

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

State of Ohio, <i>ex rel.</i> Mike DeWine	:	
Attorney General of Ohio	:	
Charitable Law Section	:	Case No.
150 East Gay Street, 23 <sup>rd</sup> Floor	:	
Columbus, Ohio 43215,	:	Judge
	:	
Plaintiff,	:	
	:	
v.	:	<b>COMPLAINT OF STATE OF OHIO</b>
	:	
Bobby J. Walker	:	
5510 Shannon Square	:	
Canal Winchester, OH 43110,	:	
	:	
and	:	
	:	
CENTRAL OHIO COMMUNITY	:	
INVOLVEMENT FOUNDATION, INC.	:	
c/o Bobby J. Walker, Executive Director	:	
5510 Shannon Square	:	
Canal Winchester, Ohio 43110,	:	
	:	
and	:	
	:	
CENTRAL OHIO COMMUNITY	:	
INVOLVEMENT FOUNDATION, LLC	:	
c/o Bobby J. Walker, Member/Manager	:	
5510 Shannon Square	:	
Canal Winchester, Ohio 43213,	:	
	:	
Defendants.	:	

Plaintiff State of Ohio, *ex rel.* Mike DeWine, who is the duly elected, qualified and acting Attorney General of Ohio, hereby avers and alleges:

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Mike DeWine (“Attorney General” or “Attorney General’s Office”), having reasonable cause to

believe that violations of Ohio's charitable laws have occurred, brings this action in the public interest and under the authority vested in the Attorney General by Ohio Revised Code 109.23, *et seq.* ("Ohio Charitable Trust Act"), Revised Code 1716.01 *et seq.* ("Ohio Charitable Organizations Act"), and the Attorney General's common law authority to enforce charitable trusts.

2. This is an action seeking reformation of a charitable trust, injunctive relief, equitable relief, statutory penalties, and damages for Defendants' violations of the common law, the Ohio Charitable Trust Act, and the Ohio Charitable Organizations Act.

### **I. DEFENDANTS, JURISDICTION, AND VENUE**

#### **A. *Bobby J. Walker***

3. Bobby J. Walker currently resides at 5510 Shannon Square, Canal Winchester, Ohio, 43110.

4. Bobby J. Walker has been a board member, officer, and the principal operator of Central Ohio Community Involvement Foundation, Inc., ("COCIF") since the organization's incorporation.

5. Bobby J. Walker has been a member, manager, and the principal operator of Central Ohio Community Involvement Foundation, LLC ("COCIF LLC") since its organization.

6. Bobby J. Walker has personally participated in the violations of law described in this complaint, or, through his actions or inaction, authorized, directed, adopted, ratified, allowed, or otherwise caused or permitted such violations to occur. This action is being initiated against Bobby J. Walker both individually and in his capacity as a board member, officer, and the principal operator of COCIF and as a member, manager, and the principal operator of COCIF LLC.

***B. COCIF***

7. COCIF was incorporated as an Ohio nonprofit corporation on or about June 20, 2011, with the initial articles of incorporation signed by Bobby J. Walker as an authorized representative.

8. COCIF's corporate status was canceled by the Secretary of State on June 27, 2016 for failure to file a statement of continued existence. COCIF was reinstated by the Secretary of State on August 29, 2016, with Bobby J. Walker signing as an authorized representative.

9. The current mailing address for COCIF is P.O. Box 32229, Columbus, Ohio 43232. Upon information and belief, COCIF does not have a principal place of business and/or operates out of Bobby J. Walker's personal residence.

***C. COCIF LLC***

10. COCIF LLC was organized as an Ohio nonprofit limited liability company on or about October 8, 2010, with the initial articles of organization signed by Bobby J. Walker.

11. The current mailing address for COCIF LLC is P.O. Box 13056, Columbus, Ohio 43213. Upon information and belief, COCIF LLC does not have a principal place of business and/or operates out of Bobby J. Walker's personal residence.

***D. Jurisdiction and Venue***

12. This Court has subject matter jurisdiction in this case pursuant to R.C. 2305.01.

13. This Court may exercise personal jurisdiction over the Defendants in this case pursuant to R.C. 2307.382 because the acts and omissions alleged in this Complaint occurred in Ohio and/or because they involve or relate to the activities of an Ohio nonprofit corporation.

