

IN THE COURT OF COMMON PLEAS
COLUMBIANA COUNTY, OHIO

FILED
COLUMBIANA COUNTY
COURT OF COMMON PLEAS

MAY 02 2023

ANTHONY J. DATTILIO
CLERK

STATE OF OHIO, *ex rel.* DAVID YOST
OHIO ATTORNEY GENERAL

Plaintiff,

v.

OHIO CLEAN WATER FUND,
LLC., *et al.*,

Defendants.

Case No. 2023 CV 00162

Judge Washam

PRELIMINARY INJUNCTION

Plaintiff the State of Ohio, *ex rel.* Dave Yost, Ohio Attorney General (the “Attorney General”) filed a Complaint on April 10, 2023, seeking a permanent injunction and other equitable relief and money damages against Defendants Michael Peppel (“Peppel”) and Ohio Clean Water Fund, LLC (“Ohio Clean Water”) (collectively, “Defendants”). The Complaint alleged claims for committing deceptive acts or practices (Count I), misrepresenting contributions as for a charitable organization without written authorization (Count II), misleading persons as to material facts concerning solicitation (Count III), failure to register (Count IV), unlawful professional solicitation (Count V), and breach of common law and statutory fiduciary duties (Counts VI and VII).

On April 10, 2023, the Attorney General also filed a Motion for Temporary Restraining Order and Preliminary Injunction to preserve any charitable assets held by Defendants.

Upon considering the Attorney General’s motion, supporting memorandum, and accompanying affidavits and evidence, the Court issued a Temporary Restraining Order against Defendants Ohio Clean Water and Michael Peppel on April 11, 2023.

On April 13, 2023, by agreement of all parties, the Court set this matter for a May 2, 2023 hearing on the Attorney General's request for a preliminary injunction and the Court further extended the Temporary Restraining Order until May 2, 2023.

By and through counsel, Defendant Ohio Clean Water made the following representations to the Court on April 27, 2023:

- Ohio Clean Water has no intention of disputing or otherwise contesting an extension of the Temporary Restraining Order or a preliminary injunction that tracks the same language of the Temporary Restraining Order.
- Ohio Clean Water consents to either an extension of the Temporary Restraining Order or a preliminary injunction or both.
- Ohio Clean Water states that it intends to preserve funds for restitution and therefore neither Ohio Clean Water nor its counsel has any intention of appearing before the Court on May 2.

Defendants Ohio Clean Water and Michael Peppel have separate legal counsel, and the Attorney General served counsel for Peppel with the Motion for Temporary Restraining Order and Preliminary Injunction, supporting memorandum, and accompanying affidavits and evidence on April 11, 2023. As of April 28, 2023, Peppel did not notify the Attorney General of Peppel's intent to move for the dissolution or modification of the Temporary Restraining Order and he has not filed a response stating his objection to a preliminary injunction.

Among other relief sought, the Attorney General's Complaint seeks restitution, compensatory damages, and punitive damages from Ohio Clean Water and Peppel; the imposition of a constructive trust over all assets or funds unjustly or illegally received or retained by Ohio Clean Water and/or Peppel; that the Court order Ohio Clean Water and/or

Peppel, jointly and/or separately, to disgorge all assets held under that constructive trust to the Attorney General; and equitable and statutory relief freezing the accounts of Ohio Clean Water and any other accounts used to perpetuate illegal activities, and attach all assets commingled or otherwise accumulated or acquired with charitable proceeds.

The Attorney General represents to the Court that following the grant of the Temporary Restraining Order, Ohio Clean Water provided limited records and information to the Attorney General, including, but not limited to, information indicating: (1) a total of \$30,321.91 was deposited in the only bank account Ohio Clean Water alleges it utilizes in its own name; (2) a total of only \$20,321.91 remains in said account; and (3) the total amount raised through Ohio Clean Water's fundraising activity exceeds the \$141,183.48 amount specified in the Attorney General's April 10, 2023 Complaint. The Attorney General represents that Ohio Clean Water further indicated that it has given notice to certain third parties that the funds raised in connection with Ohio Clean Water's activity are the subject of this lawsuit and the Temporary Restraining Order; and said third parties include multiple entities that were or still are allegedly owed money as a result of the entities' involvement in Ohio Clean Water's fundraising activity.

The Court finds that the Attorney General is likely to prevail on the merits of some or all of his claims and equitable relief is necessary to prevent dissipation of assets prior to judgment.

After considering the foregoing, and for good cause, the Court hereby **GRANTS** the Attorney General's request for a Preliminary Injunction.

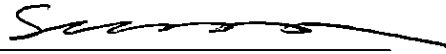
THEREFORE, IT IS ORDERED as follows:

- A. Defendants and their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them shall remain obligated to fully comply with the Court's Temporary Restraining Order pending the final outcome of this action.

- B. Within twenty-one days following the issuance of this Order, Defendant Ohio Clean Water shall disburse the greater of \$20,321.91 or all funds remaining in its bank account(s) to Ohio Clean Water's legal counsel to be held in escrow pending the final outcome of this action.
- C. Within twenty-one days following the issuance of this Order, Defendant Michael Peppel shall pay \$25,000.00 to his legal counsel to be held in escrow pending the final outcome of this action.
- D. In lieu of providing funds to be held in escrow, Ohio Clean Water or Peppel, or both, may file a bond (or bonds) with this Court, executed by an acceptable surety in the amount of \$250,000.00; or at the discretion of the Attorney General, he may schedule either Defendant, or both of them, to appear before this Court for a debtor's examination.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

Date:



Judge Scott Washam
5-1-23

Very respectfully submitted,

DAVE YOST
ATTORNEY GENERAL OF OHIO

/s/ William Donovan

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