

**IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CIVIL DIVISION**

IN RE: :
: MISCELLANEOUS CASE
: AMERICA FUNDING COMMUNITIES, INC. : FILE NO. _____
:

ASSURANCE OF DISCONTINUANCE

Pursuant to the authority granted in the Ohio Charitable Solicitations Act, R.C. § 1716.01 *et seq.*, specifically, R.C. § 1716.16(C), Ohio Attorney General Mike DeWine (hereinafter “Attorney General”) accepts this Assurance of Discontinuance (hereinafter “Assurance”) from America Funding Communities, Inc. (hereinafter “AFC”) and Kristie Jackson (“Jackson”). The Attorney General, AFC, and Jackson as parties to this Assurance, acknowledge and agree that it is in their best interest and consistent with the best interests of the people of the State of Ohio to resolve the issues between them in the manner set forth herein. As part of this Assurance, the Attorney General and AFC stipulate as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action, pursuant to R.C. Chapter 1716 and the rules adopted thereunder. This Court has jurisdiction over the parties. Venue is proper in this Court.

II. STIPULATED FACTS

2. AFC has its principal place of business at 5428 Margate Rd., Indianapolis, Indiana 43221.
3. Jackson has been the principal person responsible for the operations of AFC since its inception.

4. Jackson resides at 5428 Margate Rd., Indianapolis, Indiana 43221.
5. Since February 2015, AFC has held fundraising events and soliciting charitable donations in Ohio.
6. AFC is a charitable organization as defined by R.C. § 1716.01(A) and has engaged in solicitation as defined by R.C. § 1716.01(K). AFC is registered with the Charitable Law Section of the Ohio Attorney General's Office, but did not do so until November 20, 2015.
7. AFC is a charitable trust as that term is defined by R.C. § 109.23.
8. The funds raised and held by AFC from Ohio residents are valid to a "charitable trust" under R.C. § 109.23.

III. CONCLUSIONS OF THE ATTORNEY GENERAL

9. The charitable trust and charitable solicitation activities of AFC in Ohio are the subject of this Assurance. Such activities are described in and regulated by the Ohio Charitable Solicitations Act, R.C. § 1716.01 *et seq.*, the Ohio Charitable Trust Act, R.C. § 109.23 *et seq.*, and the Attorney General's common law authority to enforce charitable trusts.
10. The Attorney General is the party charged with enforcing the Ohio Charitable Solicitations Act. Upon complaint, the Attorney General's Charitable Law Section investigated AFC's solicitation activities in Ohio.
11. As a result of its investigation, the Attorney General has reason to believe that AFC is in violation of the Ohio Charitable Solicitations Act, the Ohio Charitable Trust Act, and the common law by violating the following provisions of the Act:
 - a. R.C. § 1716.02(A) requires every charitable organization to file a Registration Statement with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. AFC 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.

- b. R.C. § 1716.02(C)(1)(a) requires every charitable organization that is required to register under Chapter 1716 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 of the charitable organization with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. AFC violated R.C. § 1716.02(C)(1)(a) by failing to file a copy of the current charter, articles of incorporation, agreement of association, instrument of trust, constitution, or other organizational instrument of AFC and a copy of its bylaws with the Ohio Attorney General before engaging in any charitable solicitation in Ohio.
- c. R.C. § 1716.02(C)(1)(b) requires every charitable organization that is required to register under Chapter 1716 to 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. AFC violated R.C. § 1716.02(C)(1)(b) by failing to file a statement setting forth the place where and the date when it 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.
- d. R.C. § 1716.02(D)(1) requires every charitable organization that is required to register under Chapter 1716 to pay registration fees with the Ohio Attorney General before engaging in any charitable solicitation in Ohio. AFC violated R.C. § 1716.02(D)(1) by failing to pay registration fees with the Ohio Attorney General before engaging in any charitable solicitation in Ohio.
- e. R.C. § 1716.04 requires every charitable organization that is required to register pursuant to Chapter 1716 of the Ohio Revised Code to file a financial report with

the Ohio Attorney General. AFC violated R.C. § 1716.04 by failing to file a financial report with the Ohio Attorney General.

- f. R.C. § 1716.14(A)(1) prohibits committing any deceptive act while soliciting for a charitable organization or charitable purpose. AFC has violated R.C. § 1716.14(A)(1) by committing deceptive acts while soliciting for a charitable organization and/or for a charitable purpose by knowingly misrepresenting material facts to potential donors by telling them that their donation would be going to a charitable organization and/or to a charitable purpose and inducing such donors to contribute to the charitable organization and/or charitable purpose when AFC used that money for their own personal and other unlawful purposes.
- g. R.C. § 1716.14(A)(2) prohibits misleading any person as to any material fact concerning the solicitation of contributions for a charitable organization or charitable purpose. AFC has violated R.C. § 1716.14(A)(2) by misleading potential donors as to material facts concerning the solicitation of contributions for a charitable organization and a charitable purpose by representing to potential donors that their donation would be going to a charitable organization and a charitable purpose when AFC used that money for its own personal and other unlawful purposes.
- h. R.C. § 1716.14(A)(5) prohibits misleading any person in any manner in the belief, or making or using any representation that implies, that the organization on whose behalf a solicitation is being conducted is a charitable organization or that the proceeds of the solicitation will be used for a charitable purpose if either of those is not the fact. AFC has violated R.C. § 1716.14(A)(5) by misleading potential donors to believe that AFC is a charitable organization and that the proceeds of the solicitations would be used for charitable purposes when they were not used for such purposes.

