

SECRETARY OF STATE
STATE OF GEORGIA

SOS CHARITIES

DEC 31 2012

IN THE MATTER OF:

*

DOCKET NUMBER

A BETTER WAY MINISTRIES

*

Charities Docket No.:

*

2012 - CH3

*

Respondent.

*

CEASE AND DESIST ORDER

Pursuant to the authority of the Georgia Charitable Solicitations Act of 1988, as amended, O.C.G.A. § 43-17-1 *et seq.* (hereinafter "the Act"), and 590-9-1 *et seq.* of the Rules and Regulations of the State of Georgia (hereinafter "the Rule" or "the Rules"), the Secretary of State of the State of Georgia (hereinafter "the Secretary"), has caused an investigation to be made into the acts and practices of A Better Way Ministries (hereinafter "Respondent"). As a result of that investigation, the Secretary makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1.

Respondent is a charitable organization as defined in O.C.G.A. § 43-17-2(2), and is subject to the provisions therein and to the Rules and Regulations promulgated thereunder.

2.

Respondent is a non-profit organization that solicits charitable donations from the public by providing collection receptacles throughout Georgia for clothing and shoes. Respondent maintains its principal place of business at 320 Dividend Drive, Peachtree City, Georgia 30269.

3.

On or about November 7, 2012, the Secretary's staff mailed a Cease and Desist Order to Respondent for soliciting charitable donations although it does not now possess, nor has it ever possessed, a valid registration to operate as a charitable organization in the State of Georgia, pursuant to O.C.G.A. Title 43, Chapter 17, as amended. Said Cease and Desist Order also addressed a non-compliant collection receptacle located at 6364 N. Highway 29, Palmetto, GA 30268.

4.

On or about December 6, 2012, Respondent submitted an application for registration as a charitable organization

5.

On or about December 10, 2012, the Secretary's staff sent a Deficiency Notice to Respondent informing it that its application was incomplete.

6.

During the period in which Respondent has to complete its application, it is not allowed to solicit charitable donations. Respondent is still currently soliciting donations through its non-compliant collection receptacle(s).

7.

O.C.G.A. § 43-17-5 (a) states, "It shall be unlawful for any person:

- (1) Wherever located to solicit or accept charitable contributions from any person located in this state;
- (2) While in this state to solicit or accept charitable contributions from any person, wherever located; or
- (3) Wherever located to solicit or accept charitable contributions from any person, wherever located, on behalf of a charitable organization located in this state,

unless the charitable organization on whose behalf such contributions are being solicited or accepted is subject to an effective registration statement under this chapter or exempt from registration pursuant to Code Section 43-17-9.”

8.

O.C.G.A. § 43-17-8.1, states the following:

(a) When any person makes a solicitation to the public by encouraging donations into a collection receptacle, the provisions of this Code section shall apply to such solicitations.

(b) If the collection receptacle is owned or operated entirely by a charitable organization exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986 or by a religious organization, the receptacle shall contain the following information in boldface letters at least two inches high on the front of the collection receptacle and directly underneath the deposit door stating:

- (1) The name, address, website, if any, and telephone number of the charitable organization or religious organization that owns or operates the collection receptacle, from which persons may obtain additional information about the religious or charitable organization, including the address of its principal office and its telephone number; and
- (2) Whether or not the charitable organization or religious organization is registered with the Secretary of State and, if it is registered, a statement that additional information may be obtained from the Secretary of State, including the charitable or religious purpose for which the charitable organization or religious organization exists.

(c) If the collection receptacle is owned or operated entirely or in part by any entity other than a charitable organization exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986 or by a religious organization, then the following shall apply:

- (1) In the case where any of the items collected are to be sold and none of the proceeds of such sale are to be paid over or otherwise given to a charitable organization exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986 or to a religious organization, it shall be unlawful for any person to collect donations of goods or tangible items in such

collection receptacle unless the collection receptacle displays the following statement: "DONATIONS ARE NOT FOR THE BENEFIT OF ANY CHARITABLE OR RELIGIOUS ORGANIZATION." The name, address, website, if any, and telephone number of the operator of the collection receptacle shall also be provided; and

- (2) In the case where any of the items collected are to be sold and some or all of the proceeds from such sale are to be paid over or otherwise given to one or more charitable organizations exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986 or to a religious organization, it shall be unlawful for any person to collect donations of goods or tangible items in a collection receptacle unless the collection receptacle displays the following statement: "THIS COLLECTION BOX IS OPERATED BY [NAME OF OPERATOR]. THE ITEMS DEPOSITED IN THIS BOX WILL BE SOLD, AND A PORTION OF THE PROCEEDS WILL BE PAID TO [NAME OF CHARITABLE ORGANIZATION OR RELIGIOUS ORGANIZATION]. FURTHER INFORMATION ABOUT THESE PAYMENTS CAN BE OBTAINED FROM [NAME OF OPERATOR] AT [ADDRESS, WEBSITE, IF ANY, AND TELEPHONE NUMBER OF THE OPERATOR] AND [ADDRESS, WEBSITE, IF ANY, AND TELEPHONE NUMBER OF THE CHARITABLE ORGANIZATION OR RELIGIOUS ORGANIZATION]. IN ADDITION, FURTHER INFORMATION ABOUT THE CHARITABLE ORGANIZATION MAY BE OBTAINED FROM THE SECRETARY OF STATE."

The statements and all information required by paragraphs (1) and (2) of this subsection shall be prominently displayed in boldface letters at least two inches high located on the front of the collection receptacle and directly underneath the deposit door.

9.

Respondent admits to the above-styled findings of fact and waives any further findings of fact not already contained in this Order.

CONCLUSIONS OF LAW

1.

Respondent is willfully violating O.C.G.A. §§ 43-17-5(a), 43-17-8.1, and 43-17-12(a) by soliciting or accepting charitable contributions, from persons in Georgia, while Respondent is unregistered and nonexempt from registration. Said violations form a sufficient basis for the Secretary of State to impose sanctions against Respondent pursuant to O.C.G.A. § 43-17-13.

WHEREFORE, by the authority vested in me as the Secretary of State of the State of Georgia, **IT IS HEREBY ORDERED** that A Better Way Ministries **CEASE AND DESIST** from violations of the Georgia Charitable Solicitations Act of 1988, as amended;

The entry of this Order is deemed to be in the public interest and shall not be deemed to constitute findings or conclusions relating to other persons and shall not be deemed to be a waiver or estoppel on the part of the Secretary from proceeding in individual actions against any person who may have violated the Act or on the basis of any transactions not known to the Secretary at the time this Order was issued.

SO ORDERED, this 31st day of December, 2012.

BRIAN P. KEMP
SECRETARY OF STATE

By:



ERIC LACEFIELD
Director of Registration
Charities Division