14. Venue is proper in Franklin County pursuant to R.C. 109.16 as the amount in controversy exceeds \$500.00. Through the undersigned, the State certifies that the amount in controversy exceeds \$500.00.

15. Venue is proper in Franklin County for the additional reason that Defendants' actions, as described herein, occurred primarily in Franklin County, Ohio.

## **II. DEFENDANTS' ACTIVITIES GIVING RISE TO THIS COMPLAINT**

16. The articles of organization for COCIF LLC state that it is "organized and operated for scientific, educational and charitable purposes."

17. COCIF LLC has never registered with the Charitable Law Section of the Ohio Attorney General's Office, nor has it paid registration fees, filed financial reports, or filed copies of current charter, bylaws, articles of incorporation, agreement of association, instrument of trust, constitution, or other organizational instruments.

18. The articles of incorporation for COCIF state that it is "organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code."

19. Bobby J. Walker completed the registration process for COCIF with the Charitable Law Section of the Ohio Attorney General's Office in August 2012, and has filed annual reports with the Ohio Attorney General's Office for years 2012, 2013, 2014, and 2015.

20. COCIF had 501(c)(3) status through the Internal Revenue Service when COCIF initially registered with the Ohio Attorney General's Office in August 2012. COCIF lost its 501(c)(3) status in 2013, but failed to notify the Office.

21. COCIF maintains a website, <https://centralohiocif.org>, which allows individuals to make charitable donations to COCIF.

22. Upon information and belief, COCIF has received charitable donations in the past.

23. COCIF operates programs in two main areas—school-year youth athletic programs and a youth summer camp.

24. The COCIF website makes reference to an organization called the “Charter School Athletic Association of Ohio.”

25. On June 4, 2012, COCIF LLC registered the trade name “Charter School Athletic Association (CAA), LLC” with the Secretary of State. The trade name filing states that the general nature and business conducted by CAA is “basketball, football, soccer, volleyball, track available for servicing charter and private schools in the State of Ohio.”

26. The COCIF website indicates that CAA offers youth athletic programs in the following areas:

Fall: K-5 wrestling; K-12 cross country; 5-12 girls volleyball

Winter: K-5 Jr. Cavs basketball; 6-12 boys basketball; 6-12 girls basketball; k-12 cheerleading

Spring: K-12 track & field; 5-12 flag football

27. The COCIF websites identifies seventeen charter schools in the central Ohio area that are members of the CAA.

28. Since at least 2012, COCIF has operated a summer camp.

29. The COCIF website currently provides that the summer camp is being offered through PROBE, a “function of COCIF.” The website further states:

PROBE offers extra-curricular programming to include a Summer Fitness & Enrichment Camp that is geared toward preparing for the upcoming school year “outside of basic education” and provide a unique blend of recreation, teamwork, physical fitness and quality leadership enrichment

factors to improve confidence and cultivate lifelong learning that will serve as inner resources for building character

30. On or about August 29, 2016, COCIF registered the trade name "Playing Roles Outside of Basic Education (PROBE)" with the Secretary of State.

31. Bobby J. Walker has sole signatory authority for, and exclusive control over, all bank accounts of COCIF.

32. Upon information and belief, Bobby J. Walker has not used the assets of the COCIF to fulfill the organization's charitable purpose; instead he has used the assets for his own personal gain and/or he failed to ensure that the charitable assets were used to fulfill the organization's charitable purpose.

33. From January 2012 through October 2015 COCIF utilized a PNC checking account. During that period of time, \$502,094 was deposited into the account.

34. From January 2012 through October 2015, Bobby J. Walker withdrew \$215,663 in cash from COCIF's PNC account.

35. From January 2012 through October 2015, Bobby J. Walker made \$41,548 in ATM cash withdraws from COCIF's PNC account.

36. From January 2012 through October 2015, Bobby J. Walker caused COCIF to issue \$8,743 in checks to himself.

37. Upon information and belief, additional expenditures by Bobby J. Walker from COCIF's PNC checking account were not in furtherance of the organization's charitable purpose and/or reasonable expenses of the organization.

38. From October 2015 through at least July 2016, COCIF utilized a Huntington bank checking account. During that time period \$49,317 was deposited into the account.

