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IN THE COURT OF COMMON PLEAS
RICHLAND COUNTY, OHIO

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

Plaintiff,

vs.

MINISTRY IN MARKETING, INC.
1260 Lexington Ave.
Mansfield, Ohio 44907

GARY NICHOLAS BIAS
111 Oxford Road
Lexington, Ohio 44904

Defendants.

CASE NO.: 13CV52

JUDGE HENSON

COMPLAINT OF OHIO ATTORNEY
GENERAL MIKE DEWINE

JURY DEMAND ENDORSED HEREON

Plaintiff, State of Ohio *ex rel.* Mike DeWine, Ohio Attorney General, hereby
alleges:

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 Ministry In Marketing, Inc.'s principal place of business is at 1260 Lexington Ave., Mansfield, Ohio 44907.
3. Defendant Gary Nicholas Bias resides at 111 Oxford Road, Lexington, Ohio 44904.
4. Defendants' actions, as described herein, occurred in the State of Ohio, involved residents of the State of Ohio, and constitute violations of the common law, Ohio Charitable Trust Act, and Ohio Charitable Organizations Act.
5. This is an action seeking injunctive relief, equitable relief, and damages for Defendants' violations of the common law, Ohio Charitable Trust Act, and Ohio Charitable Organizations Act. The amount in controversy exceeds \$25,000.00.

II. Activities of Defendants Which Give Rise to this Complaint

6. Defendant Gary Nicholas Bias, the founder and president of Defendant Ministry In Marketing, Inc. filed Ministry In Marketing's Articles of Non-Profit Organization with the Ohio Secretary of State on November 17, 2010.
7. Defendant Ministry In Marketing's stated charitable purpose was "to provide charitable organizations additional funding to pursue their goals and objectives."
8. To fulfill this charitable purpose, Defendants would contract with local charities in the Mansfield and Columbus, Ohio areas to sell coupon books on their behalf and/or distribute coupon books to be sold on the local charities' behalf.
9. Defendants contracted with the Salvation Army and Raemelton Therapeutic Equestrian Center, both of Mansfield, Ohio for their 2011 coupon book.

10. Defendants contracted with Stampede of Dreams Therapeutic Riding Program, Inc. of Norwalk, Ohio and the Stefanie Spielman Fund for Breast Cancer Research for their 2012 coupon book.
11. The Salvation Army, Raemelton Therapeutic Equestrian Center, Stampede of Dreams Therapeutic Riding Program, Inc., and the Stefanie Spielman Fund for Breast Cancer Research are “charitable organizations” as that term is defined in R.C. § 1716.01(A) and are “charitable trusts” as that term is defined in R.C. § 109.23.
12. The Salvation Army, Raemelton Therapeutic Equestrian Center, Stampede of Dreams Therapeutic Riding Program, Inc., and the Stefanie Spielman Fund for Breast Cancer Research may be referred to herein as “charitable organizations.”
13. Defendant Ministry In Marketing, Inc. is a “professional solicitor” as that term is defined in R.C. § 1716.01(J).
14. Defendant Ministry In Marketing, Inc. 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. Upon information and belief, Defendant Gary Nicholas Bias is the founder and president of Ministry In Marketing, Inc.
16. The funds raised and held by Defendants on behalf of charitable purposes are subject to a valid “charitable trust” under R.C. § 109.23.
17. Defendant Gary Nicholas Bias has fiduciary duties under R.C. § 109.23 *et seq.*, R.C. § 1716.17, and the common law.
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.

19. Upon information and belief, Defendants failed to register with the Ohio Attorney General as a charitable trust established or active in Ohio.
20. The Ohio Charitable Organizations Act enumerates certain registration and reporting requirements with which a charitable organization must comply if it intends to solicit contributions in Ohio and it prohibits certain acts and practices when soliciting for such contributions.
21. Upon information and belief, Defendants failed to file a Registration Statement with the Ohio Attorney General before engaging in solicitation.
22. Upon information and belief, Defendants failed 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 Defendant Ministry In Marketing, Inc. with the Ohio Attorney General before engaging in solicitation.
23. Upon information and belief, Defendants failed to file a statement setting forth the place where and the date when Defendant Ministry In Marketing, Inc. was legally established, the form of its organization, and its tax exempt status, with a copy of its federal tax exemption determination letter, with the Ohio Attorney General before engaging in solicitation.
24. Upon information and belief, Defendants failed to file registration fees with the Ohio Attorney General before engaging in solicitation.
25. Upon information and belief, Defendants failed to file a financial report with the Ohio Attorney General.
26. The Ohio Charitable Organizations Act enumerates certain registration and reporting requirements with which a professional solicitor must comply if it intends to solicit

contributions in Ohio and it prohibits certain acts and practices when soliciting for such contributions.

