

**IN THE CIRCUIT COURT OF ST. LOUIS CITY  
STATE OF MISSOURI**

**STATE OF MISSOURI, ex rel.** )  
**JEREMIAH W. (JAY) NIXON** )  
**Attorney General,** )

**Plaintiff,** )

**vs.** )

**INTERNET DONATIONS, INC.,** )

**and** )

**FRANK WELTNER,** )

**Defendants .** )

**SPECIAL PROCESS SERVER** )  
**REQUESTED** )

**Serve: Internet Donations, Inc.,** )  
**Frank Weltner** )  
**Registered Agent** )  
**6936 Bruno Avenue** )  
**St. Louis, Missouri 63139** )

**and,** )

**Frank Weltner** )  
**6936 Bruno Avenue** )  
**St. Louis, Missouri 63139** )

**Case No:**

**Division:**

**PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION,  
RESTITUTION, CIVIL PENALTIES AND OTHER COURT ORDERS  
WITH APPLICATION WITHOUT NOTICE FOR TEMPORARY RESTRAINING  
ORDER AND AN ORDER FREEZING ACCOUNTS**

COMES NOW State of Missouri as Plaintiff in this action, by and through its Attorney General Jeremiah W. (Jay) Nixon and Assistant Attorney General Mary S. Erickson, and states as follows:

## **INTRODUCTION**

Plaintiff brings this action to restrain and enjoin Defendants from violating Chapter 407 in connection with the solicitation of funds for charitable purposes. Defendants' websites solicit donations to the victims of Hurricane Katrina. Consumers who browse at these websites see the same webpage soliciting contributions. None of Defendants are currently registered with the Attorney General's Office as a charitable organization or as a professional fund-raiser. Soliciting funds for a charitable purpose without maintaining a current registration is a violation of §§ 407.450 to 407.478 of the Missouri Merchandising Practices Act. These registration requirements are designed to protect the public by allowing the State to monitor charitable fund-raising activities. In the aftermath of Hurricane Katrina, protecting the donations to the victims is of paramount to the Missouri Attorney General.

Furthermore, Defendants fail to disclose to consumers that they have not been granted tax exempt status and that, therefore, any contribution made by the consumers is not tax deductible. Defendants omit the material fact that the ultimate company behind the Defendants' websites support white supremacy and that the money raised from the consumers will be only for use to help white victims of the hurricane. These unlawful acts and practices violate § 407.020 of the Merchandising Practices Act.

Plaintiff is seeking a Temporary Restraining Order (TRO) prohibiting Defendants from soliciting for charitable contributions and freezing any assets of Defendants to protect consumers' charitable contributions. Issuing a TRO will protect the public from being induced

to contribute money under false pretenses to organizations that have unlawfully failed to register with the State.

### **PARTIES**

1. Jeremiah W. (Jay) Nixon is the duly elected, qualified, and acting Attorney General of the State of Missouri and brings this action in his official capacity pursuant to Chapter 407, RSMo 2000<sup>1</sup>.

2. Defendant Internet Donations, Inc., is registered with the Missouri Secretary of State as a corporation, having filed its registration on September 2, 2005. Defendant Internet Donations, Inc. lists its address as P.O. Box 3421, Maplewood, Missouri 63139.

3. Defendant Frank Weltner is a natural person who resides 6936 Bruno, St. Louis, MO, 63139. Defendant Weltner is the registered agent of Defendant Internet Donations, Inc.

4. Defendants utilize websites in soliciting charitable contributions.

5. Defendants and their employees, agents, representatives or contractors solicit contributions through their websites, including, but not limited to, the following:

<http://www.katrinafund.name/>  
<http://www.katrinafund.ws/>  
<http://www.neworleanscharities.com/>  
<http://www.donate-katrina.com/>  
<http://www.christiandonations.org/>  
<http://www.parishdonations.com/>  
<http://www.clergydonations.com/>  
<http://www.katrinafamilies.com/>  
<http://www.katrina-donations.com/>

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<sup>1</sup>All references, unless otherwise noted, are to Missouri Revised Statutes 2000.

