

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MARY BLEICK, *et al.*

Plaintiffs,

v.

SHERYL MAXFIELD, *in her official capacity
as Director of Commerce, et l.*

Defendants.

Case No. 2:25-cv-01140

Judge Algenon L. Marbley

Magistrate Judge Elizabeth Preston Deavers

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION PURSUANT TO CIV. R.
65(a)(1) AND NOTICE AND MOTION FOR TEMPORARY RESTRAINING ORDER
PURSUANT TO CIV. R. 65(b)(1)**

Plaintiffs Mary Bleick, Todd Butler, Allen Skierski and Gary Petrine, individually and on behalf of all others similarly situated (collectively “Plaintiffs”), hereby move this Court for an Entry for a Preliminary Injunction pursuant to Civ. R. 65(a)(1) related to Defendants, Sheryl Maxfield, in her official capacity as the Director of Commerce, Akil Hardy, in his official capacity as the Superintendent of the Division of Unclaimed Funds, Robert Sprague, in his official capacity as Treasurer of the State of Ohio, and Joy Bledsoe, in her official capacity as Executive Director of the Ohio Facilities Construction Commission (collectively “Defendants”), prohibiting any action to transfer any of the funds held in the Ohio Unclaimed Funds Trust Fund scheduled to begin as of January 1, 2026.

Plaintiffs alternatively move this Court for a Temporary Restraining Order pursuant to Civ. R. 65(b)(1) prohibiting the Defendants from transferring any funds held in the Ohio

Unclaimed Funds Trust Fund as contemplated by the passage of H.B. 96 scheduled to begin as of January 1, 2026.

The reasons for Plaintiffs' Motion are more fully contained in the foregoing Memorandum in Support attached hereto. A copy of the proposed order is attached pursuant to Civ. R. 65(d)(1).

**PURSUANT TO LR 65.1 THIS MATTER SHALL BE HEARD IN FRONT OF
JUDGE ALGERNON L. MARBLEY, UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO, EASTERN DIVISION, 85 MARCONI
BOULEVARD, ROOM 323, COLUMBUS, OH 43215 ON A DATE SELECTED BY THE
COURT.**

Respectfully Submitted,

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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MARY BLEICK, TODD BUTLER,
ALLEN SKIERSKI, and GARY PETRIME
as individuals, and on behalf of other
persons similarly situated,

Plaintiffs,

v.

SHERYL MAXFIELD, in her official
capacity as Director of Commerce at the
Department of Commerce of the State of
Ohio, AKIL HARDY, in his official
capacity as the Superintendent of the Ohio
Division of the Unclaimed Funds,
ROBERT SPRAGUE, in his official
capacity as Treasurer of the State of Ohio,
and JOY BLEDOSE, in her official
capacity as Executive Director of the Ohio
Facilities Construction Commission

Defendants.

Case No.: 2:2025-cv-1140

**MEMORANDUM IN SUPPORT OF
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

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Plaintiffs Mary Bleick, Todd Butler, Allen Skierski, and Gary Petrine bring this action on behalf of themselves and all others similarly situated (the putative “Class”) against Sheryl Maxfield, in her official capacity as Director of Commerce at the Department of Commerce of the State of Ohio (“Director”), Akil Hardy, in his official capacity as the Superintendent of the Ohio Division and Trustees of the Unclaimed Funds, Robert Sprague, in his official capacity as Treasurer of the State of Ohio, and Joy Bledose, in her official capacity as Executive Director of the Ohio Facilities Construction Commission (collectively, “Defendants”).

I. INTRODUCTION

Plaintiffs seek a temporary restraining order and a preliminary injunction based on two primary constitutional grounds. First, Defendants’ current scheme to seize yet unclaimed funds, as outlined below, seeks to fundamentally alter Ohio’s unclaimed funds trust, which is codified in the Ohio Revised Code, Chapter 169, *et seq.* (“UFTF”).

Prior to the passage of House Bill 96 during Ohio’s 136th General Assembly (“HB 96”) on June 30, 2025, the UFTF functioned as a trust account to hold personal property belonging to individual Ohioans, municipalities, businesses, citizens in other states and countries around the world. With the passage of HB 96, the State’s biennium budget legislation, the State amended Chapter 169 of the Ohio Revised Code directing the State to ***confiscate*** and to ***assume ownership*** rights over the trust corpus to fund a private football stadium for the Cleveland Browns.

As signed by the Governor, HB 96 requires the confiscation of private property held in the UFTF starting January 1, 2026, and on a continuing basis going forward. As a result, approximately \$600,000,000 of the approximate \$4.8 Billion currently in the UFTF will permanently “escheat to the State” on January 1, 2026, without notice to the property owners,

including property belonging to Plaintiffs and members of the putative Class. Amendment to R.C. 169.08(I)(1) set forth in HB 96, p. 406, which in relevant part:

(I)(1) Unclaimed funds and interest earned thereon that are first reported to the director under section 169.03 of the Revised Code on or before January 1, 2016, are deemed abandoned and escheat to the state on January 1, 2026, if no valid claim is filed by the owner or another person claiming a right to payment on or before that date.

This action contravenes Ohio's constitutional protections, as articulated in *City of Norwood v. Horney*, 110 Ohio St. 3d 353 (2006) ("*City of Norwood*"), which prohibits takings for private purposes, and *Sogg v. Zurz*, 121 Ohio St. 3d 449 (2009) ("*Sogg*"), which affirms that unclaimed funds remain private property and deserving of constitutional protections. Ohio case law, including *State ex rel. Ohio Acad. of Trial Lawyers v. Sheward*, 86 Ohio St. 3d 451 (1999), further supports the invalidity of such legislative overreach, particularly when the legislature violates the Ohio Constitution's single-subject rule. In short, the approximately \$4.8 billion presently in the UTTF- reveals the inefficiency of the Ohio Division of Unclaimed Funds and its gross failure to reunite the rightful owners of this property with their money.

The second constitutional issue is the Defendants' utter lack of pre-deprivation notice to property owners in direct violation of the Due Process Clause of the Fourteenth Amendment, as established by the Supreme Court's precedents in *Jones v. Flowers*, 547 U.S. 220 (2006) ("*Jones*") and *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) ("*Mullane*"). Citizens are not notified that their private property is taken by the State.

