

FILED
COURT OF COMMON PLEAS

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CLERK OF COURTS
WILLIAMS COUNTY OHIO

IN THE COURT OF COMMON PLEAS
WILLIAMS COUNTY, OHIO

STATE OF OHIO, *ex rel.*
MIKE DEWINE, OHIO ATTORNEY
GENERAL

and

ANDRE PORTER, DIRECTOR
OHIO DEPARTMENT OF COMMERCE

Plaintiffs,

v.

NANCY JO FRAZER, et al.

Defendants.

CASE NO.:

13C1000103

JUDGE

MOTION OF THE OHIO ATTORNEY
GENERAL FOR A TEMPORARY
RESTRAINING ORDER AND A
PRELIMINARY INJUNCTION

Plaintiffs, State of Ohio *ex rel.* Mike DeWine, Ohio Attorney General and Andrew Porter, Director of the Ohio Department of Commerce, respectfully move this Court, pursuant to Rule 65 of the Ohio Rules of Civil Procedure, Ohio Revised Code Section 1716.16(B), and Ohio Revised Code Section 1707.26, for the issuance of a Temporary Restraining Order and a Preliminary Injunction enjoining Defendants, as well as their officers, agents, servants,

employees, representatives, assigns, and those persons in active concert or participation with them. Specifically, Plaintiffs request the Court to:

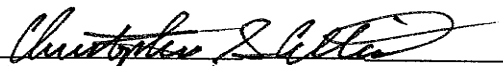
1. Order Defendants to immediately cease all activities on behalf of any charitable organization/trust in the state of Ohio including, but not limited to, Focus Up Ministries, Inc., NJF Global Group, and Profitable Sunrise;
2. Order Defendants to immediately cease all acts of solicitation as defined in R.C. 1716.01(K) in the State of Ohio for any charitable purpose or charitable organization including, but not limited to, Focus Up Ministries, NJF Global Group, and Profitable Sunrise.
3. Order Defendants to immediately cease disposing of assets held in the name of or for the benefit of Focus Up Ministries, Profitable Sunrise, or any other charitable or nonprofit entity, including but not limited to cash, supplies and financial and other records;
4. Order that all accounts in the name Focus Up Ministries be taken into actual and/or constructive possession by any and all banking institutions and that no withdrawals or transfers be permitted to be made;
5. Order that Defendants immediately cease withdrawing, or transferring funds from any and all financial accounts in the name of Focus Up Ministries or any other charitable or nonprofit entity;
6. Order that all amounts withdrawn from or belonging to Focus Up, or held for its benefit, be paid to the Williams County Clerk of Courts, pending further order of this Court;
7. Order that the \$20,000 cashier's check removed from Huntington Bank Account Number 03478725202 be paid to the Williams County Clerk of Courts, pending further order of this Court;

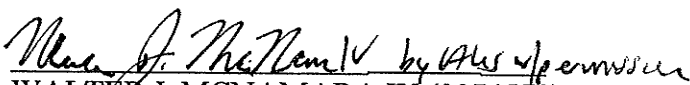
8. Order that Defendants provide an accounting of all assets solicited for a charitable purpose and/or held for the benefit of Focus Up Ministries and/or Profitable Sunrise;
9. Order that the specific accounts in the names of Defendants Nancy Jo Frazer, David Frazer, Albert Rosebrock, and Focus Up Ministries, Inc., identified as Huntington Bank Account Numbers 01472654986, 03478725202, 02475460273, 01472636467, 0247578020, 04475411042; Fifth Third Bank Account Number 7342748253; and Farmers and Merchants Bank Account Number 2153758 be taken into actual and/or constructive possession by those banking institutions;
10. Order that Defendants be prohibited from acting as a securities dealer, salesperson, investment advisor, or investment advisor representative without first obtaining proper licensure with the Division;
11. Order that Defendants be prohibited from selling securities that are not registered with the Division or subject to an exemption from registration with the Division;
12. Order that Defendants be prohibited from engaging in any act that violates R.C. 1707.44(B)(4) or R.C. 1707.44(G);
13. Order that Defendants be prohibited from disposing of and dispersing any assets that were acquired with funds obtained from the unlawful sale of unregistered securities, including all assets held in the name of Defendants, until a full hearing can be had on the allegations in the complaint.

The reasons and authorities are more fully set forth in the attached Memorandum in Support, which is incorporated by reference herein.

Very respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Defendants solicited for a pyramid scheme called “Profitable Sunrise” to make money for themselves at the expense of victims from Ohio, other states, and around the world. By using religious and charitable appeals, Defendants convinced Ohio citizens, as well as citizens of other states, to invest their money into a pyramid scheme and to donate their money to a fraudulent charity. Based on Defendants’ fraudulent charitable appeals and their promises of large, unattainable returns on investment, victims donated to Focus Up Ministries and invested in Profitable Sunrise.

Defendants represented that victims’ donations to Focus Up Ministries would be used to promote the ministry and its charitable purpose and that at least a portion of the investment in

Profitable Sunrise would be used for charitable purposes. (Affidavit of Christine Casey par. 11, 17, attached as “Exhibit #1”). Defendants further represented that Focus Up Ministries was a tax-exempt 501(c)(3) organization despite the lack of any verifying documentation of tax-exempt status from the Internal Revenue Service, the lack of charitable programming, the overwhelming use of donated monies to perpetuate a pyramid scheme, and the use of donated monies for personal expenses. (Casey Aff. at 44-49, 57). Defendants also attempted to add legitimacy to Focus Up Ministries by stating that Focus Up Ministries had a “Global” Board of Trustees despite the fact that every member of the board lives in Northwest Ohio. (Casey Aff. at 35). Instead, Defendants used charitable donations to Focus Up Ministries for personal and other unlawful purposes including, *inter alia*, the purchase of a big screen TV for Nancy Jo and David Frazer’s house, the use of the charity’s bank account for no-interest personal loans, the purchase of a Nevada corporation to be used in another business venture, and the perpetuation of an international pyramid scheme. (Casey Aff. at 44-54, 59).

Defendants also represented that investments in Profitable Sunrise would be, at least in part, used for charitable purposes. (Casey Aff. at 11, 17, 33). Despite their charitable claims, there is no evidence that any investments in Profitable Sunrise were used for any charitable purpose. In addition to Defendants’ fraudulent charitable appeals, Defendants further misled victims by promising impossibly large and unattainable returns on their investments – promising an annual percentage return (APR) of 5,000% to over 75,000%. (Casey Aff. at 13).

