

IN THE COURT OF COMMON PLEAS
ASHTABULA COUNTY, OHIO

BOARD OF TRUMBULL
TOWNSHIP TRUSTEES, *et al.*

vs.

LAWRENCE RICKARD, *et al.*

Defendants,

and

STATE *ex rel.* RICHARD CORDRAY
ATTORNEY GENERAL OF OHIO

Defendant/Cross-Claimant

and

LAWRENCE RICKARD

Defendants.

CASE NO.: 2008 CV 0925

JUDGE RONALD W. VETTEL

CAROL A. HEAD
CLERK OF COURTS
COMMON PLEAS COURT
ASHTABULA CO., OH

2009 JUL -1 P 2:26

FILED

COPY

SECOND AMENDED CROSS-CLAIM OF DEFENDANT RICHARD CORDRAY,
ATTORNEY GENERAL OF OHIO

Defendant State of Ohio *ex rel.* Richard Cordray, Attorney General of the State of Ohio, hereby states the following Second Amended Complaint against all Defendants as follows:

I. PARTIES

1. Cross-Claimant, Ohio Attorney General, is the party charged both at common law and by the Ohio Charitable Trust Act, R.C. § 109.23, *et seq.* ("Charitable

Trust Act”) with the enforcement of charitable trusts in the state of Ohio, in order that the interests of charitable beneficiaries may be protected and preserved. The Ohio Attorney General is also charged both at common law and by the Ohio Charitable Organizations Act, R.C. § 1716.01 *et seq.* (“Charitable Solicitations Act”) with regulating charitable solicitation and protecting and preserving assets resulting from such solicitations.

2. Pursuant to R.C. § 109.24, the Ohio Attorney General is authorized to institute and prosecute a proper action to enforce the performance of any charitable trust and to restrain the abuse thereof. The Ohio Attorney General is also authorized pursuant to R.C. § 1716.16 to enforce the requirements of the Charitable Solicitations Act.

3. Defendant Lawrence Rickard was at all relevant times a trustee, manager, employee, or agent of the Charities. In such capacity, Defendant Lawrence Rickard has formulated, directed, established, or controlled the policies, practices, and procedures of the Charities with regard to beer concessions at the Great Lakes Medieval Faire.

Defendant Lawrence Rickard has participated in violations of law described in this Complaint, or, through his action or inaction, authorized, directed, adopted, ratified, allowed, or otherwise caused or permitted such violations to occur. This action is being initiated against Defendant Lawrence Rickard both individually and in his capacity as trustee, manager, employee, or agent of the Charities.

4. Cork Little League, Ashtabula County Humane Society, Mesopotamia Fire Association, The Conneaut Fish and Game Club, Peaceful Pastures Horse Rescue, Hartsgrove Volunteer Firefighters Association, Camp Camo, Inc., and Trumbull Township Volunteer Fire Department Inc., are nonprofit entities having their principal place of business in Ashtabula County, Ohio and organized and/or incorporated under the

laws of the State of Ohio. Montville Volunteer Firefighters Association is a nonprofit entity having its principal place of business in Geauga County, Ohio and organized and/or incorporated under the laws of the State of Ohio. (Hereinafter these entities are referred to as the Charities).

5. Defendant Phoenix Productions, LLC is a limited liability company whose identity and whereabouts were previously unknown, which owns, has an interest in, and/or operates the Great Lakes Medieval Faire. At all time relevant herein, Phoenix Productions, LLC whose statutory agent is 2112 East Ohio Service Corp., 1717 East Ninth Street #2112, Cleveland, Ohio 44114, purported and still purports to operate pursuant to law as a domestic limited liability company organized and established under the laws of the State of Ohio.

6. The remaining Cross-Claim Defendants are those persons and/or entities as named and described in Plaintiff's, Board of Trumbull Township Trustees, Second Amended Complaint in paragraphs seven, eight, nine, and ten incorporated by reference as if fully rewritten herein.

7. The above listed Charities are charitable trusts recognized under R.C. § 109.23 and R.C. § 1716.01 *et seq.*

8. Pursuant to Ohio common law and statutory law, Defendant Lawrence Rickard was a fiduciary of these charitable trusts and was entrusted with certain fiduciary duties when he aided in the operation of the alcohol concessions at the Great Lakes Medieval Faire and had control over the proceeds from this activity.