In *Mullane*, the Supreme Court held that notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane*, 339 U.S. at 314, *supra*. The State of Ohio's reliance on generic advertisements addressed to no one in particular directing the general public

to a dysfunctional website falls far short of this standard. As noted in the supporting Declaration of expert witness Jan Peters in support of this Motion (“Peters Decl.”), the State’s website is inoperative, and provides only post-deprivation notice, rendering it ineffective under *Mullane* and *Jones*. In *Jones*, the Supreme Court emphasized that when initial notice attempts fail, the state must take “additional reasonable steps” to notify owners before seizing the property. *Jones* 547 U.S. at 225, *supra*. Furthermore, Ohio’s practice of falsifying addresses and failing to use available databases (e.g., DMV records) also violates this obligation. *See* Peters Decl., at ¶¶ 4, 5, 17, pp. 2, 8 (use of “00000” zip code, etc.)

The end result is that Ohioans (and the citizens of other states and countries) must now “race the clock” in an attempt to recover their property. These owners were not told that the State intended to take their property and these individuals certainly were not notified that their ownership rights in the property would be permanently extinguished to fund a private football stadium, violating constitutional requirements of notice and due process in the first place. Defendants’ unconstitutional conduct fundamentally alters the property rights of Ohioans and others with claims to private property in the UFTF.

II. STATEMENT

A. Statutory Background

Traditionally, abandoned property statutes (aka “escheatment”) applied to real property and tangible personal property belonging to persons who died intestate with no descendent, relative, or other valid claimant to the estate. In these situations, the property truly was abandoned and ownerless (*bona vacantia*). *See Taylor v. Westly*, 402 F.3d 924, 933 (9th Cir. 2005) (“*Taylor I*”) (citing Cornelius J. Moynihan, *Law of Real Property* 21 (1962) and IV James Kent, *Commentaries on American Law* 419 (1830)). In the mid-twentieth century states began to expand unclaimed property laws to include certain types of intangible property, including, in

particular, unclaimed bank deposits and brokerage accounts. Some state governments subsequently realized that unclaimed intangible property represented a tempting source of revenue, but Ohio maintained its unclaimed property fund as a “trust account” until recently.

In passing HB 96, ostensibly the State’s budget bill, the State Legislature included the wholly unrelated yet fundamental change in Ohio law to authorize the confiscation of the private property held in trust for the owners in the UFTF to fund a private sports stadium for the Cleveland Browns football team, which contemplates no notice to owners or compensation for the permanent taking of their property.

As Supreme Court Justice Alito observed:

“This trend—combining shortened escheat periods with minimal notification procedures—raises important due process concerns. As advances in technology make it easier and easier to identify and locate property owners, many States appear to be doing less and less to meet their constitutional obligation to provide adequate notice before escheating private property. Cash-strapped States undoubtedly have a real interest in taking advantage of truly abandoned property to shore up state budgets. But they also have an obligation to return property when its owner can be located. To do that, States must employ notification procedures designed to provide the pre-escheat notice the Constitution requires.”

Taylor v. Yee, 136 S. Ct. 929, 930 (2016)

(Alito, J., joined by Thomas, J., concurring in the denial of certiorari).

Ohio’s HB 96 authorized the permanent confiscation of unclaimed funds without any direct notice to property owners and now forces property owners like Plaintiffs to “race the clock” to reclaim their property before the State takes permanent ownership of the Plaintiff’s property on January 1, 2026. Defendants’ utter failure and/or refusal to notify owners, despite maintaining databases containing information sufficient to do so, exacerbates the due process violation, as owners are unaware of the imminent loss of their property rights. These same owners never received any notice in the first instance that their property was to be seized, sold, and destroyed for deposit of the UFTF. Defendants provided no constitutional notice at the initial

seizure; made little to no effort to reunite the owners with their private property; and now propose to use the private owners' property to build a private football stadium, once again, with no notice to the true owners. This conduct violates the very nature of the fundamental constitutional protections offered for private property in both the federal and state Constitutions. *See Lynch v. Household Finance Corp.*, 405 U.S. 538, 552 (1972) (“...a fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.”) (citing J. Locke, *Of Civil Government*, at page 82–85 (1924)).

Ohio case law supports the necessity of actual and robust notice. The Ohio Supreme Court recognized that unclaimed funds are private property held in trust, not state property, and cannot be used for state purposes without violating owners' rights. *Sogg*, 121 Ohio St. 3d at 453 *supra*. The Court's reasoning aligns with the U.S. Supreme Court's insistence on meaningful notice to protect property interests. *See Jones*, 547 U.S. at 228, *supra*; *Mullane*, 339 U.S. 306, *supra*. As Justices Alito and Thomas noted in *Taylor v. Yee*, 136 S. Ct. at 930, *supra*, states are “doing less and less to meet their constitutional obligation” to reunite owners with their property.

In *City of Norwood*, the Ohio Supreme Court held that takings for private economic development, absent a clear public purpose, violate Article I, Section 19 of the Ohio Constitution. *City of Norwood*, 110 Ohio St. 3d 353, *supra*. The State's High Court emphasized that “economic benefits to the government and community, standing alone, do not satisfy the public-use requirement.” *Id.* Ohio's diversion of unclaimed funds to a private venture lacks *any* public purpose, as confirmed by the Legislative Service Commission's analysis, which found “little to no tangible impacts” from publicly funded stadiums.¹

¹ Ohio Legislative Service Commission, *Fiscal and Constitutional Analysis of H.B. 96: Major Sports Facility Bonds*, Memorandum R-136-1110, at 7 (Mar. 2025) (“The overwhelming conclusion from

Ohio courts have consistently protected property rights against takings for private benefit. *In State ex rel. Ohio History Connection v. Moundbuilders Country Club Co.*, 171 Ohio St. 3d 518 (2022), the Ohio Supreme Court reaffirmed that takings must serve a **legitimate** public purpose, not merely economic gain for private entities. Similarly, in *State ex rel. Duncan v. Mentor City Council*, 105 Ohio St. 3d 372 (2005), the Court invalidated a taking that primarily benefited a private developer, emphasizing the sanctity of private property under Ohio law. These precedents align with the United States Supreme Court’s holding in *Kelo v. City of New London*, 545 U.S. 469, 477-78 (2005), which permits takings only for a clear public purpose, not pretextual economic benefits. A mere recitation that a taking is for a public purpose is insufficient to shield an otherwise unconstitutional taking where no such purpose actually exists. *Id.* And, Ohio’s HB 96 violates the Ohio Constitution’s single-subject rule, Article II, Section 15(D), by embedding a controversial property seizure provision in a general budget bill.