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<http://www.internetdonations.us/>

<http://www.jewwatch.com/>

<http://www.frankweltner.com/>

6. Any acts of Defendants as alleged in this Petition include the acts of Defendants' employees, agents, or other representatives acting under that Defendants' direction, control or authority.

### **JURISDICTION**

7. The Circuit Court has jurisdiction of this action pursuant to Section § 407.100 of the Merchandising Practices Act which provides as follows:

- (1) Whenever it appears to the attorney general that a person has engaged in, is engaging in or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, he may seek and obtain, in an action in a circuit court, an injunction prohibiting such person from continuing such methods, acts, uses, practices, or solicitation, or any combination thereof, or engaging therein, or doing anything in furtherance thereof.
- (2) In any action under subsection 1 of this section, and pursuant to the provisions of the Missouri Rules of Civil Procedure, the attorney general may seek and obtain temporary restraining orders, preliminary injunctions, temporary receivers, and the sequestering of any funds or accounts if the court finds their funds or property may be hidden or removed from this state or that such orders or injunctions are otherwise necessary.
- (3) If the court finds that the person has engaged in, is engaging in, or is about to engage in any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter, it may make such orders or judgments as may be necessary to prevent such person from employing or continuing to employ, or to prevent the recurrence of, any prohibited methods, acts, uses, practices or solicitations, or any combination thereof, declared to be unlawful by this chapter.
- (4) The court, in its discretion, may enter an order of restitution, payable to the state,

as may be necessary to restore to any person who has suffered any ascertainable loss, including, but not limited to, any moneys or property, real or personal, which may have been acquired by means of any method, act, use, practice or solicitation, or any combination thereof, declared to be unlawful by this chapter. It shall be the duty of the attorney general to distribute such funds to those persons injured.

- (5) The court, in its discretion, may appoint a receiver to insure the conformance to any orders issued under subsection 3 of this section or to insure the payment of any damages ordered under subsection 4 of this section.
- (6) The court may award to the state a civil penalty or not more than one thousand dollars per violation; except that, if the person who would be liable for such penalty shows, by a preponderance of the evidence, that a violation resulted from a bona fide error notwithstanding the maintenance or procedures reasonably adopted to avoid the error, no civil penalties shall be imposed.
- (7) Any action under this section may be brought in the county in which the defendant resides, in which the violation alleged to have been committed occurred, or in which the defendant has his principal place of business.
- (8) The attorney general is authorized to enter into consent judgments or consent injunctions with or without admissions or violations of this chapter. Violation of any such consent judgment or consent injunction shall be treated as a violation under section 407.110.

\_\_\_\_\_8. The Circuit Court also has jurisdiction of this action pursuant to § 407.472.2 of the Merchandising Practices Act which provides as follows:

Whenever it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in any method, use, act, or practice declared to be unlawful by sections 407.450 to 407.478, or when it appears that any funds solicited by or on behalf of any charitable organization are being used, or are about to be used, for any purpose in violation of this chapter or section 576.080, RSMo, he or she may bring an action pursuant to section 407.100 for an injunction prohibiting such person from continuing such methods, uses, acts, or practices, or engaging therein, or doing anything in furtherance thereof. In any action brought by the attorney general pursuant to this subsection all of the provisions of sections 407.100 to 407.140 shall apply thereto.

**VENUE**

9. Venue is proper before this Court pursuant to § 407.100.7 which provides that “[a]ny action under this section may be brought in the county in which the defendant resides, in which the violation alleged to have been committed occurred, or in which the defendant has his principal place of business.”

10. Defendant Internet Donations, Inc. has its principal place of business in St. Louis City, Missouri, 63139.

11. Defendant Frank Weltner resides at 6936 Bruno, in St. Louis City, Missouri, 63139.

12. Some of the violations of the Merchandising Practices Act alleged in this Petition occurred in St. Louis City.

**STATEMENT OF FACTS**

13. From a date unknown, but since at least September 2, 2005, Defendants and their employees, agents, representatives or contractors have solicited contributions for charitable donations for Hurricane Katrina relief.