39. From October 2015 through July 2016, Bobby J. Walker withdrew \$5,830 in cash from COCIF's Huntington account.

40. From October 2015 through July 2016, Bobby J. Walker made \$9,223 in ATM cash withdraws from COCIF's Huntington account.

41. From October 2015 through July 2016, Bobby J. Walker caused COCIF to issue \$4,225 in checks to himself.

42. Upon information and belief, additional expenditures by Bobby J. Walker from COCIF's Huntington's checking account were not in furtherance of the organization's charitable purpose and/or reasonable expenses of the organization.

43. In COCIF's annual report filed with the Ohio Attorney General's Office, Bobby J. Walker reported that he received compensation of \$7,000 in 2016, \$3,200 in 2015, \$0 in 2014, \$30,000 in 2013, and \$30,000 in 2012 from COCIF.

44. COCIF's annual report further represents that Bobby J. Walker worked 40 hours per week as the Executive Director of COCIF each year from 2012 through 2016.

45. Upon information and belief, serving as Executive Director of COCIF has been Bobby J. Walker's sole source of income and support.

46. On October 21, 2015, the Ohio Attorney General's Office issued a request for records and information to COCIF pursuant to R.C. 109.24, R.C. 1716.15 and the Attorney General's common law authority. Among other things, the request required COCIF to produce:

- board meeting minutes;
- bank statements, cancelled checks, deposit slips, and check registers from all accounts owned and/or controlled by COCIF;
- any and all information verifying the program services provided by COCIF; and

- all payroll and salary information including benefits for any and all paid individuals of COCIF.

47. Notwithstanding repeated promptings over a five month period, COCIF produced approximately 63 pages of documents in response to the request for records and information. Amongst other failures, COCIF failed to produce any documentation regarding the youth athletic programs offered through the CAA, any payroll records for himself or anyone else, or any documentation or receipts to verify that the cash proceeds withdrawn by Bobby J. Walker were utilized in support of a charitable purpose.

### **III. ATTORNEY GENERAL'S CLAIMS**

#### **COUNT ONE: BREACH OF FIDUCIARY DUTIES**

48. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

49. COCIF and COCIF LLC are “charitable organizations” as that term is defined in R.C. 1716.01(A) and “charitable trusts” as that term is defined in R.C. 109.23.

50. Bobby J. Walker owed fiduciary duties to the charitable beneficiaries of COCIF and COCIF LLC, including the duty of care, duty of loyalty, the duty to properly manage accounts, and the duty to comply with the law, as well as other duties, including, but not limited to, the duty not to waste charitable trust assets and to act in the best interest of the charity.

51. Bobby J. Walker violated his fiduciary duty by diverting charitable assets for his own personal use and placing his personal interests above the interests of COCIF and COCIF LLC and their charitable beneficiaries and/or he failed to ensure that charitable assets were protected from diversion for unlawful personal use.



52. Bobby J. Walker violated his fiduciary duty to preserve the charitable trust property of COCIF and COCIF LLC for intended charitable trust purposes and to properly manage and maintain the charitable trust property for the benefit of the charitable beneficiaries.

53. Bobby J. Walker violated his fiduciary duty to account for all assets of the COCIF and COCIF LLC collected and expended for charitable purposes and/or he failed to keep adequate records of the COCIF and COCIF LLC's charitable programming.

54. Bobby J. Walker violated his fiduciary duty to use all the money or assets collected on behalf of the COCIF and COCIF LLC for charitable purposes and/or he failed to ensure that all the money or assets of the COCIF and COCIF LLC were used for the COCIF and COCIF LLC's charitable purpose.

55. As a direct and proximate cause of Bobby J. Walker's breaches of fiduciary duty alleged in this Complaint, there was a waste of charitable assets to the detriment of the charitable beneficiaries, the exact amount that will be established through further proceedings.

56. Bobby J. Walker is liable for charitable funds that have been wrongfully diverted from their intended charitable purposes.

57. Because Bobby J. Walker has continuously breached his fiduciary responsibilities in his administration of COCIF and COCIF LLC, he should be removed as a board member, officer, and principal operator of COCIF and a member, manager, and principal operator of COCIF LLC.

**COUNT TWO: CONVERSION**

58. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

59. Bobby J. Walker converted the value of funds and property owned by the COCIF and COCIF LLC and expended it for his personal benefit.

60. Bobby J. Walker's conversion of the funds and property of COCIF and COCIF LLC was intentional, and was contrary to the rights and interests of COCIF and COCIF LLC.