27. Upon information and belief, Defendants failed to register as a professional solicitor with the Ohio Attorney General before engaging in solicitation.
28. Upon information and belief, Defendants failed to file with and have approved by the Ohio Attorney General a bond in which Defendant Ministry In Marketing, Inc. shall be the principal obligor, in the sum of twenty-five thousand dollars, with one or more sureties authorized to do business in the State of Ohio.
29. Upon information and belief, Defendants failed to file a Solicitation Notice, copies of contracts with charitable organizations of which Defendants were soliciting on behalf, and a sworn statement by charitable organizations on whose behalf Defendants were soliciting certifying that the Solicitation Notice and any accompanying material are true and correct to the best of their knowledge.
30. Upon information and belief, Defendants failed to deposit the entire amount of the charitable contribution in an account in the name of the charitable organizations of which Defendants were soliciting on behalf and failed to give the charitable organizations sole control of all withdrawals from the account.
31. Upon information and belief, Defendants represented to the Ohio Attorney General that Ministry In Marketing was a 501(c)(3) tax-exempt charitable organization when it is not.
32. Upon information and belief, Defendants failed to maintain a record of all contributions that were in their custody, the name of each contributor, and the date and amount of the contribution.

33. Upon information and belief, Defendants failed to maintain a record of all expenses incurred by them for which they were liable and for which the charitable organizations were liable.
34. Upon information and belief, Defendants failed to disclose, prior to verbally requesting a contribution, the name Ministry In Marketing, Inc. and the fact that Ministry In Marketing, Inc. is a professional solicitor.
35. Upon information and belief, Defendants failed to disclose, prior to verbally requesting a contribution, the name and address of each charitable organization on behalf of which all or any part of the contribution collected would be used.
36. Upon information and belief, Defendants failed to disclose at the point of solicitation, the name Ministry In Marketing, Inc., the city of Mansfield, Ohio as its principal place of business, and the particular charitable purpose or purposes to be advanced with the funds raised.
37. Upon information and belief, Defendants represented that the charitable organizations would receive a fixed or estimated percentage of the gross revenue from a solicitation campaign that was greater than that set forth in the contract.
38. Upon information and belief, Defendants represented that the charitable organizations would receive all the proceeds of the sale of coupon books when, in fact, no contract between the charitable organizations and Ministry In Marketing state that all proceeds of the sale of the coupon books would go to the charitable organizations.
39. Upon information and belief, Defendants represented that Defendant Ministry In Marketing, Inc. was a 501(c)(3) tax-exempt organization when it was not.
40. Upon information and belief, Defendants continued to solicit on behalf of the Stefanie Spielman Fund for Breast Cancer Research after the charitable organization retracted any and

all consent for Defendants to solicit on its behalf or use its name for any solicitation purposes.

41. Upon information and belief, Defendants failed to provide complete and timely payments to the charitable organizations of the proceeds from the solicitation campaigns.
42. Upon information and belief, Defendants have opened bank accounts into which charitable assets resulting from solicitation activities in Ohio have been deposited.
43. Upon information and belief, Defendants have personally benefitted at the expense of charitable beneficiaries by taking proceeds collected for charitable organizations and/or charitable purposes and using that money for their own personal and other unlawful purposes.

COUNT ONE
FAILURE TO REGISTER

44. R.C. § 109.26 requires every charitable trust established or active in Ohio to register with the Ohio Attorney General.
45. Defendants have violated R.C. § 109.26 by failing to register with the Ohio Attorney General as a charitable trust established or active in Ohio.

COUNT TWO
FAILURE TO FILE A REGISTRATION STATEMENT

46. 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.
47. 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.

COUNT THREE
FAILURE TO FILE ARTICLES

48. 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.
49. Defendants have 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 Defendant Ministry In Marketing, Inc., and a copy of its bylaws with the Ohio Attorney General before engaging in any charitable solicitation in Ohio.

