

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

IN RE: :
: MISCELLANEOUS CASE
MATTHEW M. CASEY :
: FILE NO. _____
:

MATTER: *Mike Casey Memorial Fund*

ASSURANCE OF DISCONTINUANCE

Pursuant to the authority granted in the Ohio Charitable Organizations Act, R.C. § 1716.01 *et seq.*, specifically, R.C. § 1716.16(C), and the Ohio Charitable Trust Act, R.C. § 109.23 *et seq.*, specifically, R.C. § 109.24(E), Ohio Attorney General Mike DeWine (hereinafter “Attorney General”) accepts this Assurance of Discontinuance (hereinafter “Assurance”) from Matthew M. Casey. The Attorney General and Matthew M. Casey, as parties to this agreement, 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 Matthew M. Casey stipulate as follows:

JURISDICTION AND VENUE

- A. This Court has jurisdiction over the subject matter of this action pursuant to R.C. Chapter 1716, R.C. § 109.23 *et seq.*, the rules adopted thereunder, and the Attorney General’s common law authority to enforce charitable trusts. This Court has jurisdiction over the parties. Venue is proper in this Court.

FACTS

- B. Matthew M. Casey has his residence at 2731 Tamarack, Toledo, Ohio 43614.

- C. The Mike Casey Memorial Fund is a non-profit organization that offers a scholarship program.
- D. Matthew M. Casey helped found the Mike Casey Memorial Fund.
- E. While in control of the Mike Casey Memorial fund, Matthew M. Casey misappropriated approximately \$18,696.51 of charitable funds from 2005 to 2012. This includes \$3,046.51 in checks payable to Matthew Casey, a \$3,600 transfer to his personal account, and \$12,050 in cash withdrawals.
- F. Matthew M. Casey has repaid approximately \$12,862.50 of his personal funds to the Mike Casey Memorial Fund. This includes a payment of \$400 on September 27, 2007, and \$12,462.50 on August 2, 2012.

CONCLUSIONS OF THE ATTORNEY GENERAL

- G. The charitable trust and solicitation activities in Ohio of Matthew M. Casey and Mike Casey Memorial Fund are the subject of this Agreement. Such activities are described in and regulated by the Ohio Charitable Organizations 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.
- H. The Attorney General is the party charged with enforcing the Ohio Charitable Organizations Act and the Ohio Charitable Trust Act and has caused an investigation to be conducted by the Charitable Law Section of the charitable trust and solicitation activities of Matthew M. Casey.
- I. As a result of its investigation, the Attorney General has reason to believe that Matthew M. Casey is in violation of the Ohio Charitable Organizations Act, the Ohio Charitable Trust Act, and the common law by violating the following:
 - 1. R.C. § 1716.14(A)(1): Matthew M. Casey 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 Matthew M. Casey used that money for her own personal and other unlawful purposes;
2. R.C. § 1716.14(A)(2): Matthew M. Casey 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/or a charitable purpose by representing to potential donors that their donation would be going to a charitable organization and/or a charitable purpose when Matthew M. Casey used that money for his own personal and other unlawful purposes;
 3. R.C. § 1716.14(A)(5): Matthew M. Casey has violated R.C. § 1716.14(A)(2) by misleading potential donors by implying that the proceeds of the solicitations conducted on behalf of the Mike Casey Foundation would be used for a charitable purpose when Matthew M. Casey used that money for his own personal and other unlawful purposes;
 4. R.C. § 1716.14(A)(10): Matthew M. Casey has violated R.C. § 1716.14(A)(10) by operating in violation of, or failing to comply with, any requirements of R.C. Chapter 1716 as outlined above;
 5. R.C. § 1716.17 and R.C. § 109.23(A): Matthew M. Casey breached his fiduciary duties of care, loyalty, to properly manage accounts, to comply with the law, to not waste charitable assets, and to act in the best interest of the charity, resulting in loss and other damages to the charitable beneficiaries of Mike Casey Memorial Fund;
 6. Conversion: Matthew M. Casey personally benefitted at the expense of the charitable beneficiaries by taking proceeds collected for charitable purposes and using that money for his own personal and other unlawful purposes. Matthew M. Casey's conduct constitutes conversion;
 7. Unjust Enrichment: Matthew M. Casey personally benefitted at the expense of the charitable beneficiaries by taking proceeds collected for charitable purposes and using the money for his own personal and other unlawful purposes. As a result, Matthew M. Casey was unjustly enriched when he retained the charitable proceeds at the expense of the charitable beneficiaries;
 8. The Attorney General's findings, as outlined above, are the basis upon which this Agreement has been negotiated. However, this Agreement is the culmination of

