

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, *ex rel.*
MIKE DEWINE, OHIO ATTORNEY
GENERAL
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215

Plaintiff,

v.

UNION CLUB, INC
139 West High Street
Springfield, Ohio 45502

UNION CLUB OF SPRINGFIELD
139 West High Street
Springfield, Ohio 45502

JERRY E. ADAMS
240 California
Springfield, Ohio 45505

JERRY BOWEN
2605 Broadview Drive
Springfield, Ohio 45505

SHERRI DONAHUE
407 Dakota Avenue
Springfield, Ohio 45506

TOM HORNE
1903 Summit Street
Springfield, Ohio 45503

SARA MARIE STEWART
1738 Ballentine Pike
Springfield, Ohio 45502

EDWARD STRADER
44 Cherry Lane
Springfield, Ohio 45504

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), the Ohio Charitable Trust Act, R.C. § 109.23 *et seq.*, specifically, R.C. § 109.24, and the Ohio Gambling Act, R.C. § 2915.01 *et seq.*, specifically, R.C. § 2915.08(B), Ohio Attorney General Mike DeWine (hereinafter the “Attorney General”) agrees to and accepts this Agreement from the Union Club, Inc., the Union Club of Springfield, Ohio, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader. The Attorney General, the Union Club, Inc., the Union Club of Springfield, Ohio, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader, as parties to this Agreement, acknowledge and agree that it is in their best interests 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, the Union Club, Inc., the Union Club of Springfield, Ohio, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader 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.*, R.C. Chapter 2915, 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. The Union Club, Inc., a 501(c)(3) tax-exempt organization has a principal place of business of 139 West High Street, Springfield, Ohio 45502.

- C. The Union Club of Springfield, primarily a social club, has a principal place of business of 139 West High Street, Springfield, Ohio 45502.
- D. Jerry E. Adams resides at 240 California, Springfield, Ohio 45505.
- E. Jerry Bowen resides at 2605 Broadview Drive, Springfield, Ohio 45505.
- F. Sherri Donahue resides at 407 Dakota Avenue, Springfield, Ohio 45506.
- G. Tom Horne resides at 1903 Summit Street, Springfield, Ohio 45503.
- H. Sarah Marie Steward resides at 1738 Ballentine Pike, Springfield, Ohio 45502.
- I. Edward Strader resides at 44 Cherry Lane, Springfield, Ohio 45504.
- J. The Union Club, Inc. and the Union Club of Springfield are “charitable organizations” as that term is defined in R.C. § 1716.01(A) and “charitable trusts” as that term is defined in R.C. § 109.23.
- K. The Union Club, Inc. is a “charitable organization” as defined by R.C. § 2915.01(H).
- L. The Union Club, Inc. and the Union Club of Springfield are controlled by the same Board of Directors and/or Trustees.
- M. The Union Club, Inc. has been licensed to conduct charitable instant bingo, as defined by R.C. § 2915.01(AA), in the State of Ohio since at least 2009.
- N. Jerry E. Adams is a Trustee of the Union Club, Inc. and the Union Club of Springfield.
- O. Jerry Bowen is the President of the Union Club, Inc. and the Union Club of Springfield.
- P. Sherri Donahue is the Secretary/Treasurer of the Union Club, Inc. and the Union Club of Springfield.
- Q. Tom Horne is the Vice President of the Union Club, Inc. and the Union Club of Springfield.

- R. Sarah Marie Steward is a Trustee of the Union Club, Inc. and the Union Club of Springfield.
- S. Edward Strader is a Trustee of the Union Club, Inc. and the Union Club of Springfield.
- T. The funds raised and held by the Union Club, Inc. and the Union Club of Springfield on behalf of charitable purposes are subject to a valid “charitable trust” under R.C. § 109.23.
- U. Jerry Bowen, Tom Horne, Sherri Donahue, Sarah Marie Steward, Jerry E. Adams and Edward Strader currently have fiduciary duties under R.C. § 109.23 *et seq.*, R.C. § 1716.17, and the common law.
- V. 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.
- W. The Ohio Charitable Gaming Act enumerates the legal requirements for conducting charitable bingo in Ohio and it prohibits certain acts and practices associated with charitable bingo. The Ohio Charitable Gaming Act also prohibits the use of slot machines in Ohio.
- X. On August 22, 2011, the Union Club, Inc. entered into a Settlement Agreement with the Ohio Attorney General’s Office for various violations concerning charitable gaming, specifically, charitable bingo and electronic gaming machines.
- Y. The Ohio Attorney General alleges the following:
- a. On or about April 9, 2012, Major Case Investigators of the Ohio Attorney General’s Office visited the Union Club, Inc. and the Union Club of Springfield.
 - b. During that visit on April 9, 2012, Major Case Investigators played electronic gambling machines which paid out cash. The cash payouts could only be received if

the winner returned the following day. As a result, the Major Case Investigators returned to the Union Club, Inc. and the Union Club of Springfield on April 10, 2012 to receive their cash payout of fifty dollars (\$50.00).

- c. On or about July 11, 2012, Major Case Investigators of the Ohio Attorney General's Office again visited the Union Club, Inc. and the Union Club of Springfield.
- d. During this visit, representatives for the Union Club, Inc. and the Union Club of Springfield admitted to having ten (10) electronic gambling machines which paid out in cash. Paying out cash prizes makes an electronic gambling machine a "slot machine" pursuant to R.C. §2915.01(UU)(2). "Slot machines" are "schemes of change" pursuant to R.C. § 2915.01(C), which are prohibited under R.C. §2915.02. The presence of these machines was also a violation of the August 22, 2011 Settlement Agreement with the Ohio Attorney General's Office.
- e. During the July 11, 2012 visit, representatives from the Union Club, Inc. and the Union Club of Springfield admitted to paying the bingo game operators \$13.50 per hour. This is in violation of R.C. § 2915.091(A)(9). This is also a violation of the August 22, 2011 Settlement Agreement with the Ohio Attorney General's Office.
- f. On August 9, 2012, Major Case Investigators of the Ohio Attorney General's Office learned that the Union Club, Inc. was conducting instant bingo at an unlicensed location, specifically a location on St. Paris Pike, in violation of R.C. § 2915.091(A)(3).
- g. The Board of Directors and/or Trustees have failed to maintain appropriate board meeting minutes for large expenditures.

- h. The Board of Directors and/or Trustees have failed to follow the by-laws of either the Union Club, Inc. or the Union Club of Springfield.
- i. The Board of Directors and/or Trustees have failed to differentiate between the Union Club, Inc. and the Union Club of Springfield. As a result, the Union Club, Inc. has failed to use its charitable assets to realize its charitable mission.
- j. The Board of Directors and/or Trustees have refused to share financial information with members.
- k. The Board of Directors and/or Trustees have relied on the advice of non-attorneys for legal issues to the detriment of both organizations.
- l. The Board of Directors and/or Trustees have paid employees and Trustees in cash and failed to file the appropriate tax forms for their employees.

III. FINDINGS OF THE ATTORNEY GENERAL

- Z. The charitable trust and gambling activities in Ohio of the Union Club, Inc. and the Union Club of Springfield are the subject of this Agreement. Such activities are described in and regulated by the Ohio Charitable Trust Act, R.C. § 109.23 *et seq.*, Ohio's Charitable Gaming Act, R.C. Chapter 2915, and the Attorney General's common law authority to enforce charitable trusts.
- AA. The Attorney General is the party charged with enforcing the Ohio Charitable Trust Act and the Ohio Charitable Gaming Act and has caused an investigation to be conducted by the Charitable Law Section of the charitable trust and gaming activities of the Union Club, Inc. and the Union Club of Springfield.
- BB. As a result of its investigation, the Attorney General alleges that the Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen,

Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader have violated the Ohio Charitable Trust Act, the Ohio Charitable Gaming Act, and the common law in the following ways:

1. R.C. § 1716.14(A)(1): The Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader 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 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 the funds were not used for the stated charitable purpose;
2. R.C. § 1716.17 and R.C. § 109.23(A): The Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader breached their 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 charities, resulting in loss and other damages to the charitable beneficiaries of the Union Club, Inc. and the Union Club of Springfield;
3. R.C. § 1716.14(B): The Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader's actions 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;

4. R.C. § 2915.02 and the August 22, 2011 Settlement Agreement: The Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader violated R.C. § 2915.02 and the August 22, 2011 Settlement Agreement by operating slot machines;
5. R.C. § 2915.091(A)(9) and the August 22, 2011 Settlement Agreement: The Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader violated R.C. § 2915.091(A)(9) by paying bingo game operators;
6. R.C. § 2915.091(A)(3): The Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader have violated R.C. § 2915.091(A)(3) by conducting instant bingo at an unlicensed location;
7. R.C. § 2915.08(B)(1)(b): The Union Club, Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader have violated R.C. § 2915.08(B)(1)(b) by making false or incorrect statements material to the granting of a bingo license, in particular, these statements concerned the presence of slot machines;

CC. The Attorney General's allegations, 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 the The Union Club,

Inc., the Union Club of Springfield, and its Officers and Trustees, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader.

IV. ASSURANCE

- DD. Jerry Bowen, Tom Horne, Sherri Donahue, Sarah Marie Steward, Jerry E. Adams, and Edward Strader agree that they will resign as officers and/or trustees of the Union Club, Inc. and the Union Club of Springfield effective February 19, 2013.
- EE. No current or former officer or trustee shall be eligible to serve on the board of either the Union Club, Inc. or the Union Club of Springfield.
- FF. Election for a new board of seven officers/trustees for each board, the Union Club, Inc. and the Union Club of Springfield, will occur on February 19, 2013.
- GG. In addition to posting notice for the upcoming election and nominations at the club, per the by-laws, the Union Club, Inc. and the Union Club of Springfield will publish notice of the upcoming nominations and election in a paper of general circulation in the Springfield, Ohio area.
- HH. For this election, any individual who has been a member, in good standing, for any five year period within the last ten year is eligible to run for election.
- II. A representative from the Ohio Attorney General's Office, Charitable Law Section, will be present at the election to supervise the proceedings.
- JJ. If the election does not occur as outlined above by February 19, 2013, the Union Club, Inc. and the Union Club of Springfield will voluntarily shut its operations until such time as a new board can be installed. Additionally, failure to conduct the election by February 19, 2013 will subject the Union Club, Inc. and the Union Club of Springfield to the liquidated damages clause contained in Paragraph AAA below.

- KK. Jerry E. Adams agrees that he will not hold any position as a volunteer, officer, trustee, representative, or agent of any charitable organization in the State of Ohio following the date this Agreement is signed.
- LL. Jerry Bowen agrees that he will not hold any position as a volunteer, officer, trustee, representative, or agent of any charitable organization in the State of Ohio following the date this Agreement is signed.
- MM. Sherri Donahue agrees that he will not hold any position as a volunteer, officer, trustee, representative, or agent of any charitable organization in the State of Ohio following the date this Agreement is signed.
- NN. Tom Horne agrees that he will not hold any position as a volunteer, officer, trustee, representative, or agent of any charitable organization in the State of Ohio following the date this Agreement is signed.
- OO. Sarah Marie Steward agrees that she will not hold any position as a volunteer, officer, trustee, representative, or agent of any charitable organization in the State of Ohio following the date this Agreement is signed.
- PP. Edward Strader agrees that he will not hold any position as a volunteer, officer, trustee, representative, or agent of any charitable organization in the State of Ohio following the date this Agreement is signed.
- QQ. The Union Club, Inc. and the Union Club of Springfield agree that they will create two separate governing boards. At no time shall more than three individuals serve on both boards.
- RR. The Union Club, Inc. will suspend all bingo activity from Friday, February 15, 2013 through Sunday, February 24, 2013.

- SS. The Union Club, Inc. will amend its bingo operations to comply with R.C. Chapter 2915. In particular, it will enter into an Instant Bingo Fundraising Contract between the Union Club, Inc. and the Union Club of Springfield.
- TT. The Union Club, Inc. and the Union Club of Springfield will not render payment to any person in cash, nor will either organization fail to fill out the appropriate tax filings.
- UU. The Union Club, Inc. and the Union Club of Springfield will remove all electronic gaming machines from the premises. The organizations will not reinstall any electronic gaming machines without first obtaining approval from this Office to install electronic gaming machines.
- VV. The Union Club, Inc. and the Union Club of Springfield will send all of their newly elected board members/trustees to board governance training and bingo school within one month of the February election.
- WW. Within three months of the execution of this Agreement, the Union Club, Inc. and the Union Club of Springfield will engage an accounting firm not previously employed by the Union Club, Inc. or the Union Club of Springfield to conduct an independent audit. Within six months of the execution of this Agreement, the results of that audit will be delivered to the Office of the Attorney General, Charitable Law Section, at 150 East Gay Street, 23rd Floor, Columbus, Ohio 43215, Attn: Meghan K. Fowler. Within one month of receiving the results of the audit, the Union Club, Inc. and the Union Club of Springfield will make a determination as to whether a new accounting firm should be retained. The Union Club, Inc. and the Union Club of Springfield will send a letter to the Office of the Attorney General, Charitable Law Section, at 150 East Gay Street, 23rd

Floor, Columbus, Ohio 43215, Attn: Meghan K. Fowler outlining their determination and their rationale for the determination.

- XX. The Ohio Attorney General, the Union Club, Inc., the Union Club of Springfield, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader agree that this Agreement is made in lieu of prosecution by the Charitable Law Section of the Ohio Attorney General's Office of a criminal, civil, and/or administrative action based upon the allegations set forth herein; based upon the investigation of the Union Club, Inc., the Union Club of Springfield that the Ohio Attorney General conducted into alleged violations of Ohio Charitable Organizations Act, R.C. § 1716.01 *et seq.*, specifically, R.C. § 1716.16(C), the Ohio Charitable Trust Act, R.C. § 109.23 *et seq.*, specifically, R.C. § 109.24, and the Ohio Gambling Act, R.C. § 2915.01 *et seq.*, specifically, R.C. § 2915.08(B); and/or based upon any information resulting from such investigation.
- YY. The Union Club, Inc., the Union Club of Springfield, Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sarah Marie Steward, and Edward Strader agree that any evidence of a violation of this Agreement shall be *prima facie* evidence of a violation of the Ohio Charitable Organizations Act, R.C. § 1716.01 *et seq.*, the Ohio Charitable Trust Act, R.C. § 109.23 *et seq.*, and the Ohio Gambling Act, R.C. § 2915.01 *et seq.*, and any rule adopted thereunder in any subsequent action or proceeding brought by the Attorney General, as provided in R.C. § 1716.16(C), R.C. § 109.24 and R.C. § 2915.08(B).
- ZZ. Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader agree to release, indemnify, and hold harmless, and to forego any civil or

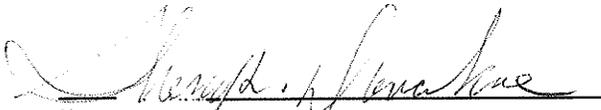
administrative action against, the Union Club, Inc. and the Union Club of Springfield for any alleged activities, actions, and violations that are addressed in this Agreement.

AAA. If the Union Club, Inc. or the Union Club of Springfield fails to comply with the conditions of any provision of this Agreement, the Attorney General may file a Motion to Show Cause for Contempt of Court. In such case, the Court will conduct an evidentiary hearing on the Attorney General's Motion and award damages and other relief as the Court deems appropriate. If the Attorney General demonstrates after a full evidentiary hearing that the Union Club, Inc. or the Union Club of Springfield violated paragraphs DD, EE, FF, GG, HH, II, JJ, QQ, RR, SS, TT, UU, VV, or WW above, the Court will order a judgment in the amount of \$150,000.00 in favor of the Attorney General, which represents a liquidated damages award in lieu of a judicial determination in this action. In any such action, for Contempt of Court for violation of paragraphs DD, EE, FF, GG, HH, II, JJ, QQ, RR, SS, TT, UU, VV, or WW above, the Attorney General need not establish whether or not any damages were appropriately awardable under the claims set forth in his Complaint. In the event that a judgment is obtained against the Union Club, Inc. or the Union Club of Springfield by the Attorney General through contempt proceedings, all funds recovered under a judgment shall be transferred to the Attorney General for redistribution, at the Attorney General's discretion, to nonprofit organization(s). The filing of the Motion to Show Cause for Contempt of Court and resulting imposition of any judgment shall not preclude any other remedies that may be available to the Attorney General for the future activities by the Union Club, Inc. or the Union Club of Springfield

BBB. The Ohio Attorney General, the Union Club, Inc., the Union Club of Springfield. Jerry E. Adams, Jerry Bowen, Sherri Donahue, Tom Horne, Sara Marie Steward, and Edward Strader 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.

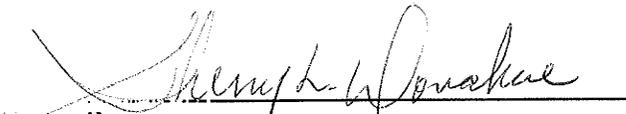
APPROVED BY

THE UNION CLUB, INC.

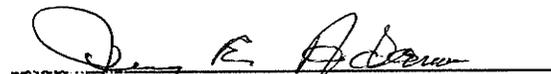

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Date

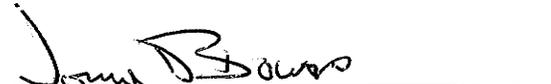
THE UNION CLUB OF SPRINGFIELD, OHIO, INC.


By: _____

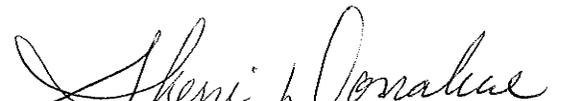
2-5-13
Date


Jerry E. Adams, in his individual capacity

1-31-13
Date


Jerry Bowen, in his individual capacity

1-31-13
Date


Sherri Donahue, in her individual capacity

1-31-13
Date

Tom Horne

Tom Horne, in his individual capacity

Date

1/31/13

Sarah Marie Stewart

Sarah Marie Stewart, in her individual capacity

Date

1/31/13

Edward Strader

Edward Strader, in his individual capacity

Date

1.31.13

OHIO ATTORNEY GENERAL'S OFFICE

Meghan K. Fowler

Meghan K. Fowler (0080775)
Associate Assistant Attorney General
Ohio Attorney General Mike DeWine
Charitable Law Section
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215

Date

2-5-13