14. Defendants and their employees, agents, representatives or contractors solicit contributions through various websites, including, but not limited to, the following:

- <http://www.katrinafund.name/>
- <http://www.katrinafund.ws/>
- <http://www.neworleanscharities.com/>
- <http://www.donate-katrina.com/>
- <http://www.christiandonations.org/>
- <http://www.parishdonations.com/>

<http://www.clergydonations.com/>

<http://www.katrinafamilies.com/>

<http://www.katrina-donations.com/>

<http://www.internetdonations.us/>

15. All of the websites listed in the previous paragraph ultimately are linked to <http://www.internetdonations.org/>, the website of Defendant Internet Donations, Inc.

16. None of the Defendants or their websites are registered as a charitable organization or as a professional fund-raiser with the Missouri Attorney General's Office.

17. Defendants are not properly registered as tax exempt entities and hold no tax exempt status.

18. When soliciting charitable contributions, Defendants fail to inform consumers that they are not properly registered as tax exempt entities and hold no tax exempt status.

19. When soliciting charitable contributions, Defendants omit the material fact that consumers' donations are not tax deductible.

20. Upon information and belief, all of Defendants' websites are operated by Defendants Internet Donations, Inc. and Defendant Welkner, and others at Defendants' direction and control.

21. Based upon the review websites [www.jewwatch.com](http://www.jewwatch.com) and [www.frankweltner.com](http://www.frankweltner.com) (which both connect by hyperlink to [www.internetdonations.org](http://www.internetdonations.org)) based upon information and belief, Defendants are associated with and espouse the views of white supremacists.

22. Upon information and belief, Defendants do not intend to utilize any of the

moneys received through charitable solicitations for the benefit of non-white victims of Hurricane Katrina.

23. When soliciting charitable contributions, Defendants omit the material fact that the charitable donations will be used for hurricane relief for white victims only.

#### **MERCHANDISING PRACTICES ACT VIOLATIONS**

24. Plaintiff hereby incorporates by reference all of the allegations contained in Paragraphs 1 through 23 above as those fully set forth herein.

25. Section 407.453 of the Merchandising Practices Act provides the following definitions:

- (1) **“Charitable organization”**, any person as defined in section 407.010 who does business in this state or holds property in this state for any charitable purpose and who engages in the activity of soliciting funds or donations for, or purported to be for, any fraternal, benevolent, social, educational, alumni, historical or other charitable purpose;
- (2) **“Charitable purpose”**, any purpose which promotes , or purports to promote, directly or indirectly, the well being of the public at large or any number of persons, whether such well being is in general or limited to certain activities, endeavors or projects;
- (4) **“Professional fund-raiser”**, any person as defined in section 407.010, who is retained under contract or otherwise compensated by or on behalf of a charitable organization primarily for the purpose of soliciting funds. The term “professional fund raiser” shall not include any bona fide employee of a charitable organization who receives regular compensation and is not primarily employed for the purpose of soliciting funds;
- (6) **“Solicitation”**, any request or appeal, either oral or written, or any endeavor to obtain, seek or plead for funds, property, financial assistance, or other thing of value, including the promise or grant of any money or property of any kind of value for a charitable purpose, but excluding:
  - (a) Direct grants or allocation of funds received or solicited from any affiliated fund raising organization by a member agency; and
  - (b) Unsolicited contributions received from any individual donor,

foundation, trust, government agency or other source, unless such contributions are received in conjunction with a solicitation drive.

26. Section 407.456 provides in pertinent part:
  1. Except for charitable organizations which are exempted under subsection 2 of this section, no charitable organization shall solicit funds in this state, nor employ a professional fund-raiser to solicit funds in this state, for any charitable purpose unless it, and each professional fund-raiser employed by it, have filed all registrations and reports required by sections 407.450 to 407.478.
  