II. JURISDICTION AND VENUE

9. The Ohio Attorney General re-alleges paragraphs one (1) through eight (8) above as is fully rewritten herein.

10. The Ohio Attorney General, having reasonable cause to believe that violations and abuses of Ohio's charitable laws have occurred, brings this action in the public interest and under the Ohio Attorney General's common law authority to enforce charitable trusts and under the authority vested in the Ohio Attorney General by R.C. § 109.23 *et seq.* of the Charitable Trust Act.

11. The Ohio Attorney General, having reasonable cause to believe that violations and abuses of Ohio's charitable solicitation laws have occurred, brings this action in the public interest and under the authority vested in the Ohio Attorney General by R.C. § 1716.16 of the Charitable Solicitations Act.

12. Defendants' actions, hereinafter described, which occurred in Ashtabula County, Ohio violate the Charitable Trust Act, the Charitable Solicitations Act, and common law and are in violation of the duties imposed upon fiduciaries of a charitable trust.

13. This Court has jurisdiction over the Defendants and made parties to this matter pursuant to Ohio Civil Rule 13(G).

14. Defendant Lawrence Rickard resides at 3033 State Route 534, Rock Creek, Ohio 44084.

15. Defendant Phoenix Productions, LLC was formed by or at the direction of Defendant Lawrence Rickard as a limited liability company on November 25, 2002, and on information or belief, Defendant Lawrence Rickard has transferred a legal or equitable

interest in certain of his assets to Phoenix Productions, LLC. As such, any reference to the collective defendants with respect to events occurring on or after November 25, 2002 will include Phoenix Productions, LLC. At all time relevant herein, Phoenix Productions, LLC whose statutory agent is 2112 East Ohio Service Corp., 1717 East Ninth Street #2112, Cleveland, Ohio 44114, purported and still purports to operate pursuant to law as a domestic limited liability company organized and established under the laws of the State of Ohio.

III. FACTS

16. The Ohio Attorney General re-alleges paragraphs one (1) through fifteen (15) above as if fully rewritten herein.

17. Upon information and belief, Defendant Lawrence Rickard is a natural person residing in Ashtabula County, Ohio who is an owner of or who owns and/or has an interest in one or more companies that own and/or operate the Great Lakes Medieval Faire.

18. Upon information and belief, the Great Lakes Medieval Faire is located in Rock Creek, Ohio and purports to operate pursuant to law as a temporary fair or festival.

19. Upon information and belief, at all times relevant herein, the Great Lakes Medieval Faire was open up to six weekends each year during the summer season beginning on or about the first Saturday of July.

20. Upon information and belief, on or about 1994 and thereafter, the Charities were contacted at different times by Defendant Lawrence Rickard or his agent, employee, or independent contractor regarding the Charities' interests in receiving 100% of the profits of alcohol sales at the Great Lakes Medieval Faire.

21. Upon information and belief, each of the Charities would show an interest in receiving 100% of the profits of alcohol sales, and alcohol permit applications were then filled-out on behalf of each of the Charities by Defendant Lawrence Rickard or another Defendant, acting as an agent, employee, or independent contactor of Defendant Lawrence Rickard. These applications are too voluminous to append hereto. *See* Ohio Civil Rule 10.

22. Upon information and belief, under the alcohol permits, each of the Charities were to receive “100%” of the profits” from the sale of alcohol at the Great Lakes Medieval Faire.

23. Upon information and belief, the alcohol permit applications were then signed by Defendant Lawrence Rickard as “the real property owner” of the Great Lakes Medieval Faire along with Stanley D. Ruck as the Charities’ “manager.”

24. Upon information and belief, Defendants then represented to the public that all profits from the sale of alcohol would be going to the Charities who were assigned a permit for that particular time and/or weekend.

25. Upon information and belief, Defendants collected and/or otherwise controlled all profits from the sale of alcohol at the Great Lakes Medieval Faire.

26. Upon information and belief, the profits from the alcohol sales were in the care, custody, and/or control of Defendants until only a small portion of the total was given to or retained by the Charities.

27. The Ohio Attorney General represents the State of Ohio in its role as *parens patriae* protecting charitable trusts and their beneficiaries who should have benefited from the alcohol sales conducted either by or for the Charities.

28. Upon information and belief, Defendants have illegally retained, illegally profited, and/or illegally distributed the profits from the sale of alcohol at the Great Lakes Medieval Faire.