COUNT FOUR
FAILURE TO FILE A STATEMENT

50. 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.
51. Defendants have violated R.C. § 1716.02(C)(1)(b) by failing to file a statement setting forth the place where and the date when Defendant Ministry In Marketing, Inc. 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.

COUNT FIVE
FAILURE TO FILE FEES

52. 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.
53. Defendants have 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.

COUNT SIX
FAILURE TO FILE FINANCIAL REPORT

54. 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.
55. Defendants have violated R.C. § 1716.04 by failing to file a financial report with the Ohio Attorney General.

COUNT SEVEN
FAILURE TO REGISTER

56. R.C. § 1716.07(B) requires every professional solicitor, before engaging in any solicitation, to register with the Ohio Attorney General.
57. Defendants have violated R.C. § 1716.07(B) by failing to register with the Ohio Attorney General before engaging in any solicitation.

COUNT EIGHT
FAILURE TO FILE A BOND

58. R.C. § 1716.07(C) requires every professional solicitor, before engaging in any solicitation in Ohio, to file with and have approved a bond in which the professional solicitor shall be the

principal obligor, in the sum of twenty-five thousand dollars, with one or more sureties authorized to do business in the State of Ohio.

59. Defendants have violated R.C. § 1716.07(C) by failing, before engaging in any solicitation in Ohio, to file with and have approved a bond in which Defendant Ministry In Marketing, Inc. shall be the principal obligor, in the sum of twenty-five thousand dollars, with one or more sureties authorized to do business in the State of Ohio.

COUNT NINE
FAILURE TO FILE A SOLITATION NOTICE

60. R.C. § 1716.07(D)(1)(a) requires every professional solicitor, prior to the commencement of any solicitation, to file a completed Solicitation Notice.
61. Defendants have violated R.C. § 1716.07(D)(1)(a) by failing, prior to the commencement of any solicitation, to file a completed Solicitation Notice.

COUNT TEN
FAILURE TO FILE A CONTRACT

62. R.C. § 1716.07(D)(1)(b) requires every professional solicitor, prior to the commencement of any solicitation, to file a copy of the contract with the charitable organization of which the professional solicitor is soliciting on behalf.
63. Defendants have violated R.C. § 1716.07(D)(1)(b) by failing, prior to the commencement of any solicitation, to file any copies of contracts with the charitable organizations of which Defendants were soliciting on behalf.

COUNT ELEVEN
FAILURE TO FILE A SWORN STATEMENT

64. R.C. § 1716.07(D)(1)(c) requires every professional solicitor, prior to the commencement of any solicitation, to file a sworn statement by the charitable organization on whose behalf the

professional solicitor is acting certifying that the Solicitation Notice and any accompanying material are true and correct to the best of its knowledge.

65. Defendants have violated R.C. § 1716.07(D)(1)(c) by failing, prior to the commencement of any solicitation, to file sworn statements by the charitable organizations on whose behalf Defendants were acting certifying that the Solicitation Notice and any accompanying material are true and correct to the best of their knowledge.

COUNT TWELVE
FAILURE TO DEPOSIT IN THE NAME OF CHARITABLE ORGANIZATION

66. R.C. § 1716.07(F) requires, not later than two days after receipt of each contribution, the professional solicitor to deposit the entire amount of the contribution in an account at a bank which shall be in the name of the charitable organization on whose behalf the contribution was solicited. The charitable organization shall have sole control of all withdrawals from the account and the professional solicitor shall not be given the authority to withdraw any deposited funds from the account.
67. Defendants have violated R.C. § 1716.07(F) by failing, not later than two days after receipt of each contribution, to deposit the entire amount of the contribution in an account in the name of the charitable organizations for which Defendants were soliciting on behalf and failing to give the charitable organizations sole control of all withdrawals from the account.

COUNT THIRTEEN
FAILURE TO MAINTAIN NAME OF CONTRIBUTOR

68. R.C. § 1716.07(G)(1)(a) requires the professional solicitor to maintain the name and, if known, the address and telephone number, of each contributor and the date and amount of the contribution.

69. Defendants have violated R.C. § 1716.07(G)(1)(a) by failing to maintain the name of each contributor and the date and amount of the contribution.