**COUNT THREE: REFORMATION OF CHARITABLE TRUST**

61. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

62. Ohio courts recognize the equitable doctrine of *cy pres*, and courts will apply the doctrine when: (A) there is a viable charitable trust; (B) the donor evidenced a general charitable intent on promoting the trust; and (C) it has become impossible or impractical to carry out the specific purposes or terms of the trust.

63. Ohio case law recognizes the equitable doctrine of deviation. Courts may apply the doctrine when it deems necessary or highly desirable in order to enable the trustee to perform the purposes of the trust. Courts may deviate from the terms of the trust if the provisions have become so restrictive as to impair accomplishment of the trust purposes.

64. COCIF and COCIF LLC were formed as charitable trusts and accepted charitable donations and/or charged for programming services under the condition of being charitable trusts that would operate to the benefit of charitable beneficiaries. As such, the funds of COCIF and COCIF LLC may be used only for the charitable purposes set forth in the terms of the trust. Additionally, all charitable proceeds unjustly or illegally retained by Defendants COCIF, COCIF LLC or Bobby J. Walker are subject to the same charitable trust.

65. The specific purposes and/or specific terms of the charitable trust have become impossible or impractical to perform due to the actions or inactions of Defendants.

66. As an example of the frustration of purpose, Bobby J. Walker has taken assets and proceeds under trust, or held such assets, and has used them for his personal or other unlawful purposes.

67. The Ohio Attorney General is entitled to an order reforming the terms of the charitable trust, in order to most nearly fulfill the purposes of the charitable trust in accordance with the doctrine of *cy pres* or deviation.

68. Because Defendants Bobby J. Walker, COCIF, and COCIF LLC have proven incapable of appropriately managing and distributing charitable trust assets and solicitation proceeds collected on behalf of charitable purposes, the Ohio Attorney General requests an order reforming the charitable trust, dissolving COCIF and COCIF LLC, and distributing all assets and proceeds to the Ohio Attorney General to be distributed to an organization with a similar charitable purpose.

**COUNT FOUR: FALSE AND MISLEADING INFORMATION IN FILINGS**

69. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

70. R.C. 1716.14(A)(9) makes it unlawful to file “false or misleading information in any document required to be filed with the attorney general under this chapter.”

71. On behalf of the COCIF, Bobby J. Walker completed the registration process with the Ohio Attorney General’s Office in August 2012 and has filed annual reports for 2012, 2013, 2014, 2015, and 2016.

72. Each of the filings referenced above were required by R.C. Chapter 1716 and each contain false or misleading information.

73. Each of the filings referenced above constitute separate violations of R.C. 1716.14(A)(1), for which the Attorney General is entitled to an injunction and for which Defendants are liable to pay a civil penalty of up to \$10,000 per violation pursuant to R.C. 1716.16(B).

**COUNT FIVE: FAILURE TO REGISTER, R.C.109.26**

74. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

75. R.C. 109.26 requires every charitable trust established or active in Ohio to register with the Attorney General.

76. Bobby J. Walker and COCIF LLC violated R.C. 109.26 by failing to have COCIF LLC register with the Ohio Attorney General as a charitable trust established or active in Ohio.

77. Pursuant to R.C. 109.99(A), Bobby J. Walker and COCIF LLC are subject to a civil penalty of up to \$10,000 for this violation.

**COUNT SIX: FALSE AND MISLEADING INFORMATION IN RESPONSE TO RECORDS REQUEST**

78. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

79. R.C. 1716.14(A)(10) makes it unlawful to provide “false or misleading information in response to a request from the attorney general under section 1716.15 of the Revised Code.”

80. The request for records referenced in Paragraph 35 was a request from the Attorney General issued, in part, pursuant to R.C. 1716.15. The records produced by Defendants Bobby J. Walker, COCIF, and COCIF LLC in response to the records request contained false or misleading information.

81. Pursuant to R.C. 1716.16(B), Defendants are liable to pay a civil penalty of up to \$10,000 for this violation.

**COUNT SEVEN: OPERATING IN VIOLATION OF R.C. CHAPTER 1716**

82. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

83. R.C. 1716.14(A)(12) makes it unlawful to operate “in violation of” or “fail[] to comply with” any requirement in R.C. Chapter 1716.

84. Defendants Bobby J. Walker, COCIF, and COCIF LLC have violated R.C. 1716.14(A)(12) for the reasons set forth above.

85. Pursuant to R.C. 1716.16(B), Defendants are liable to pay a civil penalty of up to \$10,000 for this violation.

**COUNT EIGHT: NUISANCE**

86. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

87. R.C. 1716.14(B) states: “The act of soliciting contributions for any charitable organization or charitable purpose or engaging in a charitable sales promotion without complying with the requirements of this chapter or any rule adopted pursuant to this chapter, is a nuisance.”

88. Pursuant to R.C. 1716.16(B), Plaintiff Attorney General may obtain injunctive relief without establishing irreparable harm; rather, Plaintiff must only establish a violation of R.C. Chapter 1716 or that the requested order promotes the public interest.

89. For the reasons set forth above, it is in the public interest to perpetually and permanently enjoin the COCIF and COCIF LLC from operating as an Ohio nonprofit corporation.

**COUNT NINE: ABUSE OF A CHARITABLE TRUST, R.C. 109.24**

90. Plaintiff Attorney General incorporates the preceding paragraphs of this Complaint as if fully rewritten herein.

91. R.C. 109.24 provides that the Attorney General “shall institute and prosecute a proper action to enforce the performance of any charitable trust, and to restrain the abuse of it whenever he considers such action advisable.”

92. The acts and omissions of Defendants identified above constitute an abuse of a charitable trust, in violation of R.C. 109.24.

**PRAYER FOR RELIEF**

**WHEREFORE**, pursuant to his statutory and common law authority, Plaintiff Ohio Attorney General respectfully requests this Court grant the following relief:

- A. Grant a permanent injunction and perpetually enjoin Bobby J. Walker from holding any position as a volunteer, officer, trustee, employee, representative, independent contractor, or agent of any charitable organization in Ohio;
- B. Grant a permanent injunction and perpetually enjoin Bobby J. Walker from soliciting in Ohio for charitable purposes or on behalf of any charitable organization, including, but not limited to, solicitations conducted as a volunteer, officer, trustee, employee, representative, independent contractor, or agent of an organization; or solicitations conducted as a professional solicitor, fundraising

counsel, or commercial co-venturer, as those terms are defined in Revised Code Chapter 1716;

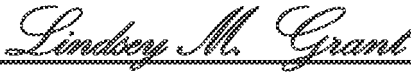
- C. Grant immediate equitable and statutory relief freezing the accounts of Defendants Bobby J. Walker, COCIF, and COCIF LLC, and any other accounts used to perpetuate illegal activities, and attach all assets commingled or otherwise accumulated or acquired with charitable proceeds;
- D. Impose a constructive trust over all assets unjustly or illegally retained by Defendants Bobby J. Walker, COCIF, and COCIF LLC and order them to disgorge all assets held under that constructive trust to the Ohio Attorney General;
- E. Order Defendants Bobby J. Walker, COCIF, and COCIF LLC, jointly and severally, to pay restitution and compensatory damages, including interest for all amounts unjustly or illegally retained by Defendants, to the Ohio Attorney General;
- F. Declare the terms of the charitable trust, and enter an order enforcing those terms in a manner consistent with this Complaint, including dissolving COCIF and COCIF LLC and distributing all assets and proceeds to the Ohio Attorney General;
- G. Reform the charitable trust in accordance with the doctrine of *cy pres* or deviation, including dissolving COCIF and COCIF LLC and distributing all assets and proceeds to the Ohio Attorney General;
- H. Order Defendants Bobby J. Walker, COCIF, and COCIF LLC to pay Plaintiff Attorney General a civil penalty of up to \$10,000 for each violation of R.C.

Chapter 109 or R.C. Chapter 1716 as alleged in this Complaint, including any violations occurring after the filing of the Complaint;

- I. Issue an order declaring a nuisance and permanently enjoining COCIF and COCIF LLC from operating in Ohio;
- J. Award Plaintiff Attorney General his reasonable attorney's fees and costs of investigation and litigation, as permitted by R.C. 1716.16(B); and
- K. Grant Plaintiff Attorney General other relief as the Court deems proper and necessary.

Respectfully submitted,

MIKE DEWINE  
ATTORNEY GENERAL OF OHIO

/s/ 

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