29. Plaintiff, the Ohio Attorney General, was unable with reasonable diligence to discover the conduct of Defendants until after the date of the filing of the amended Complaint by Plaintiffs and discovery conducted in this case to date.

COUNT ONE
BREACH OF FIDUCIARY DUTIES

30. The Ohio Attorney General re-alleges paragraphs one (1) through twenty-nine (29) above as if fully rewritten herein.

31. Revised Code § 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.

32. Revised Code § 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 this state for any charitable, religious or educational purpose.

33. Defendants held the profits from the sale of alcohol at the Great Lakes Medieval Faire as fiduciaries under the common law, R.C. § 109.23 *et seq.*, and/or R.C. § 1716.17.

34. Under the common law, Chapter 109, and Chapter 1716, common law fiduciaries, trustees, and solicitors owe fiduciary duties to the Charities.

35. Defendants owed fiduciary duties to preserve the charitable trust property of the Charities derived from the sale of alcohol at the Great Lakes Medieval Faire by or on behalf of the Charities and to properly manage and maintain said property for the benefit of the Charities' intended beneficiaries. The conduct of Defendants as alleged in this Complaint constitutes a breach of these fiduciary duties.

36. Defendants owed fiduciary duties of good faith and loyalty when dealing with the charitable trust property of the Charities. The conduct of Defendants as alleged in this Complaint violates these fiduciary duties.

37. Defendants owed a fiduciary duty to make the Charities' trust property productive. The conduct of Defendants as alleged in this Complaint violates this fiduciary duty.

38. Defendants owed fiduciary duties not to abuse the Charities' trust property for their own personal use and/or not to authorize, allow, or permit others to engage in such activity. The conduct of Defendants as alleged in this Complaint violates these fiduciary duties.

39. Defendants had a duty to exercise their fiduciary obligations with the degree of care and skill that an ordinarily prudent person would have used in dealing with his/her own property when dealing with the Charities' trust property. The conduct of Defendants as alleged in this Complaint violates this fiduciary duty.

40. As a direct and proximate cause of the breach of these fiduciary duties of Defendants as alleged in this Complaint, an abuse of charitable assets has occurred to the

detriment of the charitable beneficiaries in an amount not yet known, but more than twenty-five thousand dollars (\$25,000.00).

41. Defendants are jointly and severally liable to the Charities for an amount not yet known, but more than twenty-five thousand dollars (\$25,000), for the amount that has been wrongfully diverted from intended charitable purposes.

42. Defendants' conduct, as described in this count, violates R.C. § 1716.17, for which the Ohio Attorney General is entitled to restitution and injunctive relief, and for which Defendants are liable to pay a civil penalty of up to \$10,000 per day for each day of violation pursuant to R.C. § 1716.16(B).

43. Defendants' actions were willful, wanton, and in reckless disregard of the Charities' legal rights, and are of the nature for which the Charities are entitled to recover punitive damages.

44. The Ohio Attorney General, in its role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable fundraising activities.

45. Because Defendants have proven incapable of appropriately managing and distributing charitable trust assets collected on behalf of the Charities to the Charities' intended charitable beneficiaries, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds raised by Defendants on behalf of the Charities, and an order enforcing such constructive trust. Moreover, the Ohio Attorney General requests an order appointing a receiver over the funds impressed with the constructive trust, for the purpose of redistributing those funds to the appropriate charitable beneficiaries.

COUNT TWO
UNJUST ENRICHMENT

46. The Ohio Attorney General re-alleges paragraphs one (1) through forty-five (45) above as is fully rewritten herein.

47. 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.

48. Ohio courts recognize the equitable remedy of constructive trust, and will apply the doctrine to prevent unjust enrichment of those who abuse their roles as trustees.

49. From at least 1994 until the present, Defendant Lawrence Rickard personally benefited at the expense of the Charities' beneficiaries by the conduct alleged in this Complaint, including, but not limited to, illegally collecting, controlling, and/ or retaining charitable proceeds and/or otherwise illegally profiting from charitable proceeds.

50. As a result of Defendant Lawrence Rickard's conduct, Defendant Lawrence Rickard was unjustly enriched when he retained charitable proceeds at the expense of the Charities' beneficiaries.

51. Because Defendant Lawrence Rickard has been unjustly enriched, the Ohio Attorney General is entitled to an order of this Court disgorging all amounts unjustly retained by him.

52. The Ohio Attorney General, in its role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable fundraising activities.