The UFTF is a custodial trust established under Ohio Revised Code Chapter 169 to **safeguard** private property until its rightful owner is located and claims it, which has made Ohio’s unclaimed property statute different than an “abandoned property” statute. For decades, Ohio law and precedent, including *Sogg*, 121 Ohio St.3d 449, *supra*, have recognized that these funds “are not abandoned; they are the property of their owner.” *Id.*, at 453. HB 96 forces the radical departure from this framework by authorizing, for the first time, state confiscation and permanent escheatment of billions of dollars in funds formerly held in trust for the unrelated purpose of financing a privately controlled sports stadium and other non-custodial projects. This statutory scheme not only extinguishes vested property rights without individualized notice or compensation but also converts a fiduciary trust into a political slush fund – an unprecedented

this body of research is that there are little to no tangible impacts of sports teams and facilities on local economic activity.”).

maneuver that violates both the Takings Clause and Due Process guarantees under the U.S. and Ohio Constitutions.

B. The UFTF's Constitutionally Inadequate and Non-Existent Pre-Deprivation Notice

The UFTF imposes the following key requirements: (1) Holders of unclaimed funds must report the unclaimed funds to the director of commerce, providing details such as the owner's name, last known address, nature and description of the funds, and the amount owed. (2) For unclaimed funds worth \$50 or more, the holder must send a notice to the last known address of the owner before filing the report, informing them that the funds will be reported as unclaimed unless the owner responds within 30 days. (3) The notice must be sent by first-class mail for funds worth \$50 to \$999, and by certified mail for funds worth \$1,000 or more, unless the holder has verified that the last known address is inaccurate. R.C. 169.03.

This form of notice sent to knowingly stale addresses is unconstitutional. In *Jones*, 547 U.S. at 228, *supra*, the Supreme Court cites *Plemons v. Gale*, 396 F.3d 569, 577-578 (2005) ("*Plemons*"), which in turn held:

"[I]t is, at the very least, reasonable to require examination (or reexamination) of all available public records when initial mailings have been promptly returned as undeliverable. . . . 'Extraordinary efforts typically describe searches *beyond* the public record, not searches *of* the public record.'"

Plemons, 396 F.3d at 577 (citations omitted) (emphasis in original).

But Ohio makes no effort to search readily available public records to locate the owner and to provide the best possible notice to them. This situation has led to millions of citizens in Ohio to be listed as "lost and unknown" including such "unknown" persons like NBA players LeBron James and Tristan Thompson, comedian Dave Chappelle, Ohio's Governor Mike DeWine, Senator Jon Husted, and even Ohio Attorney General David Yost. Millions of Ohioans

(and other citizens outside Ohio) are listed as “lost” and “unknown” for purposes of seizing their property like insurance proceeds, wages, stocks, bank accounts, contents of safe deposit boxes, pensions, etc., as “unclaimed property” even while these same Ohioans continue to pay property and income taxes, registering their automobiles at the DMV, attending state universities, voting in elections, etc. When the State seeks payment on a \$50 parking ticket, it has no problem locating these citizens, but when it must return \$50 to the same citizen under a statute that requires the State to “reunite” that same citizen with his private property, he is inexplicably lost and unknown to the same state officials.

HB 96 now authorizes the State to permanently deprive owners of their property rights by forcing an escheatment and diversion of unclaimed funds beginning January 1, 2026, yet Plaintiffs and the putative Class received no constitutional notice at the point of original seizure and now will receive no direct notice of this impending permanent forfeiture. The Division of Unclaimed Funds maintains a purportedly searchable database of owners, but the existence of a website does not provide any individualized communication or convey any constitutional notice. Moreover, filing a claim with the Division is no guaranty that the State will ever reunite the property owner with their property. Regardless, Defendants continue to rely on a broken public website that does not list all owners and offers no guarantee that affected individuals will ever discover their property. *See* Peters Decl., at 8, p. 3. The Constitutional burden is shifted by Defendants to the property owners to search a broken website when they are not told by the government that their property is about to be seized. *Id.* This omission violates the standard articulated in *Mullane, supra*, which requires notice “reasonably calculated, under all the circumstances, to apprise interested parties” before deprivation, and *Jones, supra*, which mandates additional steps when the State knows initial notice is ineffective.

Here, the State knows the identities of its citizens yet provides no direct outreach – no letters, emails, or other targeted notices – despite the clear statutory and constitutional mandate to do so and the imminent statutory cutoff. *See Mennonite Bd. of Missions v. Adams*, 462 U.S. 791 (1983) (“*Mennonite*”). Ohio’s scheme mirrors the deficiencies condemned in other jurisdictions (discussed *infra*): reliance on passive, ineffective methods and post-deprivation remedies does not satisfy due process.

“[O]nce property has been deemed abandoned, the holder turns it over to the state while the original property owner still maintains the right to the property.” *Am. Express Travel Related Servs. v. Sidamon-Eristoff*, 669 F.3d 359, 365 (3d Cir. 2012). Thus, although the property is transferred to the state, the Director holds the presumably abandoned property in trust until claimed by the owner or the owner’s successor in interest. Ohio Rev. Code Ann, § 169.05. Defendants act in the capacity of a trustee and custodian of private funds, and the actions outlined in this brief are a clear breach of the fiduciary duties owed to the private property owners who are the beneficiaries of the UTF.

C. The UTF’s Constitutionally Inadequate Post-Deprivation Notice

After property is transferred to the Director by holders, the UTF continues to deny owners meaningful notice, even after they have been deprived of their property providing notice in a limited fashion as follows:

“Before the first day of November of each year immediately following the calendar year in which the filing of reports is required by section 169.03 of the Revised Code, the director of commerce shall cause notice to be published once in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice required by this section. The notice may be published in print or electronic format. If no address is listed, the notice shall be published in the county in which the holder of the unclaimed funds has its principal place of business within this state; or if the holder has no principal place of business within this state, publication shall be made as the director determines most effective. If the address is outside this state, notice shall be published in a newspaper of general

circulation in the county or parish of any state in the United States in which such last known address is located. If the last known address is in a foreign country, publication shall be made as the director determines most effective.”

