RMHs. That statement claims \$3,383,642 (with commas) for grants to RMHs. It is followed by that impressive list of 83 RMHs all over the country, surely one located near almost every donor. Those are the conscious false statements made to donors and they are material. Those statements mislead donors by misstating grants that CWFI claims it made in their state, city or neighborhood. Those gifts are misstated by approximately one third, by over one million dollars out of three million. That 33 1/3% (one third) overstatement is far in excess of the 5-10% GAAP standards that CWFI argues are not material. A one third overstatement is a material misstatement, especially when it is made knowingly and consciously. Additionally it is geographically directed at specific donors. These are the material misstatements contained in that 1998 return.

CWFI argues that the Department has not shown the statements were intentional. It is clear from the record as detailed above that Dozoretz and the accountant knew for eight months they had false figures. They manipulated those figures by 15% because they knew they were false. Knowing they were false they still used them. CWFI does not cite any law, regulation or case to support an argument that intent is needed for a statement to be a material misstatement. The Act says “(3) Has made a false material statement in a(n)... report...”. No intent is required by the Act although intent was surely present in this case.

CWFI also contends that the standard of proof for “material” requires proof that someone was misled. That is an improper standard. Section 2 of the Act, 10 P.S. §162.2, states the legislative intent. That intent is not to merely require registration but to “protect the citizens ... by requiring full public disclosure of the identity of persons who solicit contributions ... of the purposes for which such contributions are solicited and the manner in which they are actually used... by providing civil and criminal penalties for deception and dishonest statements...” It is a remedial statute. The Secretary is given the power of civil enforcement. He exercises this power on behalf of the citizens the Act was designed to protect. There is no need to prove reliance by a potential donor. To paraphrase the Supreme Court the purpose of remedial statutes is to require disclosures by charities in order to enable donors to make an informed choice, any doubts should be resolved in favor of the persons the statute is designed to protect. *TSC Inc. et. al. v. Northway Inc.*, 426 U.S. 430 (1976) at page 448. In that same case the Court cites *Affiliated Ute Citizens v. United States*, 406 U.S. 128 (1972) at 153-154, “ positive proof of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered them important in the making of his decision.” (At page 447) The TSC Court concluded “that positive proof of reliance is unnecessary when materiality is established,....”

CWFI argues that counts 1-41 should be consolidated into one count. The arguments are not persuasive. CWFI made 83 false statements in its 1998 original return only 41 of which were charged. In its amended return it only made one statement. It could have made one statement in its 1998 original return but chose to include that impressive geographical list of grants to RMH's. By choice it made 41 false material misstatements. It cannot now consolidate them to avoid the repercussions from its deliberate acts.

Under Section 17(a)(3) of the Act, 10 P.S. § 162.17(a)(3), “The secretary may...suspend the registration of any charitable organization...whenever he finds that a charitable organization...(3) Has made a material false statement in a[n]...report required to be filed under this act.” In this instance, CWFI has been found to have made 41 false material statements, which the Secretary has determined warrants an active suspension of three months.

In addition, under Section 17(b)(3) of the Act, 10 P.S. § 162.17(b)(3), “When the secretary finds that the registration of any person may be...suspended...under the terms of subsection (a), the secretary may: (3) Impose an administrative fine not to exceed \$1,000 for each act or omission which constitutes a violation of this act and an additional penalty, not to exceed \$100 for each day during which such violation continues. Registration will be automatically suspended upon final affirmation of an administrative fine until the fine is paid or until the normal expiration date of the registration. No registration shall be renewed until the fine is paid.” Because of CWFI’s 41 false material statements, an administrative fine of \$41,000 or \$1,000 per violation shall be imposed on CWFI.

With regard to Counts 42 through 95, the Bureau also alleged that CWFI violated Section 13(a) of the Act, 10 P.S. §162.13 (a). That section requires a charity to apply its contributions in a manner substantially consistent with its charitable purpose as expressed in the registration statement. The alleged violations were travel, make-up and gift expenses incurred by Dozoretz and Stein and charged to CWFI’s American Express card.

The Department meticulously detailed hotel expenses and restaurant charges in England, Scotland, Ireland, Zurich, Puerto Rico, Germany, Austria, Florida, California and Valdosta Georgia. They note gifts bought for employees at Asprey and Harrods’s in London and Tiffany and Victoria’s Secret in the United States. Dozoretz had make-up applied professionally for two public appearances in London.

