

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

Plaintiff,

vs.

JOSEPH MELENDEZ
8205 Franklin Blvd., Apt. 12
Cleveland, Ohio 44102

Defendant.

CASE NO.:

JUDGE:

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 the “Attorney General”) accepts this Agreement from Joseph Melendez (“Defendant” or “Joseph Melendez”). The Attorney General and Defendant, 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 Agreement, the Attorney General and Defendant stipulate as follows:

I. 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.

II. FACTS

- B. Joseph Melendez resides at 8205 Franklin Blvd., Apt. 12, Cleveland, Ohio 44102.
- C. Since at least 2012, Joseph Melendez has utilized the pseudonym "Seph Lawless" for business purposes. Under the name Seph Lawless, Joseph Melendez has published and promoted numerous books, primarily in the genre of photography.
- D. Beginning no later than 2014 and continuing through 2015, Joseph Melendez used charitable appeal to promote his books and photographs. In interviews with multiple media outlets and internet sites, Joseph Melendez routinely represented that 100% of the proceeds from specified projects would benefit a "charitable purpose," as that term is defined in R.C. 1716.01(B)(1).
- E. During this period of time, Joseph Melendez was operating as 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.
- F. During this period of time, Joseph Melendez was engaging in "charitable sales promotions" as that term is defined in R.C. 1716.01(C) and was operating as a "commercial co-venturer" as that term is defined in R.C. 1716.01(D).
- G. The funds and other items of value raised and held by Joseph Melendez on behalf of charitable purposes were subject to a valid "charitable trust" under R.C. 109.23.
- H. Joseph Melendez had fiduciary duties under R.C. 109.23 *et seq.*, R.C. 1716.17, and the common law.

III. FINDINGS OF THE ATTORNEY GENERAL

- I. The charitable trust and solicitation activities in Ohio of Defendant 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.

J. 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 Joseph Melendez.

K. As a result of its investigation, the Attorney General has reason to believe that Defendant committed the following violation of the Ohio Charitable Organizations Act, the Ohio Charitable Trust Act, and the common law:

1. R.C. 1716.09(A): Joseph Melendez failed to obtain the written consent of every charitable organization whose name was used by Joseph Melendez during his charitable sales promotions.

L. The Attorney General's findings, as outlined in Paragraph K above, are the basis upon which this Assurance has been negotiated. However, this Agreement is the culmination of disputed claims and does not constitute an admission of any wrongdoing by Defendant.

IV. ASSURANCE

M. Joseph Melendez agrees that he will comply with all provisions of Revised Code Chapter 1716 following the date this Agreement is signed.

N. Joseph Melendez agrees that this Agreement is made in lieu of prosecution of a civil action based upon the findings set forth herein.

O. Joseph Melendez 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).

- P. Joseph Melendez agrees 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 by the parties hereto at the time of signing.

V. RETENTION OF JURISDICTION

- Q. This Court shall retain jurisdiction of this action for the purpose of enforcing this Agreement.

VI. ACKNOWLEDGEMENTS

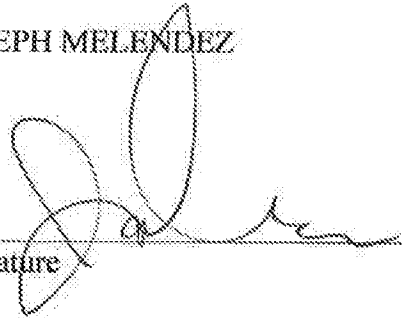
- R. Joseph Melendez acknowledges that he has been given ample opportunity to be advised by legal counsel as to the meaning and effect of each provision of this Agreement and that he has elected of his own free will and accord to enter into this Agreement.
- S. The Attorney General and Defendant hereby 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

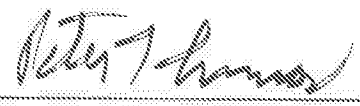
Each individual signing below represents that he or she is authorized and directed to sign this Agreement on behalf of the party represented and further represents that he or she has the requisite authority to bind the party on behalf of whom they are signing.

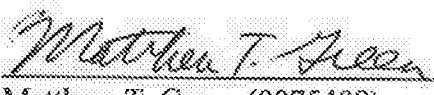
WHEREFORE, the undersigned have executed this Agreement this 1 day of MARCH, 2016.

JOSEPH MELENDEZ


Signature

MIKE DEWINE
OHIO ATTORNEY GENERAL


Peter Thomas
Section Chief
Charitable Law Section
150 E. Gay Street, 23rd Floor
Columbus, Ohio 43215


Matthew T. Green (0075408)
Counsel for Ohio Attorney General,
Mike DeWine