27. Section 407.462 provides in pertinent part:
  1. No charitable organization shall solicit funds in this state, nor employ a professional fund raiser to solicit funds in this state, for any charitable purpose, unless it has filed with the office of the attorney general an initial registration, which shall be sworn under oath and shall be in the form and manner prescribed by the attorney general . . . Amendments to initial registrations shall be filed as prescribed by the attorney general.
  2. In addition to the documents required by subsection 1 of this section, every charitable organization shall, within seventy five days of the close each of its fiscal years ending after the date on which the charitable organization files its initial registration under subsection 1 of this section, file an annual report. Each annual report shall be sworn to under oath, and shall be in the form and shall be filed in the manner prescribed by the attorney general. . . .
  
28. Section 407.466 provides in pertinent part:
  1. No person shall act as a professional fund-raiser for any charitable organization unless he is registered with the attorney general and such registration has not expired or been cancelled. Applications for registration as a professional fund-raiser and renewals thereof, shall be in the form and manner prescribed by the attorney general, and shall be sworn to under oath. All registrations issued to professional fund-raisers shall be effective for a period of one year.

29. Section 407.469 provides in pertinent part:
2. Whenever a solicitation of funds on behalf of a charitable organization is undertaken by a professional fund-raiser, the professional fund-raiser shall disclose that fact to prospective contributors.

30. Section 407.020 of the Merchandising Practices Act provides in pertinent part:

1. The act use or employment by any person of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or the concealment, suppression, or omission of any material fact in connection with the sale or advertisement of any merchandise in trade or commerce or the solicitation of any funds for any charitable purpose, as defined in section 407.453, in or from the state of Missouri, is declared to be an unlawful practice....Any act, use or employment declared unlawful by this subsection violates this subsection whether committed before, during or after the sale, advertisement or solicitation.

31. Pursuant to authority granted in § 407.145, the Attorney General has promulgated rules explaining and defining terms utilized in § 407.020 and § 407.450 to 407.478 of the Merchandising Practices Act. Said Rules are contained in the Missouri Code of State Regulations (CSR). The rules relevant to the Merchandising Practices Act allegations herein include, but are not limited to, the provisions of 15 CSR 60-3.010 to 15 CSR 60-3.140, 15 CSR 60-8.010 to 15 CSR 60-8.090, and 15 CSR 60-9.010 to 15 CSR 60-9.110. These rules are adopted and incorporated by reference.

32. Defendants have violated § 407.450 to 407.478, in connection with the solicitation of funds for a charitable purpose, by:

- a. Soliciting funds in this state for charitable purposes without having filed

all registrations and reports required by sections 407.450 to 407.478 in violation of § 407.456;

- b. Employing a professional fund raiser, through their websites, to solicit funds in this state for a charitable purpose without having filed all registrations and reports required by §§ 407.450 to 407.478 in violation of § 407.456;
- c. Soliciting funds in this state as a charitable organization, for a charitable purpose, without filing an initial registration with the office of the attorney general in violation of § 407.462;
- d. Employing a professional fund-raiser to solicit funds in this state, for a charitable purpose, without filing an initial registration with the office of the attorney general in violation of § 407.462;
- e. Soliciting funds in this state as a charitable organization, for a charitable purpose, without filing an annual report with the office of the attorney general in violation of § 407.462;
- f. Acting as a professional fund raiser for a charitable organization without being registered with the office of the attorney general in violation of § 407.466;

33. Defendants, acting alone or acting in concert with others, have engaged in methods, acts, uses and practices of deception, fraud, false pretenses, false promise,

misrepresentation, unfair practice, and the concealment, suppression and omission of material facts in connection with the advertisement charitable solicitations, all in violation of § 407.020, RSMo, for reasons including, but not limited to, the following:

- a. The concealment, suppression, and omission of the material fact that Defendants are not properly registered as tax exempt entities and hold no tax exempt status.
- b. The concealment, suppression, and omission of the material fact that consumers' donations made to Defendants are not tax deductible.
- c. The concealment, suppression, and omission of the material fact that Defendants do not intend to utilize any of the moneys received through charitable solicitations for the benefit of non-white victims of Hurricane Katrina.
- d. The concealment, suppression, and omission of the material fact that Defendants that the charitable donations will be used for hurricane relief for white victims only.
- e. Engaging in the unfair practice of soliciting charitable donations which will be used for hurricane relief for white victims only.