The evidence details the charges and the places and people involved in the hotel stays and restaurant visits. It also describes the sites, obtained from the hotel websites and brochures. Most of the hotels are 4 star and 5 star, 5 star diamond award and hotels that claim they are deluxe, a leading hotel of the world and first class. However, except for the hotel’s puffery and the price there is no independent evidence. Counsel for the Department asserts that the prices are for luxury hotels and luxury restaurants. We do not have any substantial evidence to support the assertion. There is only anecdotal evidence, at best, concerning the range of hotel or restaurant costs in the various venues. All witnesses agree that there are more expensive hotels and restaurants and less expensive hotels and restaurants in the

venues visited. No one, and certainly not an expert, presented testimony that would allow comparison or estimation of the luxuriousness of any of the hotels and restaurants. What is the cost of an "ordinary" room in London, Zurich, even Valdosta Georgia? How much does a dinner at an "ordinary" restaurant cost in Germany, Puerto Rico or San Francisco? The expenses testified to appear high in general but are not placed in context. Since the record does not answer these kind of questions there is no way to conclude the expenses were "substantially inconsistent" with the charitable purpose CWFI outlines in its registration statement.

"Substantially inconsistent" does not mean nominally inconsistent, or slightly inconsistent. There must be a substantial deviation from what can be expected. It was stipulated that all the travel was business related. CWFI's board did not raise questions. Experts testified that travel, restaurant entertainment and gifts were expected and part of the business. The only thing the Department finds wrong with CWFI's expenses is the alleged extravagance. The extravagance is not proved by substantial evidence. Even the two first class plane flights were explained and may or may not be excusable but certainly not in themselves sufficient cause to find them "substantially inconsistent" with the charities purpose. CWFI, however, should be mindful of the appearance of these expenditures and seek to comply more fully with the spirit of CWFI's desire to have the lowest possible airfares, hotel rooms, etc.

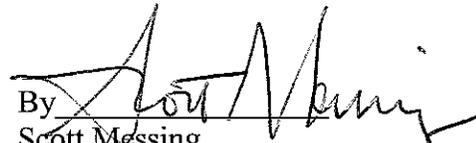
The Department argues different tests to determine "substantially inconsistent". One is a reasonableness standard, another excessiveness. Without comparative evidence of the expenses in the various venues neither test can be applied. It is argued the expenses were not necessary, yet agreed that they were business travel. It is argued that the expenses were "obviously" lavish and expensive. Again there is no evidence in the record to make the comparison judgment necessary to come to the Department's not so obvious conclusion.

There is substantial expert testimony supporting the expenditures for travel, entertainment and gift giving by charitable organizations. Those expenditures were to be looked at as marketing and management tools using business judgment to assess the risk and rewards. An informed decision as to the appropriateness of an expense is not based on the amount but the whole circumstance. Part of those circumstances are the facts necessary to determine whether the expense was an "ordinary" expense for the venue or not. With the lack of evidence in the record that determination cannot be made for counts 42 through 95 and therefore, no penalties for these counts shall issue.

V. ORDER

NOW, this ^{4th} 19 day of Nov., 2002, upon consideration of the foregoing findings of fact, conclusions of law and discussion, a **\$41,000** civil penalty is imposed upon Respondent CWFI for forty-one (41) violations of Section 17(a)(3) of the Act, 10 P.S. § 162.17(a)(3). The civil penalty amount shall be remitted in full by money order or certified check made payable to the Commonwealth of Pennsylvania and forwarded to Christal Pike-Nase, Counsel, Bureau of Charitable Organizations, 302 North Office Building, Harrisburg, PA 17120, by **January 15, 2003**. If the Respondent has not paid the civil penalty in full by the due date, Respondent's registration shall be subject to an automatic **Suspension** for a minimum of **Ninety (90) Days**, which period shall be indefinitely extended until the civil penalty is paid in full. Respondent's registration will also not be renewed until the civil penalty is paid in full.

Appeal of this decision to the Commonwealth Court may be taken pursuant to 2 Pa.C.S. § 702 within 30 days of the date of mailing shown below.

By 
Scott Messing
Deputy Secretary for
Administration on behalf of
the Secretary of the
Commonwealth

Date: 11/19/02

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