53. Because Defendant Lawrence Rickard has proven incapable of appropriately managing and distributing charitable trust assets collected and/or controlled on behalf of the Charities to the Charities' intended charitable beneficiaries, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds so collected or controlled by Defendant Lawrence Rickard on behalf of the Charities, including all amounts unjustly retained by Defendant Lawrence Rickard, and an order enforcing such constructive trust. Moreover, the Ohio Attorney General requests an order appointing a receiver over the funds impressed with the constructive trust, for the purpose of redistributing those funds to the appropriate charitable beneficiaries.

COUNT THREE
CONVERSION

54. The Ohio Attorney General re-alleges paragraphs one (1) through fifty-three (53) above as is fully rewritten herein.

55. Ohio courts recognize the common law cause of action known as conversion. A 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.

56. From at least 1994 until the present, Defendant Lawrence Rickard willfully, wantonly, and wrongfully converted charitable proceeds from alcohol sales at the Great Lakes Medieval Faire raised on behalf of the Charities.

57. As a direct and proximate cause of Defendant Lawrence Rickard's wrongful conversion of the Charities' interests, the Charities have suffered damages in an

amount not yet known, but believed to be in excess of twenty-five thousand dollars (\$25,000.00) plus interest, to be proven at trial.

58. Defendant Lawrence Rickard's actions were willful, wanton, intentional, and in reckless disregard of the Charities' legal rights, and are of the nature for which the Charities are entitled to recover punitive damages.

59. The Ohio Attorney General, in its role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable fundraising activities.

60. Because Defendant Lawrence Rickard has proven incapable of appropriately managing and distributing charitable trust assets collected on behalf of the Charities to the Charities' intended charitable beneficiaries, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds converted by Defendant Lawrence Rickard, and an order enforcing such constructive trust. Moreover, the Ohio Attorney General requests an order appointing a receiver over the funds impressed with the constructive trust, for the purpose of redistributing those funds to the appropriate charitable beneficiaries.

COUNT FOUR **NUISANCE**

61. The Ohio Attorney General re-alleges paragraphs one (1) through sixty (60) above as is fully rewritten herein.

62. R.C. § 1716.14(B) provides, "The act of soliciting contributions for any charitable organization or charitable purpose or engaging in a charitable sales promotion

without complying with the requirements of this chapter or any rule adopted pursuant to this chapter, is a nuisance.”

63. R.C. § 1716.14(A)(5) prohibits:

Misleading any person in any manner in the belief, or making or using any representation to any person that implies, that the organization on whose behalf a solicitation or charitable sales promotion is being conducted is a charitable organization or that the proceeds of the solicitation or charitable sales promotion will be used for a charitable purpose if either of those is not the fact.

64. From at least 1994 until the present, Defendants personally benefited at the expense of the Charities’ beneficiaries by the conduct alleged in this Complaint, including, but not limited to, illegally retaining, collecting, controlling or illegally profiting, and/or illegally distributing the proceeds raised on behalf of the Charities. Moreover, Defendants represented that all of the proceeds raised would benefit the Charities’ beneficiaries when this was not the case.

65. Defendants’ conduct, as described in this count, is misleading and deceptive and constitutes a nuisance under R.C. § 1716.14(B) for which the Ohio Attorney General is entitled to injunctive relief. If Defendants’ activities are not abated and perpetually enjoined, further violations of R.C. Chapters 109, 1716, and the common law are imminent and will persist.

COUNT FIVE
F PERMITS

66. The Ohio Attorney General re-alleges paragraphs one (1) through sixty-six (66) above as is fully rewritten herein.

67. Ohio Administrative Code § 4301:1-1-35(B) states that a charitable organization that receives a temporary Class F liquor permit shall:

Direct the payment of the proceeds from the function to the...charitable...purpose, provided that the proceeds will not be directed for the profit or gain of any person.

68. Defendant Lawrence Rickard signed the F permit applications for each Charity. Lawrence Rickard signed as the real property owner of the Great Lakes Medieval Faire and Stanley D. Ruck's name was listed as the Charities' "manager."

69. From at least 1994 until the present, Defendants willfully, wantonly, and wrongfully failed to direct the payment of the proceeds from the alcohol sales to the Charities but instead illegally collected, controlled, or retained, illegally profited, and/or illegally distributed the proceeds raised on behalf of the Charities in violation of O.A.C. § 4301:1-1-35(B).

