
UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

DAVID KNOTT and UNITED ASSET
RECOVERY, INC.,

Plaintiffs,

v.

MICHAEL W. FRERICHS, in his official
capacity as Illinois State Treasurer;
MARIO TRETO, JR. in his official
capacity as Secretary of the Illinois
Department of Financial and Professional
Regulation; EDWARD R. BONIFAS, in his
official capacity as chairman of the Illinois
Private Detective, Private Alarm, Private
Security, Fingerprint Vendor, and
Locksmith Board; and ANTHONY T.
CALDERONE, DEAN J. GLUTH, ANNE
M. GRUBER, TONY MAJKA, DAVID
PACK, MARGARET A. DALEY, SCOTT E.
PENNY, JAMES C. TAFF, CORTNEY
ANDERSON WASCHER, and AIMEE
LIPKIS, in their official capacities as
members of the Illinois Private Detective,
Private Alarm, Private Security,
Fingerprint Vendor, and Locksmith
Board,

Defendants.

Case No. 3:24-cv-03067

COMPLAINT

INTRODUCTION

1. This civil-rights lawsuit seeks to vindicate the First and Fourteenth Amendment rights of Plaintiffs David Knott and his company United Asset Recovery, Inc., to read, analyze, and compile documents, communicate information, and petition the

government, all in pursuit of helping his willing customers recover their unclaimed property from the government.

2. “Unclaimed property” is property, such as uncashed checks and abandoned accounts, that has been forgotten or misplaced by its owner and surrendered by the bank or other property holder to the state to keep in trust until the owner claims it. Illinois State Treasurer Michael W. Frerichs (“Treasurer”) holds over five billion dollars in unclaimed property. Unclaimed Property, Illinois State Treasurer, <https://icash.illinoistreasurer.gov>. The Treasurer is required by law to “pay or deliver property” to its owner when he “receives evidence sufficient to establish” ownership. 765 ILCS 1026/15-904. Yet property owners often are unaware they have unclaimed property waiting for them and find it challenging to locate their property, let alone recover it.

3. Unclaimed asset finders like David and his company are trying to help. For nearly two decades David has labored to find his clients’ assets held in government trusts and facilitate their return. But in 2021, Illinois halted David in his tracks, ordering him to obtain an irrelevant private detective license to continue helping his clients. Continuing to work without that license would open David up to criminal prosecution and hefty fines.

4. Illinois, like most states, licenses private detectives. The statutes and regulations governing private detectives are overseen by the Illinois Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board (“Private Detective Board” or the “Board”) within the state Department of Financial and Professional Regulation (“Department”). Unlike most states, Illinois requires asset finders like David to get a private detective license too.

5. The problem? David’s work has nothing to do with being a private detective. Becoming a private detective is challenging, requiring years of experience in law

enforcement or similar fields as well as an exam on crime scene investigation, interrogations, and firearms. Unsurprisingly, identifying the owner of uncashed checks and abandoned bank accounts doesn't involve any of that work. But Illinois is demanding that David take years away from his job so that he can obtain a license even so.

6. The license requirement makes it harder for David and others like him to help people recover their unclaimed property from the state. But Illinois has a clear incentive to impose irrational and unnecessary barriers like the license requirement: The fewer people recover their property, the more money the state has to shore up its budget. For example, the state can divert unclaimed property to the State Pensions Fund. *See* 765 ILCS 1026/15-801. The harder it is to recover property, the more the state profits.

7. Illinois's license requirement is unconstitutional. David's work helping his clients find and recover unclaimed property is entirely covered by the First Amendment's speech and petition clauses. And, even if it weren't, the Fourteenth Amendment prohibits Illinois from banning David from his occupation unless he obtains an irrelevant and burdensome license.

8. David has been unable to help his clients find and recover their property in Illinois since 2021, when he received a letter from the Treasurer accusing him of breaking the law by helping clients recover property without a private detective license. To secure the constitutional rights of David and his company, the Court should declare that Illinois's licensing law is unconstitutional both facially and as applied and permanently enjoin Defendants from enforcing it against David and his company.

JURISDICTION AND VENUE

9. This is a civil-rights action brought under the First and Fourteenth Amendments to the U.S. Constitution; the Civil Rights Act of 1871, 42 U.S.C. § 1983; and the Declaratory Judgment Act, 28 U.S.C. § 2201–2202.

10. Plaintiffs seek declaratory and injunctive relief against Defendants' enforcement of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2).

11. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3).