Ohio Rev. Code Ann. § 169.06

Moreover, the state’s “unclaimed funds” website fails to provide the constitutionally required notice before property rights are disturbed. Such an approach to notice shifts the burden from the government to the owners to ferret out the information on their property after it has been seized by the Director. Yet it defies common sense to expect citizens of other states or other countries, who have property in the UTTF, to search an Ohio website when they and their property have no real nexus with Ohio. *See Hanson v. Denckla*, 357 U.S. 235 (1958).

Moreover, the website is rife with technical limitations, and the UFTF does not require the state to post the value of the property on the website (or even a range of values). *See Peters Decl.*, at 20, p. 8. As a practical matter, the website is broken and unsearchable, contains partial names and no detailed property information. *Id.*, at 8, p. 3.

In theory, claimants may submit claim forms seeking the return of certain types of property by mail or online.² However, it is difficult or impossible for owners to reclaim their property because (a) the unsearchable public website hides the identifying information from the owner (*see Peters Decl.* at 18, p. 8); (b) there is no legal constitutional claims process in place; and (c) the Director fails to verify owner information with the other State of Ohio databases. This is especially true if the property is listed with last name first or if the name is misspelled or abbreviated or if a nickname is used (such as “Bill” for “William” or “Dave” for “David”), or if the property is listed by the name of the institution holding it, rather than the individual owner. *See Peters Decl.* at 6.

² *See* Ohio’s Department of Commerce Division of Unclaimed Funds found at: <https://unclaimedfunds.ohio.gov/> (last visited Oct. 30, 2025).

Moreover, with no notice, many individuals are unaware that their property has been transferred to the Department of Commerce of the State of Ohio or of the procedure for seeking its return. And the property owners have no knowledge that the property they were never told was seized is now to be permanently taken with no notice whatsoever. Accordingly, property owners are highly unlikely to avail themselves of this procedure, and, in fact, only a small portion of seized property is ever returned. Further, the Division of Unclaimed Funds may reject claims if, for example, Defendants may arbitrarily deem documentation inadequate based on the unpublished or verbal claim procedures. As a practical matter, the private property is often sold, liquidated, or destroyed before limited information is ever posted to the state's website.

III. LEGAL STANDARD

It is well-settled that district courts evaluating requests for preliminary injunctive relief must consider four interrelated criteria: (1) Whether the plaintiffs have shown a strong or substantial likelihood or probability of success on the merits; (2) Whether the plaintiffs have shown irreparable injury; (3) Whether the issuance of a preliminary injunction would cause substantial harm to others; (4) Whether the public interest would be served by issuing a preliminary injunction. *N.A.A.C.P. v. City of Mansfield*, 866 F.2d 162, 166 (6th Cir. 1989). The first two prongs are “gateway factors” or prerequisites to be “balance[d]” against the remaining prongs. *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017). When the State is a defendant, the preliminary injunction factors of harm to the opposing party and public interest are combined. *See Nken v. Holder*, 556 U.S. 418, 435 (2009).

The standard for issuing a temporary restraining order is logically the same as for a preliminary injunction with emphasis, however, on irreparable harm given that the purpose of a temporary restraining order is to maintain the status quo. *See ABX Air, Inc. v. Int'l Bhd. of*

Teamsters, 219 F. Supp. 3d 665, 670 (S.D. Ohio 2016), citing *Motor Vehicle Bd. of Calif. v. Fox*, 434 U.S. 1345, 1347, n.2 (1977).

IV. ARGUMENT

Today, and each day until Plaintiffs prevail on the merits in this case, Defendants will continue to violate the constitutional rights of property owners. Irreparable harm will continue until Defendants' unconstitutional actions cease. Private property is seized each day under the defective property seizure and revenue scheme outlined in these pages. Each of the Plaintiff citizens in this case have standing to bring this Action. *See* Declarations of Mary Bleick ("Bleick Decl."), Todd Butler ("Butler Decl."), Allen Skierski ("Skierski"), and Gary Pettime ("Petime Decl.") in Support of this Motion. Accordingly, this Court should enter an order of prospective declaratory and injunctive relief against Defendants to halt the unnoticed property seizure program including the permanent escheatment of the Trust to fund the new football stadium.

A. Plaintiffs Are Likely to Succeed on The Merits.

In order to demonstrate that there is a likelihood they will prevail on the merits, the movants must show that it has a "reasonable probability that it will prevail on the merits." *Hall v. Edgewood Partners Ins. Ctr., Inc.*, 878 F.3d 524, 527 (6th Cir. 2017) ("As long as there is some likelihood of success on the merits, these factors are to be balanced, rather than tallied."). A finding that the movant has not established a strong probability of success on the merits will not preclude a court from exercising its discretion to issue a preliminary injunction, where the movant has at minimum shown serious harm which decidedly outweighs any potential harm to the defendant if the injunction is issued. *See Gaston Drugs, Inc., v. Metropolitan Life Ins., Co.*, 823 F.2d 984, 988, n.2 (6th Cir. 1987)

Plaintiffs have asserted two primary constitutional claims in this case based on violations of Due Process and Takings Clauses and they have a strong likelihood of success under each. In *Taylor v. Westly*, 488 F.3d 1197 (9th Cir. 2007) (“*Taylor II*”), the U.S. Court of Appeals for the Ninth Circuit ordered a preliminary injunction to issue under similar circumstances.³ The District Court’s thoughtful Order followed. See *Taylor v. Chiang*, 2007 WL 1628050, *2 (E.D. Cal. June 1, 2007). In addition, Plaintiffs have a strong likelihood of success on their claim for breach of fiduciary duty against Defendant Maxfield in her capacity as trustee over the private property in her custody.

1. Plaintiffs Have A Strong Likelihood of Success Under The Due Process Clause of The Fourteenth Amendment.

It is black-letter law that *before* any deprivation of property, the Due Process Clause requires a state to provide the property owners “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane*, 339 U.S. at 314, *supra*.