70. As a direct and proximate cause of Defendants' actions, the Charities have suffered damages in an amount not yet know, but believed to be in excess of \$25,000 plus interest, to be proven at trial.

71. The Ohio Attorney General, in its role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable fundraising activities.

72. Because Defendants have proven incapable of appropriately managing and distributing charitable trust assets collected on behalf of the Charities to the Charities' intended charitable beneficiaries, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds wrongfully collected, controlled, or retained by Defendants, and an order enforcing such constructive trust. Moreover, the

Ohio Attorney General requests an order appointing a receiver over the funds impressed with the constructive trust, for the purpose of redistributing those funds to the appropriate charitable beneficiaries.

COUNT SIX
ATTACHMENT

73. The Ohio Attorney General re-alleges paragraphs one (1) through seventy-two (72) above as is fully rewritten herein.

74. The Ohio Attorney General is entitled to an order of attachment of the assets of Defendant Lawrence Rickard pursuant to R.C. § 2715.01(A)(10) on the grounds that Defendant Rickard has fraudulently and criminally contracted the debt and incurred the obligations for the recovery of which this action has been initiated.

75. Upon information and belief, the assets which the Ohio Attorney General seeks to attach are not exempt by law or otherwise from attachment or execution.

COUNT SEVEN
REFORMATION OF CHARITABLE TRUST

76. The Ohio Attorney General re-alleges paragraphs one (1) through seventy-five (75) above as is fully rewritten herein.

77. Ohio case law recognizes 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

78. Ohio case law recognizes the equitable doctrine of deviation. The Court may apply the doctrine when it deems necessary or highly desirable in order to enable the trustee to perform the purposes of the trust. The Court may deviate from the terms of the trust if the provisions have become so restrictive as to impair accomplishment of the trust purposes.

79. Defendant Lawrence Rickard's fundraising activities on behalf of the Charities manifested an intention to create a charitable trust in favor of the Charities' beneficiaries. As such, the funds raised by Defendant Lawrence Rickard on behalf of the Charities may be used only for charitable purposes set forth in the terms of the trust. Additionally, all charitable proceeds unjustly or illegally, controlled, or retained by Defendant Lawrence Rickard are subject to the same charitable trust.

80. In purchasing alcohol from Defendant Lawrence Rickard at the Great Lakes Medieval Faire for the benefit of the Charities, the public manifested the intent to create a charitable trust in favor of the Charities' intended beneficiaries. As such, the funds raised by Defendant Lawrence Rickard on behalf of the Charities must be used only for the charitable purposes set forth in the terms of the trust. Additionally, all charitable proceeds unjustly or illegally, collected, controlled, or retained by Defendant Lawrence Rickard are subject to the same charitable trust.

81. The specific purpose and/or specific terms of the charitable trust in favor of the Charities' beneficiaries have become impossible or impractical to perform due to the actions or inactions of Defendant Lawrence Rickard.

82. The Ohio Attorney General is entitled to a declaratory judgment 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.

83. Because Defendant Lawrence Rickard has proven incapable of appropriately managing and distributing charitable trust assets collected on behalf of the Charities to the Charities' intended beneficiaries, the Ohio Attorney General requests an order appointing a receiver over the funds impressed with a charitable trust for the purpose of redistributing those funds to the appropriate charitable beneficiaries in accordance with the doctrine of *cy pres* or deviation.

COUNT EIGHT
FRAUDULENT CONCEALMENT

84. The Ohio Attorney General re-alleges paragraphs one (1) through eighty-three (83) above as is fully rewritten herein.

85. Defendants had a duty to disclose to the Charities the true expenses and amounts the Charities were entitled to receive from the sale of alcohol at the Great Lakes Medieval Faire.

86. In violation of this duty owed to the Charities, Defendants knowingly, intentionally, fraudulently, and maliciously concealed from the Charities the true expenses and amounts the Charities were entitled to receive from the sale of alcohol at the Great Lakes Medieval Faire.

87. Defendants' concealment was material.

88. Defendants intended to mislead the Charities by willfully concealing the true expenses and amounts the Charities were entitled to receive, thereby profiting from the concealment to their own benefit and to the detriment of the Charities.

89. The Charities reasonably relied on the representations made by Defendants regarding the alcohol sales and the calculations respecting such profits to their detriment.

90. As a direct and proximate cause of Defendants' fraudulent concealment from the Charities, the Charities have suffered damages in an amount not yet known, but believed to be in excess of twenty-five thousand dollars (\$25,000), plus interest, to be proven at trial.

91. Defendants are jointly and severally liable to the Charities for an amount not yet known, but more than twenty-five thousand dollars (\$25,000), for the amount that has been fraudulently concealed from the Charities.

92. Defendants' actions were willful, wanton, intentional, and in reckless disregard of the Charities' legal rights, and are of the nature for which the Charities are entitled to recover punitive damages.

93. The Ohio Attorney General, in its role as *parens patriae*, protects charitable trusts and their beneficiaries who should have benefited from charitable fundraising activities.

94. Because Defendants have proven incapable of appropriately managing and distributing charitable trust assets collected on behalf of the Charities to the Charities' intended charitable beneficiaries, the Ohio Attorney General is entitled to an order imposing a constructive trust over all proceeds fraudulently concealed by Defendants,

and an order enforcing such constructive trust. Moreover, the Ohio Attorney General requests an order appointing a receiver over the funds impressed with the constructive trust, for the purpose of redistributing those funds to the appropriate charitable beneficiaries.

PRAYER FOR RELIEF

Wherefore, pursuant to her statutory and common law authority to protect charitable assets and to prevent their abuse, the Ohio Attorney General respectfully requests the following judgments and relief:

- (A) Impose a constructive trust over all proceeds unjustly or illegally, collected, controlled, or retained by Defendant Lawrence Rickard and order Defendant Lawrence Rickard to disgorge all proceeds held under that constructive trust for distribution in accordance with the Charities' general charitable purposes;
- (B) Order Defendant Lawrence Rickard to pay restitution and compensatory damages, plus interest, for all amounts unjustly or illegally, collected, controlled, or retained by him to be redistributed in accordance with the Charities' general charitable purposes;
- (C) Appoint the Ohio Attorney General as receiver over the funds impressed with the constructive trust, for the purpose of redistributing those funds in accordance with the Charities' general charitable purposes;
- (D) Declare the terms of the charitable trust, and enter an order enforcing those terms in a manner consistent with this Complaint;

- (E) Reform the charitable trust in accordance with the doctrine of *cy pres* or deviation, appointing the Ohio Attorney General as receiver over the funds impressed with the charitable trust for the purpose of redistributing those funds to the in accordance with the Charities' general charitable purposes;
- (F) Remove Defendant Lawrence Rickard as trustee;
- (G) Award damages against Defendant Lawrence Rickard for unjust enrichment.
- (H) Award damages against Defendant Lawrence Rickard and other Defendants jointly and severally in an amount exceeding twenty-five thousand dollars (\$25,000) on counts one and eight.
- (I) Award punitive damages in an amount that is just and appropriate respecting counts one, three, and eight for Defendant Lawrence Rickard's malfeasance;
- (J) Grant a permanent injunction abating the nuisance located at 3033 State Route 534, Rock Creek, Ohio, and perpetually enjoining Defendant Lawrence Rickard from directly or indirectly participating in all further charitable solicitation;
- (K) Award the Ohio Attorney General reasonable attorney fees, expenses, and costs of investigation and litigation in accordance with R.C. § 1716.16;
- (L) Impose a civil penalty against Defendant Lawrence Rickard of not more than ten thousand dollars for each violation of R.C. Chapter 1716;
- (M) Grant the Ohio Attorney General other relief as the Court deems proper and necessary.

Respectfully submitted,

RICHARD CORDRAY
Ohio Attorney General

Dionne DeNunzio by CRC

Dionne DeNunzio (0082478)

Assistant Attorney General

Michael Rzymek (0040826)

Principal Assistant Attorney General

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CERTIFICATE OF SERVICE

A copy of the foregoing was sent by fax and ordinary US Mail to the following this 1st day of July, 2009.

Dale H. Markowitz, Esq.
J. Jared Flynn, Esq.
THRASHER, DINSMORE & DOLAN
100 7th Avenue, Suite 150
Chardon, Ohio 44024-1079

A copy of the foregoing was hand-delivered to the following this 1st day of July, 2009.

Trumbull Township Fire and Rescue Auxiliary, Inc.
c/o statutory agent Tanya Lanning
and Tracy Crites, President
2160 State Route 534 South
Geneva, Ohio 44041

The Trumbull Township Volunteer Fire Department, Inc.
c/o statutory agent Gerald L. Greenman
6301 Trumbull Road
Geneva, Ohio 44041

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Dionne DeNunzio
Assistant Attorney General