COUNT FOURTEEN
FAILURE TO MAINTAIN RECORD OF CONTRIBUTIONS

70. R.C. § 1716.07(G)(1)(c) requires the professional solicitor to maintain a record of all contributions that at any time are in the custody of the professional solicitor.

71. Defendants have violated R.C. § 1716.07(G)(1)(c) by failing to maintain a record of all contributions that at any time are in their custody.

COUNT FIFTEEN
FAILURE TO MAINTAIN RECORD OF ALL EXPENSES

72. R.C. § 1716.07(G)(1)(d) requires the professional solicitor to maintain a record of all expenses incurred by the professional solicitor for the payment of which the professional solicitor is liable.

73. Defendants have violated R.C. § 1716.07(G)(1)(d) by failing to maintain a record of all expenses incurred by them for the payment of which they are liable.

COUNT SIXTEEN
FAILURE TO MAINTAIN RECORD OF ALL EXPENSES

74. R.C. § 1716.07(G)(1)(e) requires the professional solicitor to maintain a record of all expenses incurred by the professional solicitor for the payment of which the charitable organization is liable.

75. Defendants have violated R.C. § 1716.07(G)(1)(e) by failing to maintain a record of all expenses incurred by them for the payment of which the charitable organizations are liable.

COUNT SEVENTEEN
FAILURE TO DISCLOSE PROFESSIONAL SOLICITOR

76. R.C. § 1716.08(B)(1)(a) requires the name of the professional solicitor, as it is on file with the Attorney General, and a statement that the solicitation is being conducted by the person as a professional solicitor, to be disclosed clearly and conspicuously prior to verbally requesting a contribution.
77. Defendants have violated R.C. § 1716.08(B)(1)(a) by failing to clearing and conspicuously disclose, prior to verbally requesting a contribution, the name of the professional solicitor as it is on file with the Attorney General and a statement that the solicitation is being conducted by the person as a professional solicitor.

COUNT EIGHTEEN
FAILURE TO DISCLOSE CHARITABLE ORGANIZATION

78. R.C. § 1716.08(B)(1)(b) requires the name and address of each charitable organization on behalf of which all or any part of the contribution collected will be used to be disclosed clearly and conspicuously prior to verbally requesting a contribution.
79. Defendants have violated R.C. § 1716.08(B)(1)(b) by failing to clearing and conspicuously disclose, prior to verbally requesting a contribution, the name and address of each charitable organization on behalf of which all or any part of the contribution collected will be used.

COUNT NINETEEN
FAILURE TO DISCLOSE CHARITABLE ORGANIZATION

80. R.C. § 1716.10(A) requires every charitable organization that directly solicits contributions in this state to disclose at the point of solicitation the name of the charitable organization and the city of the principal place of business of the charitable organization.

81. Defendants have violated R.C. § 1716.10(A) by failing to disclose at the point of solicitation the name of Defendant Ministry In Marketing, Inc. and the city of Mansfield, Ohio as its principal place of business.

COUNT TWENTY
FAILURE TO DISCLOSE CHARITABLE PURPOSE

82. R.C. § 1716.10(B) requires every charitable organization that directly solicits contributions in this state to disclose at the point of solicitation the particular charitable purpose or purposes to be advanced with the funds raised.

83. Defendants have violated R.C. § 1716.10(B) by failing to disclose at the point of solicitation the particular charitable purpose or purposes to be advanced with the funds raised.

COUNT TWENTY-ONE
COMMITTING DECEPTIVE ACTS

84. R.C. § 1716.14(A)(1) prohibits committing any deceptive act while soliciting for a charitable organization or charitable purpose.

85. Defendants have 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, including elderly 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 Defendants used that money for their own personal and other unlawful purposes.

COUNT TWENTY-TWO
MISLEADING AS TO MATERIAL FACTS

86. 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.

87. Defendants have 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 Defendants used that money for their own personal and other unlawful purposes.

COUNT TWENTY-THREE
MISLEADING AS TO MATERIAL FACTS

88. 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.

89. Defendants have 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 all proceeds of the sale of coupon books would be going to charitable organizations when, in fact, no contract between the charitable organizations and Defendant Ministry In Marketing stated that all proceeds of the sale of the coupon books would be going to the charitable organizations.

COUNT TWENTY-FOUR
MISLEADING AS TO MATERIAL FACTS

90. 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.