**BASIS FOR TEMPORARY RESTRAINING ORDER**

34. Plaintiff hereby incorporates by reference all of the allegations contained in Paragraphs 1 through 33 above as those fully set forth herein.

\_\_\_\_\_35. Based on knowledge and belief, Defendants and their representatives, agents or employees have engaged in numerous violations of the Missouri Merchandising Practices Act, and are likely to engage in more violations of such Act in connection with the solicitation of funds for charitable purposes.

36 Plaintiff seeks an immediate Temporary Restraining Order to protect the public from losing money to unregistered organizations, whose representatives falsely identify themselves as tax exempt entities when soliciting for charitable contributions.

37. Once a determination has been made that a defendant has engaged in a practice unlawful pursuant to Chapter 407, potential harm to the public is presumed for purposes of obtaining injunctive relief under Chapter 407.

38. Sections 407.100 and 407.472 provide this Court with the authority to issue a Temporary Restraining Order and to fashion appropriate remedies necessary to grant relief in actions brought under the Merchandising Practices Act.

39. Irreparable harm is not a prerequisite to issuing a Temporary Restraining Order pursuant to Chapter 407. Nevertheless, Plaintiff will suffer irreparable harm if the Temporary Restraining Order is not issued because innocent consumers will continue to be solicited for charitable contributions and will stand to lose money to these unregistered organizations.

40. Although not a prerequisite for the issuance of a Temporary Restraining Order pursuant to Chapter 407, Plaintiff has no adequate remedy at law.

**RELIEF**

WHEREFORE, Plaintiff prays this Court to order the following relief:

1. An Order of this Court finding that the Defendants have violated the provisions of § 407.020 and §§ 407.450 to 407.478.

2. A Temporary Restraining Order, Preliminary and Permanent Injunction issued pursuant to § 407.100 and § 407.472, prohibiting and enjoining Defendants and their agents, servants, employees, representatives and other individuals acting at their direction or on their behalf, who have notice of the Injunction, from violating § 407.020 and §§ 407.450 to 407.478, through the use of any of the unlawful, unfair and deceptive acts and practices alleged herein.

3. An Order issued pursuant to § 407.100 and § 407.472 freezing the accounts of Defendants during the pendency of litigation in order to protect consumers' charitable contributions and to provide the relief sought by the State.

4. An Order of this Court, issued pursuant to § 407.100.4, requiring Defendant, jointly and severally, to provide full restitution to all consumers from whom Defendants have received monies who have been aggrieved by the use of any of the unlawful, unfair and deceptive acts and practices alleged herein.

5. An Order of this Court, issued pursuant to § 407.100.6, awarding the State a civil penalty from Defendants, jointly and severally, of One Thousand Dollars (\$1,000.00) per violation of § 407.020, that the Court finds to have occurred.

6. An Order of this Court, issued pursuant to § 407.140.3, ordering Defendants,

jointly and severally, to pay to the State an amount of money equal to ten percent (10%) of the total restitution ordered against said Defendants, or such other amount as the Court deems fair and equitable.

7. An Order of this Court, issued pursuant to § 407.130, requiring the Defendants, jointly and severally, to pay all court and investigative and prosecution costs of this case.

8. Any further relief the Court deems just and equitable in this action.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON  
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ATTORNEYS FOR PLAINTIFF

**VERIFICATION**

I, Rex M. Burlison, upon my oath state that the allegations contained in this Petition are true and accurate to my best belief and knowledge.

\_\_\_\_\_  
Rex M. Burlison

Subscribed and sworn to before me this 7<sup>th</sup> day of September 2005

\_\_\_\_\_  
Notary Public

My Commission Expires: