

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI EX REL.
JEREMIAH W. (JAY) NIXON, ATTORNEY GENERAL

Respondent

v.

RCT DEVELOPMENT ASSOCIATION, ET AL.

Appellants

DOCKET NUMBER **WD69789**

DATE: June 16, 2009

Appeal From:

Circuit Court of Jackson County, MO
The Honorable Marco Antonio Roldan, Judge

Appellate Judges:

Division Two: Thomas H. Newton, C.J., Harold L. Lowenstein and James M. Smart, Jr., JJ.

Attorneys:

Shane L. Farrow, Jefferson City, MO

Counsel for Appellants

Attorneys:

Michael J. Wambolt, Kansas City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

STATE OF MISSOURI EX REL. JEREMIAH W. (JAY) NIXON,
ATTORNEY GENERAL, Respondent, v. RCT DEVELOPMENT
ASSOCIATION, ET AL., Appellants

WD69789

Jackson County

Before Division Two Judges: Newton, C.J., Lowenstein, and Smart, JJ.

Rose, McPherson, and Divers (Defendants) registered fictitious business names in Missouri and began soliciting charitable contributions under those names. Subsequently, the Missouri Attorney General's Office received complaints about the organizations, which led to an investigation of their activities. The Attorney General filed a petition alleging violations of the Missouri Merchandising Practices Act, which prohibits misrepresentations in connection with soliciting charitable funds. After a hearing, the trial court granted the Attorney General's request for a preliminary and permanent injunction and found Defendants jointly liable for restitution, civil penalties, and \$8,507 for the Attorney General's costs of investigation and prosecution. Defendants appeal.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.

Division Two Holds:

In their first point, Defendants dispute the judgment finding them individually liable. They contend a corporation they created in Kansas in 2007 shielded them from individual liability. However, the evidence does not show that donors were being solicited by a Kansas corporation acting in Missouri. The evidence also does not show that the Kansas corporation was a parent of any entity in Missouri. Rather, Defendants listed themselves individually as the owners of the Missouri associations that solicited donations. Because these entities were not legally separate from Defendants, the trial court did not err in finding them individually liable.

In their second point, Defendants argue that the trial court erred in awarding \$8,507 to the Attorney General for its costs of investigation and prosecution because no evidence was offered to support the amount. No evidence appears in the record to support the amount of \$8,507 and Defendants were entitled to an opportunity to challenge the amount. In accord with *State ex rel. Webster v. Areaco Inv. Co.*, we remand for evidence of the Attorney General's costs. *See* 756 S.W.2d 633, 637 (Mo. App. E.D. 1988). The judgment is otherwise affirmed.

Opinion by: Thomas H. Newton, C. J.

June 16, 2009

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