91. Defendants have violated § 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 Defendant Ministry In Marketing was a 501(c)(3) tax-exempt organization when it was not.

COUNT TWENTY-FIVE
**MISLEADING AS TO THE EXISTENCE OF A CHARITABLE
ORGANIZATION AND A CHARITABLE PURPOSE**

92. 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.
93. Defendants have violated R.C. § 1716.14(A)(5) by misleading potential donors to believe that Ministry In Marketing, Inc. is a charitable organization and that the proceeds of the solicitations would be used for charitable purposes when this was not the fact.

COUNT TWENTY-SIX
MISLEADING AS TO CONSENT

94. R.C. § 1716.14(A)(6) prohibits misleading any person in any manner in the belief, or making or using any representation that implies, that any other person sponsors, endorses, or approves of the solicitation when that other person has not given its consent in writing to that representation or to the use of its name for any of those purposes.
95. Defendants have violated R.C. § 1716.14(A)(6) by misleading potential donors to believe that the Stefanie Spielman Fund for Breast Cancer Research sponsors, endorses, or approves of the solicitation when the Stefanie Spielman Fund for Breast Cancer Research retracted its consent in writing to that representation and to the use of its name for any of those purposes.

COUNT TWENTY-SEVEN
MISREPRESENTATION OF AMOUNT

96. R.C. § 1716.14(A)(8) prohibits representing directly or by implication that a charitable organization will receive a fixed or estimated percentage of the gross revenue from a

solicitation campaign that is greater than that set forth in the contract filed with the Ohio Attorney General.

97. Defendants have violated R.C. § 1716.14(A)(8) by representing that the charitable organizations would receive a fixed or estimated percentage of the gross revenue from a solicitation campaign that is greater than that set forth in the contract. Defendants represented that all proceeds of the sale of coupon books would be going to charitable organizations when, in fact, no contract between the charitable organizations and Defendant Ministry in Marketing stated that all proceeds of the sale of the coupon books would be going to the charitable organizations. Defendants never filed the contracts with the Ohio Attorney General.

COUNT TWENTY-EIGHT
FILING FALSE OR MISLEADING INFORMATION

98. R.C. § 1716.14(A)(9) prohibits filing false or misleading information in any document required to be filed with the Ohio Attorney General.
99. Defendants have violated R.C. § 1716.14(A)(9) by filing false and misleading information with the Ohio Attorney General by claiming Ministry In Marketing's "Organization Type" to be a "501(c)(3)" tax-exempt charitable organization.

COUNT TWENTY-NINE
FAILURE TO PROVIDE COMPLETE AND TIMELY PAYMENT

100. R.C. § 1716.14(A)(11) prohibits failing to provide complete and timely payment to a charitable organization of the proceeds from a solicitation campaign.
101. Defendants have violated R.C. § 1716.14(A)(11) by failing to provide complete and timely payments to charitable organizations of the proceeds from a solicitation campaign.

COUNT THIRTY

FAILURE TO COMPLY AND OPERATING IN VIOLATION OF CHAPTER 1716

102. R.C. § 1716.14(A)(12) prohibits operating in violation of Chapter 1716 or failing to comply with Chapter 1716.
103. Defendants have violated R.C. § 1716.14(A)(12) for the reasons stated above.

COUNT THIRTY-ONE

FAILURE TO COMPLY WITH CHAPTER 1716

104. R.C. § 1716.07(A) states that no professional solicitor shall engage in any solicitation unless it has complied with the requirements of Chapter 1716 and any rules adopted thereunder.
105. Defendants have violated R.C. § 1716.07(A) for the reasons stated above.

COUNT THIRTY-TWO

BREACH OF FIDUCIARY DUTIES

106. 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, or who conducts a charitable sales promotion, 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 acting in a fiduciary capacity.”
107. 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.”
108. Defendant Gary Nicholas Bias owed fiduciary duties to the charitable beneficiaries of Defendant Ministry In Marketing and the charitable organizations, 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.

109. Defendant Gary Nicholas Bias has breached his fiduciary duties, resulting in loss and other damages.

110. The Ohio Attorney General, in his role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable trust assets, including the assets raised or held on behalf of the charitable beneficiaries.

111. Because Defendant Gary Nicholas Bias has proven incapable of appropriately managing and distributing charitable trust assets and solicitation proceeds collected and held for charitable purposes, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds raised or collected by Defendants for charitable purposes, including all amounts unjustly retained by Defendants, and an order enforcing such constructive trust. Moreover, the Ohio Attorney General requests that all assets and proceeds under constructive trust be transferred to the charitable organizations for which Defendants were soliciting.

COUNT THIRTY-THREE
COMMON LAW FRAUD

112. Defendant Gary Nicholas Bias made false or misleading statements and representations to, or had reason to know of false and misleading statements and representations made, to donors, the Ohio Attorney General, the State of Ohio, and other persons.

113. Defendant's statements and misrepresentations were purposeful, willful, wanton, and/or reckless and intended to mislead donors, the Ohio Attorney General, the State of Ohio, and other persons.

114. Donors, the Ohio Attorney General, the State of Ohio, and other persons relied on those false or misleading statements and representation and have suffered damages.

COUNT THIRTY-FOUR
CONVERSION

115. Ohio courts recognize the common law cause of action known as conversion. Conversion is the wrongfully exerted control over the personal property of another in a manner inconsistent with the owner's rights. An action in conversion may exist even when the possessor of the property did not come into possession wrongfully, but when the possessor subsequently uses the property wrongfully.

116. Defendant Gary Nicholas Bias 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.

117. Defendant's conduct constitutes conversion for which he is liable to pay damages in an amount not yet determined as restitution for loss of property collected or held on behalf of charitable purposes.

118. The Ohio Attorney General is entitled to an order of this Court disgorging all amounts wrongfully retained by Defendant.

119. The Ohio Attorney General, in his role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable trust assets, including the assets raised or held on behalf of the charitable beneficiaries.

120. Because Defendant has proven incapable of appropriately managing and distributing charitable trust assets and solicitation proceeds collected and held for charitable purposes, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds raised or collected by Defendants for charitable purposes, including all amounts unjustly

retained by Defendants, and an order enforcing such constructive trust. Moreover, the Ohio Attorney General requests that all assets and proceeds under constructive trust be transferred to the charitable organizations for which Defendants were soliciting.

COUNT THIRTY-FIVE
UNJUST ENRICHMENT

121. When a party would be unjustly enriched by wrongly retaining property, the Court may impose a constructive trust upon that party, placing upon the party the duty in equity to convey the property to its rightful owner.
122. Ohio courts recognize the equitable remedy of constructive trust, and will apply the doctrine to prevent unjust enrichment of those who abuse their role as trustees.
123. Defendant Gary Nicholas Bias personally benefited at the expense of the charitable beneficiaries by taking proceeds collected for charitable purposes and using that money for his personal and unlawful purposes.
124. As a result of Defendant's conduct, Defendants were unjustly enriched when they retained charitable proceeds at the expense of charitable beneficiaries.
125. Because Defendants have been unjustly enriched, the Ohio Attorney General is entitled to an order of this Court disgorging all amounts unjustly retained by Defendants.
126. The Ohio Attorney General, in his role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable trust assets, including the assets raised or held on behalf of the charitable beneficiaries.
127. Because Defendant Gary Nicholas Bias has proven incapable of appropriately managing and distributing charitable trust assets and solicitation proceeds collected and held for charitable purposes, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds raised or collected by Defendants for charitable purposes, including all

amounts unjustly retained by Defendants, and an order enforcing such constructive trust. Moreover, the Ohio Attorney General requests that all assets and proceeds under constructive trust be transferred to the charitable organizations for which Defendants were soliciting.

COUNT THIRTY-SIX
REFORMATION OF CHARITABLE TRUST

128. Ohio courts recognize the equitable doctrine of *cy pres* and courts will apply the doctrine when: (A) there is a viable charitable trust; (B) the donor evidenced a general charitable intent on establishing the trust; and (C) it has become impossible or impractical to carry out the specific purposes or terms of the trust.
129. Ohio case law recognizes the equitable doctrine of deviation. Courts may apply the doctrine when it deems necessary or highly desirable in order to enable the trustee to perform the purposes of the trust. Courts may deviate from the terms of the trust if the provisions have become so restrictive as to impair accomplishment of the trust purposes.
130. Defendants solicited for charitable purposes and manifested an intention to create a charitable trust in favor of the charitable beneficiaries. As such, the funds raised or collected by Defendants may be used only for the charitable purposes set forth in the terms of the trust. Additionally, all charitable proceeds unjustly or illegally retained by Defendants are subject to the same charitable trust.
131. In donating money to Defendants for the benefit of charitable beneficiaries, the public manifested the intent to create a charitable trust in favor of the charitable beneficiaries. As such, the funds raised or collected by Defendants may be used only for the charitable purposes set forth in the terms of the trust. Additionally, all charitable proceeds unjustly or illegally retained by Defendants are subject to the same charitable trust.

132. The specific purposes and/or specific terms of the charitable trust have become impossible or impractical to perform due to the actions or inactions of Defendants.
133. As an example of the frustration of purpose, Defendant Gary Nicholas Bias has taken assets and proceeds under trust, or has held such assets, and has used them for his personal or other unlawful purposes.
134. The Ohio Attorney General is entitled to an order reforming the terms of the charitable trust, in order to most nearly fulfill the purposes of the charitable trust in accordance with the doctrine of *cy pres* or deviation.
135. Because Defendant Gary Nicholas Bias has proven incapable of appropriately managing and distributing charitable trust assets and solicitation proceeds collected on behalf of charitable purposes, the Ohio Attorney General requests an order reforming the charitable trust, dissolving Ministry In Marketing, Inc., removing the current trustees from office, and distributing all assets and proceeds to the charitable organizations for which Defendants were soliciting.

COUNT THIRTY-SEVEN
NUISANCE

136. R.C. § 1716.14(B) states that the act of soliciting contributions for any charitable organization or charitable purpose without complying with the requirements of Chapter 1716 or any rule adopted thereunder is a nuisance.
137. Defendants' actions constitute a nuisance pursuant to R.C. § 1716.14(B) subject to abatement. The Ohio Attorney General is entitled to an injunction prohibiting further solicitations by Defendants and freezing the accounts of Defendants.

PRAYER FOR RELIEF

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

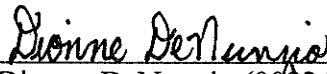
- A. Grant a permanent injunction and perpetually enjoin Defendant Gary Nicholas Bias from holding any position as an officer, trustee, or employee of any nonprofit corporation or association in the state of Ohio;
- B. Grant immediate equitable and statutory relief freezing the accounts of Defendants and any other accounts used to perpetuate illegal activities and attach all assets commingled or otherwise accumulated or acquired with charitable proceeds;
- C. Grant a preliminary and permanent injunction prohibiting Defendants from soliciting in the state of Ohio for charitable purposes;
- D. Impose a constructive trust over all assets unjustly or illegally retained by Defendants and order Defendants to disgorge all assets held under that constructive trust to the Ohio Attorney General for distribution to the charitable organizations for which Defendants were soliciting;
- E. Order Defendants to pay restitution and compensatory damages, including interest for all amounts unjustly or illegally retained by Defendants, to the Ohio Attorney General for distribution to the charitable organizations for which Defendants were soliciting;
- F. Declare the terms of the charitable trust, and enter an order enforcing those terms in a manner consistent with this Complaint including dissolving Ministry In Marketing, Inc., removing the current trustees from office, and distributing all

assets and proceeds to the charitable organizations for which Defendants were soliciting;

- G. Reform the charitable trust in accordance with the doctrine of *cy pres* or deviation, including dissolving Ministry In Marketing, Inc., removing the current trustees from office, and distributing all assets and proceeds to the charitable organizations for which Defendants were soliciting;
- H. Award punitive damages in an amount that is just and appropriate for Defendants' malfeasance;
- I. Award Plaintiff, Ohio Attorney General, reasonable attorney fees, expenses, and costs of investigation and litigation in accordance with R.C. § 1716.16;
- J. Impose a civil penalty against Defendants of up to \$10,000.00 for each violation of R.C. Chapter 1716 stated in this Complaint, pursuant to R.C. § 1716.16(B);
- K. Order Defendants to give an accurate accounting of solicitation activities and financial activities pursuant to R.C. § 1716.11;
- L. Award joint and several liability against Defendants;
- M. Grant Plaintiff, Ohio Attorney General, other relief as the Court deems proper and necessary.

Very respectfully submitted,


MIKE DEWINE
Ohio Attorney General


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JURY DEMAND

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



Dionne DeNunzio (0082478)
Associate Assistant Attorney General