disputed claims and does not constitute an admission of any wrongdoing by Matthew M. Casey.

ASSURANCE

- J. Matthew M. Casey agrees that he will not hold any position as a volunteer, officer, trustee, employee, representative, or agent of any charitable organization in the State of Ohio following the date this Agreement is signed.
- K. Matthew M. Casey agrees that he will not participate in solicitations in the State of Ohio for any charitable purpose or on behalf of any charitable organization following the date this Agreement is signed. This exclusion includes solicitations conducted as a volunteer, officer, trustee, employee, representative, or agent of an organization.
- L. Matthew M. Casey agrees to pay a total of two thousand four hundred dollars (\$2,400) to the Attorney General in twenty-four equal payments, the first of which to be made no later than June 1, 2013. Payment shall be made to the Attorney General by way of cashier's check payable to "Treasurer, State of Ohio." The funds shall be redistributed to charity at the sole discretion of the Attorney General. There will be no penalty for pre-payment. All payments to the Attorney General shall be sent to:
 - Charitable Law Section - Ohio Attorney General
 - Attn: Meghan K. Fowler
 - 150 East Gay Street, 23rd Floor
 - Columbus, Ohio 43215
- M. Matthew M. Casey agrees that this Agreement is made in lieu of prosecution of a civil action based upon the findings set forth herein.
- N. Matthew M. Casey agrees that any evidence of a violation of this Agreement 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).
- O. In the event that Matthew M. Casey fails to comply with any requirement contained in this Agreement, Matthew M. Casey is liable for and shall pay stipulated penalties for

each failure to comply: a minimum of forty thousand dollars (\$40,000.00) or true damages, whichever the Attorney General chooses in his discretion.

- P. Matthew M. Casey agrees that this Agreement shall not be construed to limit the Attorney General's authority to seek additional relief pursuant to R.C. Chapter 109 or R.C. Chapter 1716, or to otherwise seek judicial enforcement of this Agreement.
- Q. Matthew M. Casey agree that any matter closed by the acceptance of this Agreement 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 Agreement or upon the discovery of evidence not known or anticipated by the parties hereto at the time of signing.

RETENTION OF JURISDICTION

- R. This Court shall retain jurisdiction of this action for the purpose of enforcing this Assurance.

AUTHORITY TO ENTER INTO THE ASSURANCE

- S. Each signatory for Matthew M. Casey represents and warrants that he has been duly authorized to sign this document and so bind Matthew M. Casey to all terms and conditions thereof.

ACKNOWLEDGEMENTS

- T. Matthew M. Casey acknowledges that he has been given ample opportunity to be advised by legal counsel as to the meaning and effect of each provision of this Agreement and he has elected of her own free will and accord to enter into this Agreement.
- U. The Attorney General and Matthew M. Casey hereby agree that this Agreement is binding upon the successors and assignees of all parties hereto and that this Agreement constitutes the entire agreement and understanding of the parties.

CERTIFICATION

Each individual signing below represents that he or she is authorized and directed to sign this Assurance of Discontinuance 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 he or she is signing.

WHEREFORE, the undersigned have executed this Assurance of Discontinuance this 1 day of MAY, 2013.


MATTHEW M. CASEY

MIKE DEWINE
ATTORNEY GENERAL OF OHIO

BY:

BY:


Name: Matthew M. Casey


Meghan K. Fowler (0080775)
Associate Assistant Attorney General
Charitable Law section
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