12. Venue is proper under 28 U.S.C. § 1391(b).

PARTIES

13. Plaintiff David Knott is a U.S. citizen who lives in Oceanside, California. David is not licensed as a private detective in Illinois (or in any state).

14. Plaintiff United Asset Recovery, Inc., is a California corporation, incorporated in 2016, operated and wholly owned by David with its principal place of business in Carlsbad, California. Prior to incorporation, United Asset Recovery operated as a DBA of David from 2005 through 2016.

15. Defendant Michael W. Frerichs is the Illinois State Treasurer, and thus the state's Chief Investment and Banking Officer. Defendant Frerichs first took office in 2015 and is tasked with holding unclaimed property in Illinois in trust until it can be returned to its owner and administering efforts to return the same. 765 ILCS 1026/15-102(1) (State Treasurer is administrator of unclaimed property). *See generally* 765 ILCS 1026 (establishing administrator's responsibilities concerning unclaimed property). Defendant Frerichs is referred to here as the "Treasurer" and is sued in his official capacity.

16. Defendant Mario Treto, Jr., is the Secretary of the Illinois Department of Financial and Professional Regulation. Defendant Treto first took office in 2021 and is charged with administering and enforcing the state's professional licensing laws and overseeing the boards that assist in that administration and enforcement for the various professions regulated by the state, including the Illinois Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board. Defendant Treto is sued in his official capacity.

17. Edward R. Bonifas is the Chairman of the Illinois Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board. As Chairman of the Private Detective Board, Defendant Bonifas is charged with "recommend[ing] policies, procedures, and rules relevant to the administration and enforcement of" Illinois's private detective laws. 225 ILCS 447/50-10. Defendant Bonifas is sued in his official capacity.

18. Anthony T. Calderone, Dean J. Gluth, Anne M. Gruber, Tony Majka, David Pack, Margaret A. Daley, Scott E. Penny, James C. Taff, Cortney Anderson Wascher, and Aimee Lipkis are members of the Illinois Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Board. As members of the Private Detective Board, these defendants are charged with "recommend[ing] policies, procedures, and rules relevant to the administration and enforcement of" Illinois's private detective laws. 225 ILCS 447/50-10. The members of the Board are sued in their official capacities.

19. Collectively, Defendants Bonifas, Calderone, Gluth, Gruber, Majka, Pack, Daley, Penny, Taff, Wascher, and Lipkis are referred to as the "Private Detective Board" or the "Board."

STATEMENT OF FACTS

David Recovers People's Property

20. David Knott is an entrepreneur who lives in Oceanside, California, about 38 miles north of San Diego.

21. In the mid-2000s, David learned about state governments' holdings of unclaimed property—financial assets that have been forgotten, misplaced, or unintentionally abandoned by their owners. Unclaimed property can take the form of uncashed checks, abandoned accounts, or other financial assets.

22. With individuals, property often becomes forgotten or misplaced when they move. Checks or account balances are sent to their old addresses without the owner's knowledge. Companies, meanwhile, routinely forget about or misplace property as part of doing business. In either case, the property becomes unclaimed.

23. In Illinois, holders of unclaimed property—such as banks with accounts that have been abandoned—are required to turn that property over to the state treasurer. 765 ILCS 1026/15-603.

24. The Treasurer is the “administrator” of unclaimed property turned over to the state and “holds [that] property as custodian for [the property's] owner.” 765 ILCS 1026/15-102(1) (Treasurer is administrator); 765 ILCS 1026/15-804 (administrator is custodian). The Treasurer holds this property in trust and is “responsible for the safekeeping thereof” until the owner claims it. 765 ILCS 1026/15-804.

25. The Treasurer “must honor” a claim for property and “shall pay or deliver” it to the claimant “if the administrator receives evidence sufficient to establish to the satisfaction of the [Treasurer] that the claimant is the owner of the property.” 765 ILCS 1026/15-904(a).

26. Much of this property is never claimed and, as a result, Illinois holds onto large amounts of unclaimed property. Right now the Treasurer holds more than five billion dollars in unclaimed property. Unclaimed Property, Illinois State Treasurer, <https://icash.illinoistreasurer.gov>.

27. Illinois has a financial incentive to make it harder to reclaim property. State law, for example, allows the state to divert unclaimed property into the State Pensions Fund to reduce future “actuarial reserve deficiencies.” 765 ILCS 1026/15-801.

28. Property owners are often unaware of the existence and location of their property and lack the time, knowledge, or resources to recover their property once they find it.

29. To address this issue, unclaimed asset finders take it upon themselves to search through public databases of unclaimed property, then contact the property owners with an offer to help the owner recover the asset(s).