12. The Attorney General's findings, as outlined in Paragraph 9 together with its subparts, are the basis upon which this Assurance has been negotiated. However, this Assurance is the culmination of disputed claims and does not constitute an admission of any wrongdoing by AFC.

IV. ASSURANCE

13. AFC and Jackson hereby agree to abide by the statutory requisites set forth in Chapter 1716 of the Ohio Revised Code in the course of soliciting charitable contributions from Ohio residents. In particular, AFC agrees to fully comply with the following:
- a. AFC and Jackson agree to fully comply with any investigation conducted by the Attorney General under R.C. § 1716.15;
 - b. AFC and Jackson agree that they will not file false or misleading information in any document required to be filed with the Attorney General under R.C. Chapter 1716 or in response to a request from the Attorney General under R.C. § 1716.15;
 - c. AFC and Jackson agree to fully comply with all registration and filing requirements as stated in Chapter 1716 of the Revised Code.
14. AFC, as well as its owners, officers, managers, directors, agents, representatives and assigns, and Jackson **shall not** do any of the following:
- a. "solicit" as defined in R.C. § 1716.01(K) for any "charitable purpose" as defined in R.C. § 1716.01(B) in Ohio on behalf of any "charitable organization" as defined in R.C. § 1716.01(A);
 - b. act as a "professional solicitor" as defined in R.C. § 1716.01(J) in Ohio on behalf of any "charitable organization" as defined in R.C. § 1716.01(A);
 - c. conduct "charitable sales promotions" as defined in R.C. § 1716.01(C) in Ohio on behalf of any "charitable organization" as defined in R.C. § 1716.01(A);
 - d. act as "fund-raising counsel" as defined in R.C. § 1716.01(G) in Ohio on behalf of any "charitable organization" as defined in R.C. § 1716.01(A); and

- e. hold any position as an officer, trustee, volunteer, or employee of any charitable organization in the State of Ohio except as a volunteer that has no involvement with or responsibility concerning any charitable trust money.
15. If AFC or its owners, officers, managers, directors, agents, representatives and assigns or Jackson perform any act prohibited in Paragraph 14 after the execution of this Assurance, AFC and/or Jackson shall immediately pay the sum of ten thousand (\$10,000.00) to the Office of the Ohio Attorney General.
16. The Attorney General may file a motion for contempt of court in addition to any other remedy available to the Attorney General. In such action, AFC and Jackson agrees that this \$10,000 will be liquidated damages for violation of this Agreement and will be payable immediately following a determination by the court. This amount will be in addition to any additional costs, restitution, or penalties awarded for additional violations of law.
17. All payments shall be delivered to the Office of the Attorney General, Charitable Law Section, at 150 East Gay Street, 23rd Floor, Columbus, Ohio, 43215, Attn: Chief Accountant in the form of a certified check or money order, made payable to Treasurer, State of Ohio. These funds shall be redistributed for charitable purposes at the discretion of the Attorney General.
18. AFC and Jackson agree that this Assurance is made in lieu of prosecution of a civil action based upon the conclusions set forth herein.
19. AFC and Jackson agree that any evidence of a violation of this Assurance shall be *prima facie* evidence of a violation of Chapter 1716 of the Ohio Revised Code and any rule adopted thereunder in any subsequent action or proceeding brought by the Attorney General, as provided in R.C. § 1716.16(C).
20. AFC and Jackson agree that any matter closed by the acceptance of this Assurance of Discontinuance may be reopened at any time by the Attorney General for further proceedings in the public interest based upon any violation of the terms of this

Assurance or upon the discovery of evidence not known or anticipated by the parties hereto at the time of signing.

21. This Court shall retain jurisdiction of this action for the purpose of enforcing this Assurance.
22. Each signatory for Insight represents and warrants that he/she has been duly authorized to sign this document and so bind Insight to all terms and conditions thereof.


V. ACKNOWLEDGEMENTS

23. AFC and Jackson acknowledge that they have been given ample opportunity to be advised by legal counsel as to the meaning and effect of each provision of this Assurance and that they have elected of their own free will and accord to enter into this Assurance.
24. The Attorney General, AFC, and Jackson hereby agree that this Assurance is binding upon the successors and assignees of all parties hereto and that this Assurance constitutes the entire agreement and understanding of the parties.
25. Each individual signing below represents that he or she is authorized and directed to sign this Assurance on behalf of the party represented and further represents that he or she has the requisite authority to bind the party on behalf of whom they are signing.

WHEREFORE, the undersigned have executed this Assurance of Discontinuance this
04 day of February, 2016.

AMERICA FUNDING
COMMUNITIES, INC.

BY:



Name: Kristie Jackson

Title: President / OWNER

KRISTIE JACKSON



MIKE DEWINE
ATTORNEY GENERAL OF OHIO

BY:



Peter Thomas
Section Chief
Charitable Law Section
150 E. Gay Street, 23rd Floor
Columbus, Ohio 43215

Respectfully submitted,

MIKE DEWINE
Ohio Attorney General



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