In *Mullane*, the Supreme Court held that notice by newspaper publication was insufficient with respect to known present beneficiaries of a trust and did not satisfy due process. The Court opined that “process which is a mere gesture is not due process,” but rather the “means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it.” *Id.* at 315. *Mullane* explicitly held that the kind of notice employed by Ohio as *post-deprivation* notice is constitutionally inadequate:

“It would be idle to pretend that publication alone as prescribed here, is a reliable means of acquainting interested parties of the fact that their rights are before the courts. It is not an accident that the greater number of cases reaching this Court on the question of adequacy of notice have been concerned with actions founded on

³ The link to the emergency oral argument held by the Ninth Circuit Panel in Seattle, Washington (Judges R. Beezer, A. Kleinfeld, M. Hawkins) on a federal holiday in *Taylor II* is found at: <https://www.ca9.uscourts.gov/media/audio/?20060731/05-16763/>.

process constructively served through local newspapers. Chance alone brings to the attention of even a local resident an advertisement in small type inserted in the back pages of a newspaper, and if he makes his home outside the area of the newspaper's normal circulation the odds that the information will never reach him are large indeed. The chance of actual notice is further reduced when as here the notice required does not even name those whose attention it is supposed to attract, and does not inform acquaintances who might call it to attention. In weighing its sufficiency on the basis of equivalence with actual notice we are unable to regard this as more than a feint.”

Id.

In this case, ***there is no pre-deprivation notice at all.*** Thus, the due process question presented here is even simpler than the issue in *Mullane*. Defendants seize private property under the UFTF with ***no prior notice whatsoever.*** Plaintiffs and Class members, who have other private property at risk of seizure, received no notice at all before their property was unconstitutionally seized by Defendants under the UFTF, even though their names and addresses were readily ascertainable. *See* Bleick Decl., Butler Decl., Skierski, and Petrine Decl. Even today, persons whose property is valued at less than \$50 are not entitled to any direct notice before or after Ohio seizes that property. *See* R.C. 169.03.

The UFTF violates basic principles of due process. “The right to prior notice” – ***before*** the State seizes or appropriates property – “is central to the Constitution’s command of due process.” *United States v. James Daniel Good Real Property*, 510 U.S. 43, 53 (1993). “The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment – to minimize substantively unfair or mistaken deprivations of property... .” *Fuentes v. Shevin*, 407 U.S. 67, 80–81 (1972) (“*Fuentes*”). Therefore, “actual notice is a minimum constitutional precondition to a proceeding which will adversely affect the liberty or property interests of *any* party.” *Tulsa Pro. Collection Servs., Inc. v. Pope*, 485 U.S. 478, 485 (1988) (citation omitted)

(emphasis in original). The complete absence of pre-deprivation notice to Plaintiffs and members of the putative Class makes this case an easy one.

Even temporary or custodial seizures are subject to due process review. In *Connecticut v. Doehr*, 501 U.S. 1 (1991), for example, the Supreme Court held that a state statute authorizing prejudgment attachment of real estate without prior notice or hearing was unconstitutional, in the absence of extraordinary circumstances, even though the attachment did not interfere with the owner's use or possession and did not affect, as a general matter, rentals from existing leaseholds. "[E]ven the temporary or partial impairments to property rights that such encumbrances entail are sufficient to merit due process protection." *Id.* at 12; *see also Fuentes*, 407 U.S. at 86, *supra* ("The Fourteenth Amendment draws no bright lines around three-day, 10-day or 50-day deprivations of property. Any significant taking of property by the State is within the purview of the Due Process Clause."); *N. Ga. Finishing v. Di-Chem, Inc.*, 419 U.S. 601, 606 (1975) (state garnishment statute subject to constitutional due process where plaintiff's property "was impounded"); *Resnick v. KrunchCash, LLC*, 34 F.4th 1028, 1035 (11th Cir. 2022) (holding that temporary freeze on borrowers' bank accounts without prior notice amounted to deprivation of due process property interest; "even a temporary or partial deprivation of property without proper notice or a hearing violates due process").

These rules apply even when the State has an interest in the revenue generated by the seizure. In *Jones*, 547 U.S. 220, *supra*, the Supreme Court reaffirmed that "[b]efore a state may take property and sell it for unpaid taxes, the Due Process Clause of the Fourteenth Amendment requires the government to provide the owner 'notice and opportunity for hearing appropriate to the nature of the case.'" *Id.*, at 223 (emphasis added and quoting *Mullane*, 339 U.S. at 313, *supra*). The Court held that even where a property owner had failed to pay his taxes, the

government could not seize his property without providing meaningful pre-deprivation notice. *Id.* at 233 (“Jones’ failure to pay his taxes in a timely manner cannot by itself excuse inadequate notice.”). In *Jones*, Chief Justice Roberts, writing for the Supreme Court, reasoned that a State may not rely solely on mailed notice “when the government learns its attempt at notice has failed.” *Jones*, 547 U.S. at 227, *supra*. The Supreme Court concluded:

“There is no reason to suppose that the State will ever be less than fully zealous in its efforts to secure the tax revenue it needs. The same cannot be said for the State’s efforts to ensure that its citizens receive proper notice before the State takes action against them.”

Id. at 239.

And even property with a small value is entitled to due process protection. In *Fuentes*, for example, the Supreme Court held that the loss of household goods (including clothes, furniture, and children’s toys) was significant enough to warrant a pre-deprivation hearing. *Fuentes*, 407 U.S. at 72, *supra*. *Sniadach v. Family Fin. Corp. of Bay View*, 395 U.S. 337, 338-339 (1969), involved a \$34 garnishment that the Supreme Court held invalid for lack of prior notice, even though the garnishment would be “unfrozen” if the wage-earner prevailed in a subsequent proceeding. .

First, the broken “searchable” website conveys no notice whatsoever and offers only *post-deprivation* notice *after* the State has already seized the property. *See* Peters Decl., at 23, p. 9. That is unconstitutionally inadequate and improperly puts the onus on the public to find and search a website for the proceeds of their property, if they happen to believe it has been taken by the State. The Ninth Circuit held:

“The Controller's own advertisement admits that it is not the notice required by state law, and is instead something ‘in lieu’ of lawful notice. And the Controller has conceded, according to the complaint, that she discontinued trying to find owners, or even listing their names in the published notices of escheat, because she lacked funding, not because the law does not require individualized notice. There is no ‘lack of funding’ exception to the *Due Process Clause*.”

Taylor I, 402 F.3d 924, *supra*; *see also Suever v. Westly*, 439 F. 3d 1142 (9th Cir. 2006; *James Daniel Good Real Property*, 510 U.S. at 54, *supra* (“All that the seizure left [the property owner], by the Government’s own submission, was the right to bring a claim for the return of title at some unscheduled future hearing”). In *Mennonite*, 462 U.S. 791, *supra*, the Supreme Court held that a “party’s ability to take steps to safeguard its interests does not relieve the State of its constitutional obligation” to provide meaningful pre-deprivation notice. *Id.* at 799. Similarly, *Fuentes* 407 U.S. at 85 held that “a temporary, nonfinal deprivation of property is nonetheless a ‘deprivation’ in the terms of the Fourteenth Amendment,” even where a statute “include[s] recovery provisions” allowing the property owner to reclaim the property.

The Ohio Constitution specifically requires compensation *before* the State may take property:

“Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money; and in all other cases, ***where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury***, without deduction for benefits to any property of the owner.”

Ohio Constitution, Article I, Section 19 (bolding added).

Here, the taking occurs prior to any notice or compensation to the property owners. Property owners receive no prior notice that their property is to be seized and would have no reason to search the State’s website to try to identify their appropriated property. *Mullane* held that newspaper publication notice, standing alone, is not constitutionally adequate (except in special circumstances) because “[c]hance alone” brings a person’s attention to “an advertisement in small type inserted in the back pages of a newspaper.” *Mullane*, 339 U.S. at 315, *supra*. The

same reasoning is more true of Ohio's website, particularly for residents of other countries and states, who have no reason to consult and sift through the data on the broken Ohio website regarding their property. *See* Peters Decl., at 14, p. 7.

Moreover, the UFTF allows Ohio to list seized property without a description or estimate of its value. *See* Peters Decl. at 20, p. 8. Property worth less than \$50 is typically aggregated rather than individually listed, so even if owners of property worth less than \$50 happen upon the website, they will not find individually identifiable information for their property. In reality, the website conveys no notice at all to property owners and is nothing more than a catalogue of the owners' sold, destroyed or liquidated property.

Similarly, Judge Richard Posner of the Seventh Circuit Court of Appeals described a three-year dormancy period for determining abandonment as "a period so short as to present a serious question whether it is consistent with the requirement in the Fourteenth Amendment that property not be taken without due process of law, implying adequate notice and opportunity to contest." *Cerajeski v. Zoeller*, 735 F.3d 577, 582 (7th Cir. 2013) ("*Cerajeski*"). *See also* *Marathon Petroleum Corp. v. Sec'y of Fin. for Delaware*, 876 F.3d 481, 488 (3d Cir. 2017) (Citing *Taylor v. Yee*, 136 S. Ct. at 930, *supra*: "[I]n recent years, state escheat laws have come under assault for being exploited to raise revenue rather than to safeguard abandoned property for the benefit of its owners.").

And in *Garcia-Rubiera v. Fortuno*, 665 F.3d 261, 263-64 (1st Cir. 2011), the First Circuit held that, under *Jones*, Puerto Rico failed to give constitutionally adequate notice to insureds in connection with reimbursements for mandatory automobile insurance, which would otherwise escheat to the Commonwealth. The UFTF, which denies meaningful notice to millions of property owners, suffers from the same constitutional defect. *See also* recent 2025 decisions

from the 9th, 10th, and 11th Circuits in *Garza v. Woods*, 150 F.4th 1118, 1127 (9th Cir.2025) (“*Garza*”) (“To accept Defendants’ argument would turn the analysis into a circular mess. Plaintiffs would be required to allege a deprivation of their property interest in preventing a deprivation of their property. Unsurprisingly, Defendants cite no caselaw supporting this approach.”); *Mousseau v. Crum*, No. 24-1802, 2025 U.S. App. LEXIS 21634 (9th Cir. 2025) (where the 9th Circuit held: “And consistent with *Garza*, we conclude that Plaintiffs have standing to assert their takings and due process claims, that Defendants are not protected by sovereign immunity as to these claims, and that Plaintiffs stated a viable due process claim but not a takings claim.”); *Knellinger v. Young*, 134 F.4th 1034, 1045 (10th Cir. 2025) (“Of course, if Colorado wishes to avoid defending against § 1983 suits for unclaimed property, it may always decide voluntarily to revise its laws or practices with respect to unclaimed property.”); *Maron v. Chief Fin. Officer of Fla.*, 136 F.4th 1322, 1330 (11th Cir. 2025) (“...[t]he Fifth Amendment right to full compensation arises at the time of the taking, regardless of post-taking remedies that may be available to the property owner”).

2. Plaintiffs Have A Strong Likelihood of Success Under The Takings Clause.

The UFTF is unconstitutional for an additional reason: it purports to authorize Defendants to take private property without just compensation, in violation of the Fifth Amendment and Ohio’s State Constitution.⁴ Under the UFTF scheme, the Ohio Division of Unclaimed Funds physically appropriates private property and as a matter of course permanently divests owners of that property by selling it or otherwise disposing of it. Once this property is auctioned off or otherwise destroyed and monetized by operation of the UFTF scheme, *the most*

⁴ The Fifth Amendment’s Takings Clause has been incorporated against the states. *Chicago Burlington and Quincy R.R. v. City of Chicago*, 166 U.S. 226 (1897)

the rightful owner can recover under the UFTF is the salvage value or a portion of the monetary proceeds of the sale.

Worse, HB 96 converts what Ohio law has always treated as private property held in a custodial trust — the UFTF — into a pool of money the State must confiscate and divert on a fixed timeline, thereby effectuating a mass seizure of owners’ private property without individualized notice or prior compensation. Specifically, HB 96 amends R.C. Chapter 169 to require the Director of Commerce and the Superintendent of Unclaimed Funds to certify and transfer at least \$1 billion out of the UFTF on or about January 1, 2026, to the State Treasurer for deposit into the newly created Ohio Cultural and Sports Facility Performance Grant Fund, to be spent by the Executive Director of the Ohio Facilities Construction Commission — steps each named official is statutorily obligated to take, transforming a fiduciary trust into a financing mechanism for a privately controlled Cleveland Browns football stadium project.

This is not a marginal administrative adjustment: Ohio’s Supreme Court has long held that UFTF deposits “are the property of their owner” and “never become the property of ... the State of Ohio.” *Sogg* 121 Ohio St. 3d at 449, *supra*. So, HB 96’s forced permanent “escheat” is, in practical effect, a per se appropriation of principal from identified owners the State already knows through its own database.

The imminence and the scale of the risk are undeniable: the State holds approximately \$4.7 – \$4.8 billion in other people’s property, yet HB 96 directs immediate diversion and expenditure of UFTF monies, a move Plaintiffs allege will endanger the solvency of the trust and irreversibly dissipate funds needed to satisfy legitimate claims by owners — many of whom never received, and will never receive, any direct notice. Again, this private property was originally seized with no prior notice to the owners, so owners do not know that they must claim their

property before midnight on December 31st, 2025, or their ownership rights will permanently end.

In *Cerajeski*, 735 F.3d at 583, *supra*, and again in *Kolton v. Frerichs*, 869 F.3d 532, 533 (7th Cir. 2017), the Seventh Circuit held that a state’s temporary seizure of unclaimed private property imposes a duty to pay just compensation, including interest, when the property is returned to its owner, and that the failure of an unclaimed property scheme to pay interest represented a taking of property in violation of the Fifth Amendment.

Under the Fifth Amendment, a State may not use private property – even temporarily – for public purposes without paying compensation to the private property owner. Indeed, the “plain language of the Takings Clause ‘requires the payment of compensation whenever the government acquires private property for a public purpose.’” *Murr v. Wisconsin*, 582 U.S. 383, 392 (2017) (citation omitted).

The Takings Clause is fully applicable to the UFTF scheme despite its “custodial nature” – i.e., despite the fact that property is held in trust for return to its rightful owner. The State’s duty to pay just compensation under the Takings Clause “arises at the time of the taking, regardless of post-taking remedies that may be available to the property owner.” *Knick v. Township of Scott, Pa.*, 588 U.S.180, 181 (2019). Temporary takings of property are still takings, even if limited in duration. “[A] physical appropriation is a taking whether it is permanent or temporary; the duration of the appropriation bears only on the amount of compensation due.” *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 140 (2021). *See also Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302, 322 (2002) (“compensation is mandated” even when government’s “use [of property] is temporary”); *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U. S. 304, 318 (1987) (“temporary”

takings “are not different in kind from permanent takings, for which the Constitution clearly requires compensation”); *United States v. Dow*, 357 U.S. 17, 26 (1958) (“temporary use and occupation” by government still a compensable taking).

3. Plaintiffs Have A Strong Likelihood of Success on Their Breach of Fiduciary Duty Claim.

Plaintiffs’ breach of fiduciary duty claim further bolsters their request for preliminary injunctive relief. “The elements of a breach of fiduciary duty claim are (1) a fiduciary duty exists and (2) that the fiduciary breached that duty.” *Saxe v. Dlusky*, 2010-Ohio-5323 (10th Dist.); *see also In re Tropicana Ent., LLC*, 520 B.R. 455, 470 (Bankr. D. Del. 2014) (quoting *York Linings v. Roach*, No. 16622, 1999 WL 608850, *2 (Del. Ch. July 28, 1999)). Fiduciary duties include the duties of care, loyalty, and good faith. *In re USA Detergents, Inc.*, 418 B.R. 533, 543 (Bankr. D. Del. 2009) (citing *Malone v. Brincat*, 722 A.2d 5, 10 (Del. 1998)). A creation of a “special relationship” between a plaintiff and the party responsible for their property creates a duty to maintain that property and allows for claims for breach of that duty. *Strock v. Pressnell*, 38 Ohio St. 3d 207, 220 (1988). Plaintiffs have made out a strong claim under those elements.

Under Ohio Revised Code Chapter 169, the State’s role is custodial: it must safeguard unclaimed funds and reunite them with their owners. The Ohio Supreme Court in *Sogg* 121 Ohio St. 3d 449, *supra* confirmed that these funds “are not abandoned; they are the property of their owner,” and the State cannot appropriate even the interest earned on those funds for its own purposes. *Id.* That principle makes clear that the State owes a duty of loyalty and care to preserve the corpus of the trust for the owners.

HB 96, however, directs the Director of Commerce and other officials to confiscate and permanently divert billions of dollars from the UFTF to finance a private sports stadium and other non-custodial projects. The trust beneficiaries receive no consideration or share of the

private profit for the use of their private property. The Complaint explicitly alleges that this action “constitutes a breach of the State’s fiduciary duty to Plaintiffs and the Class” because it alters property rights and liquidates funds for a purpose wholly unrelated to the statutory mandate of Chapter 169.

B. Plaintiffs And The Putative Class Will Suffer Irreparable Harm Without an Injunction.

The “violation of constitutional rights constitutes irreparable injury as a matter of law.” *Springtree Apartments, ALPIC v. Livingston Parish Council*, 207 F. Supp. 2d 507, 515 (M.D. La. 2001). Moreover, Plaintiffs and the putative Class risk ongoing irreparable harm to their property if Defendants are allowed to continue the unnoticed seizure and sale of their personal property under the UTF. Plaintiffs and Class Members own other property subject to seizure. The statute mandates that, on January 1, 2026, the State will confiscate and permanently escheat at least \$1 billion from the UTF — a fiduciary trust holding approximately \$4.8 billion in private property — and redirect those funds to the Ohio Cultural and Sports Facility Performance Grant Fund for the Browns’ stadium project.

Once these transfers occur, owners’ property interests are forever extinguished, and the trust corpus will be dissipated, leaving no practical means to restore the status quo. The harm is not speculative: HB 96 imposes a fixed statutory deadline, and each Defendant has a defined enforcement role — Commerce certifies balances, the Superintendent administer transfers, the Treasurer receives and segregates funds, and the Facilities Commission expends them. Plaintiffs cannot recover their property after it is liquidated and spent on construction; monetary damages cannot compensate for the loss of constitutional rights or restore the trust’s solvency. *See Elrod v. Burns*, 427 U.S. 347, 349 (1976). These facts establish that, absent immediate injunctive

relief, Plaintiffs and thousands of similarly situated individuals will suffer irreversible deprivation of property rights and constitutional protections on New Year's Day.

As the Ninth Circuit opined in directing the entry of an injunction against the California unclaimed property scheme, “[o]nce the property is sold, it may be impossible for plaintiffs to reacquire it, thus creating the requisite irreparable harm.” *Taylor II*, 488 F.3d at 1202, *supra* (internal quotation omitted). The federal district court (Hon. William B. Shubb) explained, when entering the injunction, that “[w]hen [the government] takes custody of property pursuant to the [unclaimed property law], even temporarily, certain rights associated with ownership are lost which are not compensable in money damages.” *Chiang*, 2007 WL 1628050, at *2, *supra*. For example, “when securities are transferred out of the owner’s name by the state, the owner is deprived of the right to vote his or her shares in important matters of corporate governance.” *Id.* In addition, “[w]hile the state holds those securities, the owner is deprived of the ability to sell them.” *Id.* “As another example, when the contents of a safe deposit box are seized, the owner is deprived of the use of those articles pending the process he or she must go through to get them returned.” *Id.* Indeed, the Director holds the contents of safe deposit boxes for varying periods of time and then auctions them off; the sentimental value of the property (such as family heirlooms or photos) is irreplaceable.⁵ Even at this early stage, the relevant facts are beyond dispute and establish irreparable harm.

C. The Balance of Equities is Firmly in Plaintiffs’ Favor Because Ohio Has No Legitimate Property Interest in The Seized Private Property.

The rights of property owners to their property greatly outweigh the State’s interest in using that private property as a revenue source while it fails to notify the owner of its possession.

⁵ ABC Good Morning America, *Not So Safe Deposit Boxes States Seize Citizens’ Property to Balance Their Budgets* (May 12, 2008) found at: <http://www.youtube.com/watch?v=ZdHLIq0qHhU>, <http://abcnews.go.com/GMA/story?id=4832471&page=1#.Udhur5yLfCY>.

Given the State's seizure of property with inadequate notice under the UFTF, it has no legitimate interest in the "protection" of seized property for the owner's benefit. Its only interest is using improperly seized funds before the property owner makes a claim.

For decades, Ohio law treated unclaimed funds as private property held in trust, not state revenue. The Ohio Supreme Court in *Sogg*, 121 Ohio St.3d 449, *supra*, made this explicit: funds in the UFTF "are not abandoned; they are the property of their owner." HB 96 does not merely adjust administrative procedures — it reclassifies custodial property as state property and mandates its diversion to finance a private stadium project, a purpose that lacks any legitimate public character under both the U.S. and Ohio Constitutions.

Plaintiffs' interest is concrete and vested: they have verified balances in the UFTF, and the statute's January 1, 2026, deadline will extinguish those rights permanently. *See* Declarations of Gary Petrine and Mary Bleick in support of this Motion. Because Ohio's only claim to these funds arises from HB 96's unconstitutional reclassification — and because the State's own precedent and fiduciary duty forbid such appropriation — the equities weigh decisively in favor of preserving the status quo and enjoining enforcement before irreparable harm occurs.

Far from supporting Defendants, the government's own fiscal self-interest supports Plaintiffs' request for relief. The Supreme Court has warned that the government's financial interest creates the danger of self-dealing that raises constitutional red flags. The Court has long expressed constitutional "concern with governmental self-interest" when "the State's self-interest is at stake." *United States v. Winstar Corp.*, 518 U.S. 839, 896 (1996) (quoting *United States Trust Co. of N.Y. v. New Jersey*, 431 U.S. 1, 26 (1977)). Thus, the equities are firmly in favor of the private citizens Plaintiffs and the putative Class and not the state government officials.

D. The Requested Relief is in The Public Interest.

The requested relief is also in the public interest. The public always has a compelling interest in ensuring that the government abides by the Constitution and the rule of law. The UFTF endangers the property rights of anyone with property subject to the Statute.

Ohio's Constitution declares that private property shall be "held inviolate," and the Ohio Supreme Court has repeatedly emphasized that takings for private purposes violate Article I, Section 19. In *City of Norwood* 110 Ohio St. 3d 353, *supra*, the Court held that "economic benefits to the government and community, standing alone, do not satisfy the public-use requirement." HB 96 flouts this principle by diverting billions from the Unclaimed Funds Trust Fund – property the Court in *Sogg* confirmed "are the property of their owner" – to subsidize a privately controlled Cleveland Browns football stadium. The Legislative Service Commission's memorandum underscores the absence of any legitimate public purpose, concluding that stadium subsidies yield "little to no tangible impacts" and that projected benefits are "wildly optimistic." Likewise, the Attorney General warned that this scheme is "poor policy," urging a veto and stating unequivocally: "Billionaires should finance their own stadiums – full stop."⁶ Enjoining HB 96 protects not only the constitutional rights of thousands of Ohioans and property owners around the country and worldwide but also the integrity of a trust fund designed to reunite owners with their property, rather than bankroll private ventures. Preserving these rights and fiduciary obligations is squarely in the public interest, while allowing HB 96 to proceed would erode public confidence in government, undermine property protections, and set a dangerous precedent for legislative overreach.

⁶ See Ohio Attorney General Dave Yost's letter dated June 27, 2025, to the Hon. Mike DeWine, Governor of the State of Ohio.

By undermining property rights, the UFTF also interferes with the efficient operation of securities markets, which disserves the public interest. The property seized by the Defendants includes securities subject to extensive federal regulation under the Securities Act of 1933, 15 U.S.C. §§ 77a-77bbb, and the Securities and Exchange Act of 1934, 15 U.S.C. §§ 78a-78hh. These statutes are designed “to protect investors,” to provide them “with full disclosure of material information,” and “to promote ethical standards of honesty and fair dealing,” *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 195 (1976), not to allow states to appropriate the property of unwary investors without adequate notice or disclosures. *See United States v. Naftalin*, 441 U.S. 768, 775 (1979) (observing that the securities laws were meant “to restore the confidence” of investors that their property would be secure). Unauthorized stock transfers are prohibited. *Western Union Telegraph Company v. City of Davenport*, 97 U.S. 369, 372 (1878); *Kremen v. Cohen*, 337 F.3d 1024, 1035 (9th Cir. 2003).

V. CONCLUSION

For the preceding reasons, the motion for temporary restraining order and preliminary injunction should be granted, and this Court should enter an order of prospective declaratory and injunctive relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the ***Motion and Memorandum In Support Of Motion For Temporary Restraining Order and Preliminary Injunction*** was filed electronically on October 30, 2025. Notice of this filing will be sent by operation of the court's electronic filing system to all counsel of record indicated on the electronic filing receipt. parties may access this filing through the court's cm/ecf system.

/s/ Jeffrey A. Crossman
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