As of the date of this Motion, international, federal, and state agencies have all taken action against Profitable Sunrise. Numerous states, provinces, and countries have issued Cease and Desist orders and/or alerts regarding Profitable Sunrise including, but not limited to, Ohio, Florida, Wisconsin, Nevada, Minnesota, California, Indiana, Maine, New Mexico, Texas,

Delaware, North Dakota, New Jersey, South Dakota, Alabama, North Carolina, South Carolina, Alaska, Maryland, New Brunswick, Quebec, Ontario, British Columbia, Alberta, New Zealand, and United Kingdom. (See, e.g., Exhibit #2). On April 4, 2013 the U.S. Securities and Exchange Commission (SEC) filed a complaint against Profitable Sunrise; and on April 15, 2013 the SEC issued an order of preliminary injunction against Profitable Sunrise. (Id.) (Affidavit of Janice Hitzeman, par. 59, attached as "Exhibit #4.") As part of the SEC's action, funds allegedly received from U.S. investors located in bank accounts worldwide have been frozen by authorities and Profitable Sunrise has been shut down. (Exhibit #2) (Hitzeman Aff. at 59). Despite the fact that Profitable Sunrise has been shut down, and thus charitable solicitation has ceased, the money that is held by Defendants in Ohio has not yet been frozen and is currently at risk of dissipation. In fact, after being made aware of these investigations, Defendants have withdrawn significant amounts of money from the charity's bank account as well as their personal bank accounts (which contain deposits from the Profitable Sunrise scheme). Specifically, there is a \$20,000 cashier's check that was withdrawn from Nancy Jo and David Frazer's personal account which is currently unaccounted for. (Affidavit of Douglas Carlson par. 40, 41 attached as "Exhibit #3"). None of this money has been protected by the SEC action or any other actions that have been taken against Profitable Sunrise and its agents. (Id.).

Given Defendants' notice of investigation and access to the charitable funds, as well as the significant amount of money recently withdrawn from accounts and currently unaccounted for, an injunction is necessary to ensure the protection of assets the State has reason to believe could disappear at any moment. Defendants' activities demand immediate redress in order to safeguard the few remaining charitable assets. (See Carlson Aff.)

II. FACTS

The State's investigation involves the efforts of three "charitable" organizations – Profitable Sunrise, NJF Global Group, and Focus Up Ministries – and the individuals in control of those organizations, to perpetuate a pyramid scheme. The common thread among all three organizations is Defendant Nancy Jo Frazer, who used charitable appeals to coordinate, facilitate, and execute the fraudulent solicitation of hundreds, if not thousands, of victim-investors.

A. The Three Organizations

1. Profitable Sunrise

Profitable Sunrise is an internet-based pyramid scheme that began in or before July 2012. (Casey Aff. at 9). Profitable Sunrise was purportedly owned and run by an individual using the alias "Roman Novak," who claimed to be an international businessperson who created Profitable Sunrise as a way to give back to others. Profitable Sunrise portrayed itself as a successful business that makes short-term, high interest loans (bridge loans) to other businesses at high interest rates. (Casey Aff. at 13). Profitable Sunrise and its agents claimed that invested funds would compound at 1.6 to 2.7 percent daily, growing at impossible rates of 5,000 to 78,000 percent annually, and that some funds would be used for charitable purposes. (Casey Aff. at 13, 17) (Hitzeman Aff. at 37). These statements were misleading, fraudulent, and untrue and resulted in the victimization of Ohio, US, and international citizens. Profitable Sunrise is nothing more than a pyramid scheme set up to benefit Defendants at the expense of victim-investors and charitable beneficiaries.

2. NJF Global Group

The Profitable Sunrise scheme was set up so that investors could choose to either invest in Profitable Sunrise as individuals or join a “private group” of investors, which allowed investors to receive a higher rate of return on their investments. (Casey Aff. at 18). NJF Global Group, created and led by Nancy Jo Frazer, was the largest of the approximately twenty “private groups” within Profitable Sunrise with over 70,000 “members” purportedly investing over \$30,000,000. (Casey Aff. at 20). Each “private group” sponsored a charity that received funds from Defendant Profitable Sunrise and its investors. NJF Global Group’s sponsored charity within Profitable Sunrise was Focus Up Ministries.

NJF Global Group presented itself as a “private endowment community” committed to providing resources for non-profit expansion. (Casey Aff. at 21). In reality NJF Global Group was nothing more than a front for Nancy Jo Frazer, Albert Rosebrock, and their agents to solicit investments in Profitable Sunrise. NJF Global Group provided potential investors with much of the same information as Profitable Sunrise, including deceptive and misleading information on its website, power point presentations, conference calls, and emails. (Hitzeman Aff. at 28). These communications highlighted the different investment plans within Profitable Sunrise, discussed the large rates of return on investments, and extolled the charitable benefits of investments. (Casey Aff. at 21).

NJF Global Group also solicited donations for Focus Up Ministries. In return for donations, representatives of NJF Global Group/Focus Up Ministries, including Defendants Nancy Jo Frazer, David Frazer, and Albert Rosebrock, provided help to Profitable Sunrise investors. (Hitzeman Aff. at 38-47). This “help” included providing investors with fraudulent solicitation materials for their own use in building their referral base. (Casey Aff. at 25, 26).

Defendants also executed large bank wire transfers on behalf of investors to Profitable Sunrise's overseas bank accounts. (Casey Aff. at 38, 40) (Hitzeman Aff. at 65). Most of the work done for NJF Global Group was performed by Focus Up Ministries' directors and employees. (Casey Aff. at 38, 40, 50-54).

3. Focus Up Ministries

Focus Up Ministries is a fraudulent charitable organization founded by Defendant Nancy Jo Frazer. It was used to attract investors to Profitable Sunrise through its association with NJF Global Group. Defendants perpetuated the pyramid scheme by providing support and materials related to Profitable Sunrise to those individuals who donated to Focus Up Ministries. (Casey Aff. at 25, 26). In fact, the more money individuals contributed to Focus Up Ministries, the more help they received for the pyramid scheme. (Id.). Additionally, Defendants misled Ohio citizens, as well as citizens of other states, by portraying the pyramid scheme itself as charitable. (Casey Aff. at 17, 33). By using religious and charitable appeals, Defendants convinced Ohio citizens, as well as citizens of other states, to invest their money into a pyramid scheme and to donate their money to a fraudulent charity. (Id.).

Defendants used Focus Up Ministries' funds, assets, and employees to perpetuate Profitable Sunrise. For example, Focus Up Ministries employed and compensated multiple employees whose primary purpose was to communicate with and assist Profitable Sunrise investors. (Casey Aff. at 38, 40, 50-54). These employees were hired specifically to handle the influx of Profitable Sunrise investors who were calling to speak with Nancy Jo. (Casey Aff. at 50-54). In fact, Focus Up Ministries' employees did almost no work at all to support the ministry and its purported purpose. (Id.). And even the little charitable work that was done was

mostly, if not entirely, for individuals either involved in or otherwise associated with Profitable Sunrise. (Id.).

Not only did Focus Up Ministries partner with Profitable Sunrise and NJF Global Group to perpetuate the pyramid scheme, Defendants, at the direction of Nancy Jo Frazer, used Focus Up Ministries' charitable trust status and assets for their own personal and other unlawful purposes, including purchasing items for David and Nancy Jo Frazer's house and allowing the charity's bank account to be used for no-interest personal loans. (Casey Aff. at 48).

B. The Common Thread: Defendant Nancy Jo Frazer

As described above, the common link between Profitable Sunrise, NJF Global Group, and Focus Up Ministries is Defendant Nancy Jo Frazer, a resident of Bryan, Ohio. Nancy Jo Frazer founded Focus Up Ministries, was the group leader of NJF Global Group, and claimed to have spoken directly with "Roman Novak" to promote Profitable Sunrise. (Casey Aff. at 27). Nancy Jo was a self-described "leader" in Profitable Sunrise who utilized her leadership positions in NJF Global Group and Focus Up Ministries to solicit on behalf of Profitable Sunrise in order to perpetuate the pyramid scheme and to benefit herself at the expense of numerous victim-investors and the intended charitable beneficiaries.

Defendant Nancy Jo Frazer is not new to pyramid schemes. She has a history of promoting pyramid schemes that are later the subject of law enforcement action. (Casey Aff. at 31) (Hitzeman Aff. at 44). Prior to soliciting for Profitable Sunrise, Nancy Jo solicited members or investors in Ad Surf Daily, Fuel Freedom International, and ProfitClicking. (Id.). On May 18, 2012, Thomas A. Bowdoin, Jr., the founder of Ad Surf Daily, pled guilty to wire fraud and was sentenced to 78 months in prison for his activities related to Ad Surf Daily. (Hitzeman Aff. At 57). She also promoted Zeek Rewards, a pyramid scheme that was eventually investigated

and shut down by the SEC. (Casey Aff. at 31, 32) (Hitzeman Aff. at 31-32). During the same time period that the Zeek Rewards pyramid scheme collapsed, Nancy Jo Frazer began promoting Profitable Sunrise. (Casey Aff. at 32). And during the same time period that the Profitable Sunrise scheme collapsed, Nancy Jo Frazer moved onto her new project – Strongbrook Direct, an online real estate investment program that has had two SEC complaints filed against it. (Casey Aff. at 59) (Hitzeman Aff. at 63). Despite the current investigation into Profitable Sunrise and Focus Up Ministries, Defendants Nancy Jo Frazer and David Frazer used Focus Up Ministries’ funds to buy their way into Strongbrook Direct. (Casey Aff. at 59) (Hitzeman Aff. at 63).

Because of her past experiences, Defendant Nancy Jo Frazer was given the opportunity to become a Profitable Sunrise leader and thus had direct contact with “Roman Novak.” (Casey Aff. at 27, 28). With her direct contact with the founder of Profitable Sunrise and her past experience with pyramid schemes, Nancy Jo Frazer was perfectly situated to manipulate victim-investors into the pyramid scheme; and she did just that.

Defendant Nancy Jo Frazer solicited investments in Profitable Sunrise from potential and existing investors all over the United States through conference calls, power point presentations, phone calls, e-mails, the Profitable Sunrise website, the NJF Global Group website, and the Focus Up Ministries website. (Casey Aff. at 26, 28, 33) (Hitzeman Aff. at 28). Through her outreach, she portrayed her own charity, her private group, and even Profitable Sunrise itself as charitable and religious organizations. (Casey Aff. at 33). In fact, Nancy Jo Frazer instructed her group members to avoid terminology referring to Profitable Sunrise as an investment or a security. Instead, she instructed her group to refer to Profitable Sunrise as a charity and to the investments as “fundraisers.” (Id.). For example, she stated to potential and existing investors, “You’re not going to say securities because we are not talking in that language. Talk about the

fundraisers in the charities. Everybody knows what that is. It's a good thing. It's a happy thing. It's not a bad thing." (Id.) (See also Hitzeman Aff. at 30).

Nancy Jo Frazer's presentations included information linking Profitable Sunrise, NJF Global Group, and Focus Up Ministries, as well as information regarding the different investment contracts, charts displaying how investments would compound, and referral bonuses. (Casey Aff. at 25, 26). Not only did Nancy Jo Frazer link Profitable Sunrise, NJF Global Group, and Focus Up Ministries in her presentations, she also used both NJF Global Group and Focus Up Ministries to promote and perpetuate the Profitable Sunrise pyramid scheme.

Defendant Nancy Jo Frazer, with help from Defendant Albert Rosebrock, used NJF Global Group to solicit investors into Profitable Sunrise. She helped grow NJF Global Group into one of the largest private groups within Profitable Sunrise with over 70,000 "members" purportedly investing over \$30,000,000. (Casey Aff. at 20) (Hitzeman at 48). Nancy Jo Frazer misleadingly presented NJF Global Group as a charitable organization dedicated to helping investors in Profitable Sunrise help themselves and others – especially Nancy Jo's own charity, Focus Up Ministries. (Casey Aff. at 22, 23).

Defendant Nancy Jo Frazer also used her position as the founder of Focus Up Ministries to perpetuate Profitable Sunrise. Nancy Jo Frazer described Focus Up Ministries as a charity within Profitable Sunrise. (Id.). Donations to Focus Up Ministries were directly tied to assistance with Profitable Sunrise investments; Nancy Jo Frazer offered insider information and personal support regarding Profitable Sunrise to investors who contributed to Focus Up Ministries. (Casey Aff. at 25, 26). The more money an investor donated to Focus Up Ministries, the more personal contact and support the investor received from Nancy Jo Frazer, Albert Rosebrock, and David Frazer regarding Profitable Sunrise. (Id.). Additionally, contributors to

Focus Up Ministries were placed on an email mailing list that provided consistent updates about Profitable Sunrise. (Casey Aff. at 25).

C. Other Defendants' Involvement

Defendants Nancy Jo Frazer, David Frazer, and Albert Rosebrock are the trustees of Focus Up Ministries – Defendant Nancy Jo Frazer is the founder and vice-president of the Board, Defendant David Frazer is a Board member and the treasurer, and Defendant Albert Rosebrock is a Board member. (Casey Aff. at 34). Defendants all had fiduciary duties to Focus Up Ministries, which they breached at the expense of victim investors and the purported charitable beneficiaries.

Like Nancy Jo Frazer, Defendant Albert Rosebrock is not new to pyramid schemes. Prior to soliciting on behalf of Profitable Sunrise, Albert was affiliated with Ad Surf Daily and Zeek Rewards. (Casey Aff. at 37). Also like Nancy Jo Frazer, Albert Rosebrock spoke with and sent e-mails to potential investors in Profitable Sunrise and used his position as a member of NJF Global Group and a director of Focus Up Ministries to perpetuate Profitable Sunrise. (Casey Aff. at 38). (Carlson Aff. at 11-14, 26-27) (Hitzeman Aff. at 64). Additionally, Albert Rosebrock received certified checks, cash, and wire transfers from investors who were unable to wire money overseas directly and performed the wire transfers for them. (Casey Aff. at 38). (Carlson Aff. at 11-14, 26-27). For these services Albert Rosebrock often received a transfer fee or “tip.” (Casey Aff. at 38).

Defendant David Frazer, Nancy Jo Frazer’s husband, is the treasurer of Focus Up Ministries and, until April 2013, was the branch manager of the bank where the Focus Up Ministries account is held. (Casey Aff. at 39). Defendant David Frazer used his position as the branch manager to facilitate the pyramid scheme. (Casey Aff. at 39, 40). While branch

manager, David opened the Focus Up Ministries bank account at Huntington Bank and made at least one wire transfer associated with Profitable Sunrise. (Id.).

III. LAW AND ARGUMENT

A. Statutory Grounds for TRO

The general rule for issuance of a preliminary injunction requires the plaintiff to establish that there will be irreparable injury if the Court does not enjoin the defendants' conduct. Ohio Civil Rule 65(A). Ohio Courts have considered four factors as shown by clear and convincing evidence to obtain a preliminary injunction, including (1) a substantial likelihood of success on the merits, (2) the existence of irreparable harm if an injunction is not issued, (3) that third-parties will not be unjustifiably harmed if an injunction is issued, and (4) that granting an injunction will serve the public interest. *Procter & Gamble Co. v. Stoneham* (2000), 140 Ohio App.3d 260, 267-68.

However, when a statute grants a specific injunctive remedy, the general rule does not apply. *Ackerman v. Tri-City Geriatric & Health Care, Inc.* (1978), 55 Ohio St.2d 51, 56. In *Ackerman*, the Ohio Supreme Court found that when a statute grants specific injunctive relief, the state need not show irreparable injury. *Id.* In the case of a statutory injunction, the moving party need only satisfy the statutory conditions. *Id.* at 57. Additionally, unlike equitable injunctions, statutory injunctions do not require clear and convincing evidence. *State v. R&J Partnership, Ltd.* (2nd Dist. Ct. App. 2007), 2007 Ohio 7165, 2007 Ohio App. LEXIS 6268 (specifically applying a preponderance of the evidence standard to preliminary injunctions under Ohio Revised Code Section 1716.16(B)); *see Stoneham*, 140 Ohio App.3d at 267-68.

Further, the *Ackerman* rule has been applied in actions seeking preliminary relief as well as permanent relief. In *Brown v. Barnum & Crow, Inc.*, 22 Ohio Op.3d 24 (Lucas C.P. 1980),

the Attorney General sought a preliminary injunction to enjoin numerous deceptive and unconscionable acts or practices as defined by R.C. 1345.02 and R.C. 1345.03 of the Ohio Consumer Sales Practices Act. The court, following *Ackerman*, stated:

Ohio law requires plaintiff Brown demonstrate by a preponderance of the evidence that a statute or rule has been violated in order to receive statutory injunctive relief. (Citation omitted.) All that is required when a statute is enacted to prevent harm to the public is a showing that the requisites for relief have been satisfied. [*Ackerman*] at 56-57 of Ohio St. 2d at pages 65-66 of O.O. 3d; *Brown v. Deacon's Chrysler Plymouth, Inc.*, 14 O.O. 3d 436 (Cuyahoga Cty. App. 1979).

22 Ohio Op.3d at 26.

Ohio Revised Code § 1716.16(B) authorizes the Attorney General to obtain injunctive relief for violations of Ohio's Charitable Organizations Act, Chapter 1716. Ohio Revised Code § 1716.16(B) states (in pertinent part): "In seeking injunctive relief, the attorney general shall not be required to establish irreparable harm but only shall establish a violation of a provision of this chapter or a rule adopted under this chapter or that the requested order promotes the public interest."

In *R&J Partnership*, the Second District Court of Appeals considered a preliminary injunction brought by the Attorney General pursuant to Ohio Revised Code § 1716.16(B) to enjoin charitable activities. The Second District found that Ohio Revised Code § 1716.16(B) only requires the Attorney General to establish a violation of Chapter 1716 by a preponderance of the evidence in order to obtain a preliminary injunction. *R&J Partnership* (2nd Dist. Ct. App. 2007), 2007 Ohio 7165. Therefore, in obtaining a temporary restraining order and preliminary injunction in this matter, the Attorney General need only establish a violation of Chapter 1716 or show the requested order promotes the public interest by a preponderance of the evidence.

Defendants have violated numerous provisions of Chapter 1716. Each violation warrants enjoining further activities of Defendants. Taken together, the numerous violations show a continuous fraud upon the public interest. For example, Defendants have breached their fiduciary duties to the charitable beneficiaries of Focus Up Ministries and Profitable Sunrise in violation of R.C. § 1716.17. Defendants committed deceptive acts and practices in violation of R.C. § 1716.14(A)(1). Defendants violated R.C. § 1716.14(A)(2) by misleading Ohio citizens as to material facts concerning charitable solicitations. Defendants violated R.C. § 1716.14(A)(5) by misleading Ohio citizens as to the existence of a charitable organization or purpose. Defendants committed a nuisance and violated R.C. § 1716.14(B).

The Ohio Attorney General will establish, by a preponderance of the evidence, numerous violations of the Ohio Charitable Trust Act by Defendants and is therefore entitled to the necessary protection of injunctive relief under R.C. § 1716.16(B).

The Director of the Ohio Department of Commerce, in his official capacity as Director, is responsible through the Division of Securities (“Division”) to regulate securities sales in the State of Ohio, including enforcing the Ohio Securities Act. R.C. 1707.26 provides that Plaintiff may seek injunctive relief when it appears to him that a person has engaged in, is engaging in, or is about to engage in deceptive, fraudulent, or manipulative acts in violation of R.C. 1707. Upon proof of such violations, a court of common pleas must grant an injunction restraining the person(s) or its agents, employees, partners, officers, directors, and shareholders from doing any acts in furtherance of the fraud or deceit, or for any other equitable relief as the facts warrant. In order to obtain an injunction against Defendants, pursuant to R.C. 1707.26, the state need only prove violations of R.C. Chapter 1707.

Plaintiff is statutorily entitled to an injunction under R.C. 1707.26 because Defendants Nancy Jo Frazer, Focus Up Ministries, Inc., and Albert Rosebrock, violated the Ohio Securities Act by selling securities without a license, selling unregistered securities, making misrepresentations in the sale of securities, and committing securities fraud.

Though the Plaintiffs are not required, they will establish by clear and convincing evidence that an injunction is necessary and warranted under Ohio Civil Rule 65(A). Specifically, Plaintiffs will show that they meet the common-law elements for a TRO. Plaintiffs are substantially likely to succeed on the merits because Defendants knowingly violated the Securities Act and the Ohio Charitable Organizations Act. Unless immediately restrained, Plaintiffs, investors, and the charitable beneficiaries will suffer irreparable harm as Defendants do not have enough funds to repay all investors. The issuance of the TRO will not cause substantial harm to others, but will insure that investors and charitable beneficiaries will be protected by prohibiting Defendants from violating Ohio law and disposing of or dissipating Defendants' assets before restitution can be ordered. Finally, by granting a TRO, the Court will serve the public interest by protecting the public from individuals and organizations who have used investor money and charitable contributions for their personal gain.

1. Immediate Injunctive Relief is Necessary to Prevent Further Misleading Statements and Deceptive Acts and Practices in Violation of R.C. § 1716.16(B)

Ohio Revised Code § 1716.14(A)(1) prohibits those soliciting on behalf of a charitable organization or a charitable purpose from “[c]ommitting any deceptive act or practice as applied to the planning, conducting, or executing of any charitable solicitation of contributions.” R.C. § 1716.14(A)(2) prohibits those soliciting on behalf of a charitable organization or a charitable purpose from “[m]isleading any person as to any material fact concerning the solicitation of

contributions for a charitable organization or charitable purpose or concerning a charitable sales promotion.” R.C. § 1716.14(A)(5) prohibits those soliciting on behalf of a charitable organization or purpose from misleading any person in any manner in the belief, or making or using any representation to any person that implies, that the organization on whose behalf a solicitation is being conducted is a charitable organization if that is not the fact.

Defendants repeatedly committed deceptive acts and/or made misrepresentations. Defendants represented that Profitable Sunrise, NJF Global Group, and Focus Up Ministries were charitable organizations when in fact they were merely fronts for a pyramid scheme. Defendants represented that donations to Focus Up Ministries would be used to help the poor and to provide for ministry in Bryan, Ohio and that investments in Profitable Sunrise would be used for general charitable purposes. (Casey Aff. at 17, 41). Specifically, the Profitable Sunrise websites stated: “We allocate a significant amount of our earnings to charity as there are so many people out there that need help.” (Casey Aff. at 17). Rather than supporting their purported charitable purposes, Defendants used donated monies for their own personal and other unlawful purposes. For example, Defendants used Focus Up Ministries’ money to purchase personal items, to obtain no interest loans, and to perpetuate the Profitable Sunrise scheme. (Casey Aff. at 44-54). (Carlson Aff. at 21, 32)

Defendants further misrepresented Focus Up Ministries as a tax-exempt 501(c)(3) despite the lack of any verifying documentation of tax-exempt status from the Internal Revenue Service, the lack of charitable programming, the overwhelming use of donated monies to perpetuate a pyramid scheme, and the use of donated monies for personal expenses. (Casey Aff. at 57). Defendants also attempted to add legitimacy to Focus Up Ministries by stating that Focus Up Ministries had a “Global” Board of Trustees despite the fact that every member of the board lives

in Northwest Ohio. (Casey Aff. at 35). Defendants further misrepresented that assets invested in Profitable Sunrise were insured against loss when they were not and that assets invested in Profitable Sunrise would grow at an impossibly high rate of 1.6 to 2.7 percent compounded daily (an Annual Percentage Return of 5,000% to over 75,000%). (Casey Aff. at 13).

Additionally, Defendants provided false information in their response to the Attorney General's Records Request sent pursuant to R.C. 1716.15.

a) Defendants Violated R.C. § 1716.17 by Breaching their Fiduciary Duties

Defendants have breached their fiduciary duties to the charitable beneficiaries of Focus Up Ministries in violation of R.C. § 1716.17. Defendants owed fiduciary duties to the charitable beneficiaries of Focus Up Ministries, NJF Global Group, and Profitable Sunrise—including the duty of care, the duty of loyalty, the duty to properly manage accounts, and the duty to comply with law, as well as other duties, including, but not limited to, the duty to not waste charitable trust assets and to act in the best interest of the charities. Defendants violation their fiduciary duties resulting in loss and other damages to the charitable beneficiaries of Focus Up Ministries and Profitable Sunrise. Defendants breached their fiduciary duties by repeatedly misrepresenting the activities of Focus Up Ministries, NJF Global, and Profitable Sunrise and by misusing charitable assets to the detriment of Ohio citizens and citizens of other states.

The duty of care requires that directors of charitable trusts conduct themselves with the level of care, skill, and diligence that an ordinarily prudent person would exercise in the handling of his or her own affairs. Defendants violated their duty of care by failing to hold board meetings, failing to keep board minutes, failing to establish and follow organizational bylaws, and failing to establish and follow any policies including, but not limited to, financial policies, donation policies, and conflict of interest policies. (Casey Aff. at 45).

The duty of loyalty requires that the interest of the charity is placed above any personal interest. Defendants violated their duty of loyalty by continuously using Focus Up Ministries for their own personal benefit at the expense of the charity's beneficiaries. (Casey Aff. at 44-49). (Carlson Aff. at 21). Defendants used Focus Up Ministries and general religious and charitable appeals to promote Profitable Sunrise, thereby increasing their own profit. Defendants used Focus Up Ministries' account to buy personal items and to pay employees to help investors with Profitable Sunrise. (Casey Aff. at 44-54). (Carlson Aff. at 32). Focus Up Ministries, a purported charitable organization, served to mislead victim-investors into Profitable Sunrise and to ensure that victim-investors continued to invest in Profitable Sunrise and donate to Focus Up ministries. The actions of Defendants resulted in their personal benefit to the detriment of victim-investors, Focus Up Ministries itself, and the purported charitable beneficiaries of Profitable Sunrise and Focus Up Ministries.

The duty to properly manage accounts requires that accurate records are maintained and that financial matters are properly managed. Defendants violated their duty to properly manage accounts by failing to keep accurate records of income and expenses, develop and monitor budgets, establish and follow internal control systems, and maintain accurate records of the organizations' activities. (Casey Aff. at 45). Defendants further failed to properly manage accounts by co-mingling funds, paying Focus Up Ministries' employees to do NJF Global/Profitable Sunrise work, and using funds for non-charitable purposes. (Casey Aff. at 44-54). (Carlson Aff. at 21, 32).

The duty of compliance requires that the board comply with all legal requirements and other obligations including federal law, state law, governing documents, all agreements and contracts, and all representations made in solicitations. Defendants violated their duty of

compliance by failing to comply with the Ohio Charitable Trust Act, the Ohio Charitable Organizations Act, Ohio Nonprofit Corporation Law, and common law, as described below. Defendants further violated their duty of compliance by misrepresenting that investments in Profitable Sunrise and donations to Focus Up Ministries would be used for charitable and/or religious purposes when they were instead used to perpetuate the Profitable Sunrise scheme and to benefit themselves personally.

Defendants wasted charitable trust assets by paying Focus Up Ministries' assets to employees whose central responsibility was to answer e-mails and phone calls and develop programs for investors concerning Profitable Sunrise. (Casey Aff. at 50-54). (Carlson Aff. at 32). Defendants failed to act in the best interest of the charity by using charitable funds for their own personal expenses and to fund and perpetuate a pyramid scheme.

b) Defendants Failed to Comply with Ohio's Charitable Registration Requirements

Ohio Revised Code Chapter 1716 enumerates certain registration and reporting requirements with which organizations soliciting for charitable purposes must comply if they intend to solicit contributions in Ohio. Based upon the Ohio Attorney General's review and investigation, Defendants have failed to properly register and file reports in violation of R.C. §§ 1716.02(A), 1716.02(C)(1), 1716.02(C)(2), and 1716.02(D)(1).

Pursuant to R.C. § 1716.02(A), every organization purporting to be charitable or purporting to use solicited funds for a charitable purpose must file a Registration Statement with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. Defendants have violated R.C. § 1716.02(A) by failing to file a Registration Statement with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. (Casey Aff. at 55, 56).

Pursuant to R.C. § 1716.02(C)(1), every organization that is required to register under Chapter 1716 must file a copy of the current charter, articles of incorporation, agreement of association, instrument of trust, constitution, or other organizational instrument, and a copy of the bylaws of the charitable organization with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. Defendants have violated R.C. § 1716.02(C)(1) by failing to file a copy of the current charter, articles of incorporation, agreement of association, instrument of trust, constitution, or other organizational instrument, and a copy of the bylaws with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. (Id.).

Pursuant to R.C. § 1716.02(C)(2), every organization that is required to register under Chapter 1716 must file a statement setting forth the place where and the date when the charitable organization was legally established, the form of its organization, and its tax exempt status, with a copy of its federal tax exemption letter, with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. Defendants have violated R.C. § 1716.02(C)(2) by failing to file a statement setting forth the place where and the date when Defendant Focus Up Ministries was legally established, the form of the organization, and the tax exempt status, with a copy of their federal tax exemption letter, with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. (Id.).

Pursuant to R.C. § 1716.02(D)(1), every organization that is required to register under Chapter 1716 must pay registration fees with the Ohio Attorney General before engaging in solicitation. Defendants have violated R.C. § 1716.02(D)(1) by failing to pay registration fees with the Ohio Attorney General before engaging in solicitation. (Id.).

2. **Defendants violated R.C. Chapter 1707 by selling securities without a license, acting as an investment advisor without a license, selling unregistered securities, making material misrepresentations and**

promising investors a guaranteed rate of return, and using this money to fund their personal lifestyles.

The instruments issued by Profitable Sunrise are securities as defined by R.C. 1707.01(B) and are not exempt from registration under R.C. 1707.02, R.C. 1707.03, R.C. 1707.04 and R.C. 1707.34. The U.S. District Court for the Northern District of Georgia, in its Order granting the SEC a preliminary injunction and asset freeze, found these instruments to be securities as defined under federal securities law. (Hitzeman Aff. at 61). Neither Profitable Sunrise nor Nancy Jo Frazer and her related entities have filed a registration or notice of exemption for the sale of securities with the U.S. Securities and Exchange Commission (“SEC”) or any state securities commission. (Hitzeman Aff. at 26). Defendants Nancy Jo Frazer, Focus Up Ministries, Inc., and Albert Rosebrock have violated Ohio’s securities laws in connection with the sale of these securities.

Profitable Sunrise employed an internet-based “pyramid” scheme to solicit investments with a charitable and religious appeal and promised large unreasonable returns on these investments. Profitable Sunrise and Nancy Jo Frazer promised that these investments would be used to fund bridge loans to businesses in the U.S. and overseas but there is no evidence to show that Profitable Sunrise ever made a single loan (Hitzeman Aff. at 45). In fact, the SEC discovered that the investor funds were being funneled into accounts held by multiple shell companies in various countries.

Defendant Nancy Jo Frazer does not hold an active license issued by the Ohio Division of Securities, FINRA, SEC, or any state securities commission authorizing her to engage in the sale of securities. (Hitzeman Aff. at 75). Nancy Jo Frazer founded and led NJF Global Group, one of approximately twenty “private groups” within the Profitable Sunrise scheme. (Hitzeman Aff. at 12 and 38). Nancy Jo Frazer solicited investors on behalf of Profitable Sunrise through personal

presentations, websites, social media, email communications, and videos and conference calls posted on the internet, violating R.C. 1707.14(A) , R.C. 1707.141(A), R.C. 1707.16(A), R.C. 1707.161(A), and R.C. 1707.44(A)(1) and R.C. 1707.44(A)(2). (Hitzeman Aff. at 28-33, 72).

Further, Nancy Jo Frazer's communications contained deceptive and misleading information about the purposes and practices of Profitable Sunrise, Focus Up Ministries, and NJF Global Group, in violation of R.C. 1707.44(B)(4). Nancy Jo Frazer misled investors about the profitability of these investments, the guaranteed payment of return, the charitable purpose of NJF Global Group and Focus Up Ministries, and the use of investment proceeds by the Defendants and Profitable Sunrise. (Hitzeman Aff. at 21-24, 30-32, 36-37, and 47). Additionally, Nancy Jo Frazer committed securities fraud as prohibited by R.C. 1707.44(G) and defined by R.C. 1707.01(J). She failed to inform investors of the substantial risk of loss of their investments, the true nature of their investments and related donations and the lack of paperwork and due diligence conducted by them regarding Profitable Sunrise and Roman Novak. (Id.) In doing so, Nancy Jo Frazer knowingly engaged in a scheme to defraud investors and obtain money by means of false pretenses, false representations and false promises.

Focus Up Ministries, a nonprofit corporation founded by Nancy Jo Frazer in November 2011, also violated Ohio's securities laws; operating as little more than a conduit to promote the Profitable Sunrise scheme. Donations to Focus Up Ministries were directly tied to assistance with Profitable Sunrise investments. For example, Focus Up Ministries developed "rewards" or "thank you gifts" for contributors involved with Profitable Sunrise based on the amount donated. (Hitzeman Aff. at 40-42). These rewards included increased return on investments with Profitable Sunrise, Profitable Sunrise investment sales support, and power point investment sales pitches to be used in soliciting new investors in Profitable Sunrise. (Id.) Additionally, Nancy Jo

Frazer used Focus Up Ministries to attract investors in Profitable Sunrise through Focus Up Ministries' own website and through Nancy Jo and NJF Global Group's page on the Profitable Sunrise website. (Hitzeman Aff at 27-28). Focus Up Ministries has never held an active securities dealer or securities salesperson license or an investment advisor or investment advisor representative license in the State of Ohio as required by R.C. 1707.14(A) , R.C. 1707.141(A), R.C. 1707.16(A), R.C. 1707.161(A), and R.C. 1707.44(A)(1) and R.C. 1707.44(A)(2). (Hitzeman Aff. at 75). Further, Focus Up Ministries made the same misleading communications as Nancy Jo Frazer did and knowingly engaged in this same scheme to defraud investors, R.C.1707.44(B)(4) and R.C. 1707.44(G). (Hitzeman Aff. at 72).

Further, Defendant Albert Rosebrock also violated Ohio's securities laws by selling unregistered securities without a license, acting as an investment advisor without a license, selling unregistered securities, making false representations in the sale of securities, and committing securities fraud. Albert Rosebrock was a member of NJF Global Group and active in its management. (Hitzeman Aff. at 13). Albert, along with Nancy Jo, solicited investors in Profitable Sunrise, made false and misleading representations when making these solicitations, and received commissions for this work. (Hitzeman Aff. at 49). Albert Rosebrock has never held an active securities dealer or securities salesperson license or an investment advisor license as required by R.C. 1707.14(A) , R.C. 1707.141(A), R.C. 1707.16(A), R.C. 1707.161(A), and R.C. 1707.44(A)(1) and R.C. 1707.44(A)(2). (Hitzeman Aff. at 75). Moreover, Albert Rosebrock also received certified checks, cash and wire transfers from investors who were unable to wire money directly overseas. (Hitzeman Aff. at 65-66)). Albert would deposit these investor funds into his account and into the account of Focus Up Ministries. (Hitzeman Aff. at 67). Albert would then wire these funds to Profitable Sunrise accounts held overseas and receive

both a commission and a wire transfer fee or “tip” for effectuating these investments. (Hitzeman Aff. at 68). Albert Rosebrock received these funds in furtherance of the sale of securities. Like Nancy Jo Frazer and Focus Up Ministries, Albert Rosebrock made false and misleading statements to investors about the risk, profitability, and purpose of the Profitable Sunrise investments. (Hitzeman Aff. at 72). These actions violate R.C. 1707.44(B)(4) and R.C. 1707.44(G).

R.C. 1707.26 provides that the court of common pleas shall grant an injunction upon proof that any person has engaged in “any deceptive, fraudulent, or manipulative act, practice or transaction, in violation of sections 1707.01 to 1707.45 of the Revised Code.” Based on the multiple and egregious violations of R.C. Chapter 1707 documented above, Plaintiff has shown entitlement to a TRO under R.C. 1707.26. Accordingly, this Court should issue a TRO against all Defendants.

B. Common Law Grounds for TRO

1. Injunctive Relief is Necessary and Proper because Defendants Committed Fraud and Conversion and were Unjustly Enriched

a) Defendants Committed Fraud

Defendants and other persons acting at Defendants’ direction made false or misleading statements and representations to, or had reason to know of false and misleading statements and representations made to, individuals solicited by the Defendants. Defendants’ statements and misrepresentations were misleading. Contributors to Profitable Sunrise and Focus Up Ministries relied on those false or misleading statements and representations and have suffered damages. The representations made by Defendants regarding the charitable nature of Profitable Sunrise and the use of Focus Up Ministries’ status as a charitable and religious organization induced contributions to Focus Up Ministries. These contributions were made with the false impression

that they would be used to further the charitable investment scheme, which was neither charitable nor a viable investment opportunity. Specifically, Defendants represented that Profitable Sunrise, NJF Global Group, and Focus Up Ministries were all charitable in nature and that investments in and donations to these groups would be used for charitable purposes. (Casey Aff. at 33). Defendants placed religious quotes and charitable appeals in their e-mails, in their presentations, and on their websites. (Casey Aff. at 33). For example, the Profitable Sunrise website states: “Invest with us – ‘I have shown you all things, how that by so laboring ye ought to support the weak and to remember the words of the Lord Jesus, how He said, ‘It is more blessed to give than to receive.’ Acts 20:35.” and “By putting your money to work with us, you will make the right decision. You will not only increase your savings, but will also help those in need.” (Casey Aff. at 33). Defendants made further misrepresentations inducing victims to invest, including representing that Focus Up Ministries was a tax-exempt 501(c)(3), stating that Focus Up Ministries had a “Global” Board of Trustees despite the fact that every member of the board lives in Northwest Ohio, representing that Profitable Sunrise investments were insured against loss when they were not, and representing that assets invested in Profitable Sunrise would grow at an impossibly high rate of up to an Annual Percentage Rate of over 75,000%. (Casey Aff. at 13, 14, 35, 57).

b) Defendants Committed Conversion and were Unjustly Enriched

Defendants personally benefitted at the expense of the charitable beneficiaries, charitable contributors, and Profitable Sunrise investors by taking proceeds collected for charitable purposes and using that money for their own personal and other unlawful purposes. Defendants’ conduct constitutes conversion. Defendants represented in their Articles of Incorporation that

donations to Focus Up Ministries would be used, *inter alia*, “to create, establish and maintain ministry in Bryan, Ohio for the education and training in and the promotion of Christianity...to provide care housing and other assistance for transitional persons, runaways and the homeless...[and] to create, establish and maintain an educational institution.” (Casey Aff. at 41). Defendants represented on Focus Up Ministries’ website that donations to Focus Up Ministries would be used to provide funds for “ministry projects, partner church projects, Bible studies, scholarships, crisis relief, events, missionaries, repair, services, and support.” (Casey Aff. at 41). Defendants stated on the Profitable Sunrise website: “We allocate a significant amount of our earnings to charity as there are so many people out there that need help.” and “By putting your money to work with us, you will make the right decision. You will not only increase your savings, but will also help those in need.” (Casey Aff. at 33).

Despite their claims, Focus Up Ministries operated as little more than a conduit for activities related to the Profitable Sunrise scheme and there is no evidence that Profitable Sunrise conducted any charitable programming. Instead, both Focus Up Ministries and Profitable Sunrise operated to line Defendants’ pockets. Defendants personally profited at the expense of both victim-investors and the purported charitable beneficiaries of Focus Up Ministries and Profitable Sunrise. Specifically, Defendants Nancy Jo Frazer and David Frazer used Focus Up Ministries’ bank account to provide a no-interest loan to fund their family vacation. (Casey Aff. at 48). (Carlson Aff. at 21). Defendants Nancy Jo and David Frazer also used Focus Up Ministries’ funds to purchase a TV and other electronics for their house, among other improper transactions. (Casey Aff. at 46-47). Defendants’ conduct constitutes conversion and unjust enrichment.

C. Injunctive Relief is Appropriate Under Ohio Civil Rule 65(A)

Even if this Court finds that R.C. 1716.16 and 1707.26 do not authorize a TRO, pursuant to Civil Rule 65, Plaintiffs are entitled to a TRO because the common law factors weigh in their favor. Although not required, the Plaintiffs can also show by clear and convincing evidence (1) a substantial likelihood of success on the merits, (2) the existence of irreparable harm if an injunction is not issued, (3) that third-parties will not be unjustifiably harmed if an injunction is issued, and (4) that granting an injunction will serve the public interest. *Procter & Gamble Co. v. Stoneham* (2000), 140 Ohio App.3d 260, 267-68. *See also Martin Marietta Corp. v. Bendix*, 690 F.2d 558 (6th Cir., 1982). Considerable weight should be given to whether the public interest might be furthered or injured by a TRO. *See Adams v. Ohio Dept. of Health*, 356 N.E.2d 324, 328 (Montgomery C.P., 1976).

