

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

STATE OF OHIO, *ex rel.*  
MIKE DEWINE, OHIO  
ATTORNEY GENERAL  
150 E. Gay St., 23<sup>rd</sup> Floor  
Columbus, Ohio 43215

Plaintiff,

vs.

KENNETH LAWTON, FDBA  
FLORIAN K. LAWTON FOUNDATION  
27 Marion Road  
Mattapoisett, MA 02739-2070

Defendant.

CASE NO.:

JUDGE:

COMPLAINT

JURY DEMAND ENDORSED HEREON

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NOW COMES the State of Ohio, *ex rel.*, Mike DeWine, Ohio Attorney General, and alleges as follows:

**I. JURISDICTION AND VENUE**

1. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Mike DeWine, having reasonable cause to believe that violations of Ohio law have occurred, brings this complaint in the public interest and under the authority vested in the Attorney General by Ohio Revised Code Section 109.23 *et seq.* (“Ohio Charitable Trust Act”), Ohio Revised Code Chapter 1716 (“Ohio Charitable Organizations Act”), and the Attorney General’s common law authority to enforce charitable trusts.
2. Defendant, Kenneth Lawton (“Lawton”), formerly doing business as the “Florian K. Lawton Foundation” (“FKLF”), resides 27 Marion Road, Mattapoisett, MA 02739-2070.

3. The facts giving rise to this complaint occurred when Lawton and FKLF were transacting business in Ohio at 114 Barrington Town Square Drive, Suite 169, Aurora, Ohio 44202-7792.
4. Defendant's actions described herein occurred in the State of Ohio, involved a non-profit organization in the State of Ohio, and constitute violations of the common law, Ohio Charitable Trust Act, and Ohio Charitable Organizations Act.
5. This Court has personal jurisdiction over this matter pursuant to ORC 2307.382(A)(1).

## **II. FACTS**

6. Paragraphs 1 to 5 of this Complaint are incorporated as if fully rewritten herein.
7. FKLF was incorporated as an Ohio non-profit corporation on July 9, 2010.
8. FKLF dissolved on September 4, 2013.
9. Lawton was the director and statutory agent for FKLF.
10. FKLF's original Articles of Incorporation state that FKLF was organized for "continued education through an array of programs with university and museums about the Amish culture here in America."
11. When FKLF was active, it failed to provide the educational programs as stated in its Articles.
12. Instead, Lawton used FKLF as his own pass through entity to hide personal income and assets, and to evade personal liability for his own private contracts.
13. Between 2010 and 2014, over \$168,000.00 in charitable funds from FKLF's account at PNC Bank were used for Kenneth Lawton's personal expenses.

14. FKLF is a “charitable organization” as that term is defined in R.C. 1716.01(A) and a “charitable trust” as that term is defined in R.C. 109.23.
15. The funds raised and held by FKLF on behalf of charitable purposes were subject to a valid “charitable trust” under R.C. 109.23.
16. As a board member and officer of FKLF, Lawton owed fiduciary duties under R.C. 109.23 *et seq.*, R.C. 1716.17, and the common law.
17. At all relevant times, Lawton had access to the financial assets of FKLF, including but not limited to FKLF’s bank accounts.
18. The Ohio Charitable Trust Act enumerates certain registration and reporting requirements with which charitable trusts established or active in Ohio must comply and it prohibits certain acts and practices in the administration of any charitable trusts.

### **III. CLAIMS**

#### **CLAIM I: Breach of Fiduciary Duty**

19. The preceding paragraphs of the complaint are incorporated as if fully rewritten herein.
20. The Attorney General is the party charged with enforcing the Ohio Charitable Organizations Act and the Ohio Charitable Trust Act. In this capacity, the Attorney General has caused an investigation to be conducted by the Charitable Law Section of the charitable trust and solicitation activities of the Defendants.
21. R.C. § 109.23(A) states: “charitable trust means any fiduciary relationship with respect to property arising under the law of this state or of another jurisdiction as a result of a manifestation of intention to create it, and subjecting the person by whom

- the property is held to fiduciary duties to deal with the property within the state for any charitable, religious, or educational purpose.”
22. R.C. § 1716.17 states in pertinent part, “Every person who solicits, collects, or expends contributions on behalf of a charitable organization or for a charitable purpose [...] and every officer, director, trustee, or employee of that person who is concerned with the solicitation, collection, or expenditure of those contributions shall be considered a fiduciary and as acting in a fiduciary capacity.”
  23. Lawton owed fiduciary duties to the charitable beneficiaries of FKLF, including the duty of care, the duty of loyalty, the duty to properly manage accounts, the duty to comply with the law, the duty not to waste charitable trust assets, and the duty to act in the best interest of FKLF.
  24. Lawton was a director of FKLF from its inception until its dissolution.
  25. Lawton failed to maintain true records of his solicitation activities.
  26. Lawton committed deceptive acts and practices in the course and in furtherance of soliciting contributions for a charitable purpose in violation of R.C. 1716.14(A)(1).
  27. As a director of FKLF, Lawton breached his fiduciary duties of care to properly manage accounts, to comply with the law, and to act in the best interest of FKLF.
  28. Lawton violated the duty of good faith by failing to act with the degree of care and skill which an ordinarily prudent board member would have used.
  29. Lawton acted in his own self-interest when he misappropriated charitable assets for his own personal financial gain.
  30. As a proximate result of Lawton’s actions, FKLF was forced to dissolve, and the charitable beneficiaries of FKLF have sustained damages.

**CLAIM II: Conversion**

31. The preceding paragraphs of the complaint are incorporated as if fully rewritten herein.
32. FKLf owned various charitable assets including money and artwork, and had the right to possession of same.
33. Through the wrongful act of continuous misappropriation, Lawton converted charitable assets belonging to FKLf.
34. As a result of Lawton converting FKLf charitable assets, FKLf was damaged.

**PRAYER FOR RELIEF**

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

- A. Damages in excess of \$25,000.00;
- B. A civil penalty in line with R.C. § 109.99(A), which provides that violations of R.C. § 109.26 shall permit a fine of more than \$500.00 but less than \$10,000.00;
- C. Impose a civil penalty in the amount of \$10,000.00 pursuant to R.C. § 1716.16(B) against Defendant;
- D. Grant a permanent injunction enjoining Defendant from holding any position as an officer, trustee, or employee of any nonprofit corporation or association in the state of Ohio;
- E. Grant a permanent injunction enjoining Defendant from soliciting in the state of Ohio for charitable purposes;
- F. Attorneys' fees and costs incurred in bringing this matter; and,

G. Any other further relief available under the laws of Ohio that this Court may deem just and proper.

Respectfully submitted,

OHIO ATTORNEY GENERAL MIKE DEWINE

/s/ Jared T. Erb

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*Counsel for the State of Ohio ex. rel. Mike DeWine,  
Ohio Attorney General*

**JURY DEMAND**

Plaintiff Ohio Attorney General, by and through counsel, hereby demands a trial by jury on all issues so triable.

/s/ Jared T. Erb

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Jared T. Erb (Ohio Reg. No. 0088665)  
*Counsel for the State of Ohio ex. rel. Mike DeWine,  
Ohio Attorney General*