- 1. Plaintiffs are substantially likely to succeed on the merits because Defendants violated the Ohio Securities Act, the Ohio Charitable Organizations Act, and the Ohio Charitable Trust Act, as well as the common law**

As shown above, there is a substantial likelihood that the Ohio Attorney General will prevail on the merits because Defendants' actions resulted in many violations of statutory and common law. Defendants have breached their fiduciary duties to the charitable beneficiaries of Focus Up Ministries in violation of R.C. § 109.23(A) and R.C. § 1716.17. Defendants committed deceptive acts and practices in violation of R.C. § 1716.14(A)(1). Defendants violated R.C. § 1716.14(A)(2) by misleading Ohio citizens as to material facts concerning charitable solicitations. Defendants violated R.C. § 1716.14(A)(5) by misleading Ohio citizens as to the existence of a charitable organization or purpose. Defendants committed a nuisance and violated R.C. § 1716.14(B). Defendants committed fraud by purposefully making false and

misleading statements and representations to individuals who relied on those statements and as a result invested in Profitable Sunrise and/or made donations to Focus Up Ministries. Defendants committed conversion and were unjustly enriched by taking proceeds collected for charitable purposes and using that money for their own personal and other unlawful purposes.

Additionally, as described above, Defendants violated R.C. Chapter 1707 by selling securities without a license, acting as an investment advisor without a license, selling unregistered securities, by making material misrepresentations, and promising investors a guaranteed rate of return, and by using this money to fund their personal lifestyles.

2. The investors and the charitable beneficiaries will suffer irreparable injury.

Defendants do not have enough funds to repay the investors or the charitable beneficiaries. In order for the investors and charitable beneficiaries to be protected and the limited assets of Defendants to be divided equitably, an injunction must be entered and Defendants' accounts must be frozen. Plaintiffs' Complaint seeks to impose a constructive trust over all assets unjustly or illegally retained by Defendants in this case and the freezing of Defendants' accounts will allow for these limited assets to be protected for the benefit of investors and harmed charitable beneficiaries.

Pursuant to R.C. 1707.261, restitution may be ordered in this case for a violation of any provision of R.C. 1707.01 to R.C. 1707.45. Pursuant to R.C. 1716.99, each occurrence of a solicitation of a contribution from any person in violation of R.C. 1716 is considered a separate offense. Upon a finding that any person has engaged or is engaging in any act or practice in violation of R.C. 1716, a court may make any necessary order or enter a judgment including, but not limited to, an injunction, restitution, or an award of reasonable attorney's fees and costs of

investigation and litigation, and may award to the state a civil penalty of not more than ten thousand dollars for each violation of this chapter or rule. The issuance of a TRO will maintain the status quo of Defendants' assets until this Court can consider and rule on the Complaint for Preliminary and Permanent Injunction and the Request for Restitution.

Currently, investors who invested in Profitable Sunrise and donated to Focus Up Ministries through Defendants' solicitations have lost millions of dollars. Without a TRO to prohibit Defendants from disposing, dissipating or placing their assets outside the reach of a receiver, the Defendants may not have any assets to hold and dispose under the direction of this court, which may order the receiver to pay investors and charitable beneficiaries restitution.

3. The issuance of the TRO will not cause substantial harm to others.

The issuance of the TRO will not cause substantial harm to others. Instead, the issuance of a TRO will insure that any investors and charitable beneficiaries will be protected by prohibiting Defendants from violating Ohio securities law and Ohio charitable solicitation law by disposing or dissipating their assets before restitution can be ordered.

4. The public interest is served by granting the TRO.

Finally, an injunction will serve the public interest by preventing charitable trust assets from being used for unlawful activities and by protecting the public from individuals and organizations who have fraudulently sold securities and used charitable and religious language to solicit donations for their own financial gain. In order to protect the public interest, the Ohio Attorney General is given the responsibility to regulate charitable trusts in Ohio and to protect and preserve charitable trust assets. The charitable assets in the possession, control, or custody of Defendants are not being used for the charitable purposes for which they were intended. Defendants have used Focus Up Ministries' status as a charitable trust and their own affiliation

with Focus Up Ministries to convince citizens of Ohio and other states to contribute to Focus Up Ministries and to invest in Profitable Sunrise. By portraying Profitable Sunrise as charitable, and by offering information and access to Profitable Sunrise to those who contributed to Focus Up Ministries, Defendants induced contributors to make donations based on false and misleading information.

The purpose of R.C. Chapter 1707 is to prevent the exploitation of people through the sale of securities, to “protect the investing public from its own imprudence as well as the chicanery of unscrupulous securities dealers.” *Holderman v. Columbus Skyline Sec.*, 74 Ohio St.3d 495, 498 (1996) (citing *United States v. Tehan*, 365 F.2d 191, 194 (6th. Cir. 1966) and *Bronaugh v. R. & E. Dredging Co.*, 16 Ohio St.2d 35 (1968)). Further, by granting the TRO, Defendants will be prevented from fraudulently soliciting or selling securities that are not registered with the Division or exempt from registration to unsuspecting investors; Defendants will be prevented from acting as a securities dealer, salesperson, investment advisor, or investment advisor representative without proper licensure; and Defendants will be prevented from disposing of or dissipating their assets before restitution can be ordered.

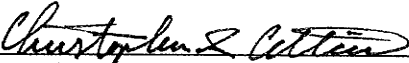
A temporary cessation Defendants’ charitable- and securities-related activities promotes the public interest. Thus, an injunction is proper and necessary under Rule 65 of the Ohio Rules of Civil Procedure in order to protect the public interest.

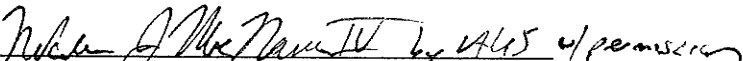
IV. CONCLUSION

For all the reasons stated above, Plaintiffs request this Court to issue a Temporary Restraining Order and a Preliminary Injunction pursuant to R.C. § 1716.16(B), R.C. 1707 and Rule 65 of the Ohio Rules of Civil Procedure in order to protect the public interest.

Very respectfully submitted,

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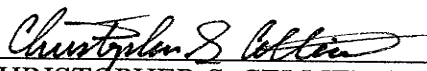

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CERTIFICATE OF SERVICE

Copies of the Motion was delivered to Clerk for personal service to the follow persons
on this 8th day of July, 2013 to:

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