30. Asset finders provide their services in exchange for an industry-standard contingent commission based on the value of the asset. Generally, this commission is 10% of the asset’s value. Most asset finders file claims for single high-value assets to maximize their profit per claim.

31. David discovered an opening in the market: many businesses have large numbers of low-value assets sitting unclaimed in state accounts across the country. Though assisting in the recovery of large numbers of low-value assets can require more work than doing the same for a single high-value asset, that extra work means there is less competition for a client’s business.

32. So in 2005, David launched United Asset Recovery with a novel business model: comb through unclaimed property databases nationwide and approach businesses with an offer to help recover large volumes of their low-value assets on an ongoing basis.

33. David and his company also work on many single, “one-off” claims for individuals and businesses.

34. David worked hard to build up a client base for his company, often working long hours and seven days a week to search for and help clients recover property. David’s strong work ethic has allowed his company to remain small—United Asset Recovery has never had more than four employees (including David) at any one time.

35. And David’s hard work paid off—over nearly two decades, United Asset Recovery has helped its clients recover property in many states, including Illinois.

Recovering Property in Illinois

36. Ownership or custody of unclaimed property can vest in the state in a process called “escheat.” *See Cerajeski v. Zoeller*, 735 F.3d 577, 579 (7th Cir. 2013). Escheatment “was an outgrowth of the feudal tenure system of landholding whereby the king was recognized as the ultimate owner of all real property.” *La. Health Serv. & Indem. Co. v. McNamara*, 561 So. 2d 712, 715 (La. 1990). This power has often proved controversial, producing the modern word “cheat.” *See Cheat*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/cheat>.

37. The “most common modern form[s] of unclaimed property legislation are . . . ‘custodial’ escheat laws,” where the state holds property “in perpetual custody for the missing owner.” *La. Health Serv. & Indem. Co.*, 561 So. 2d at 716. Illinois’s unclaimed property law follows this model—the state takes possession of unclaimed property not as the owner, but to hold in trust.

38. “[R]ealism requires recognition that unclaimed property statutes are also a means of raising state revenue” and have been for centuries. *Cerajeski*, 735 F.3d at 583 (cleaned up). *See* 1 William Blackstone, *Commentaries* *302 (recognizing escheat as a source of royal revenue).

39. The potential to use unclaimed property for revenue has led states to take “pervers[e]” positions where they seek to retain or obtain ownership of all or part of the property held in trust. *See Cerajeski*, 735 F.3d at 583. Illinois’s use of unclaimed property to fund the State Pensions Fund illustrates the dangerous incentives that arise when the state holds large sums of money that it does not own. *See* 765 ILCS 1026/15-801.

40. When the state learns who the rightful owner is, it must return the property. *See* 765 ILCS 1026/15-904. But owners need to find the property first. The Illinois State Treasurer maintains a little-known but publicly accessible database of unclaimed property it holds at <https://icash.illinoistreasurer.gov>.

41. David’s work in Illinois has been straightforward. He and his company use the Treasurer’s database to find unclaimed property and help the owners recover it. United Asset Recovery, with the permission of the owner, assembles and submits the paperwork necessary to claim the property. Once the state returns the property to the owner, the owner pays United Asset Recovery for its services.

42. The first step to recover unclaimed property in Illinois is to search the Treasurer’s unclaimed property database and identify properties owned by a United Asset Recovery client. Usually this isn’t challenging—the database lists the name of the property owner, which is often identical to the legal name of the client or one of its subsidiaries. In the rare case that David is unsure of the ownership of a property, United Asset Recovery either elects not to submit a claim or does further research.

43. If David or one of his employees found assets that did not belong to an existing United Asset Recovery client, the company could compile a list of the recoverable assets and reach out to the owner to offer United Asset Recovery's services. United Asset Recovery could then continue with the claim process if the owner gave the company permission to do so.

44. The second step is to use the tools provided in the Treasurer's unclaimed property database to assemble a "claim." David or one of United Asset Recovery's other employees accomplishes this by adding each asset that they have determined is owned by the client. Each asset has a "claim" button provided for this purpose. In other words, United Asset Recovery uses the Treasurer's database to put together a list of properties its client is eligible to recover.

45. Once United Asset Recovery has added all of the client's assets into the claim, the third step is for David or his employee to tell the system to generate a claim form. This form lists the properties United Asset Recovery identified as belonging to the company's client. The Treasurer then sends this form to either United Asset Recovery or its client, either automatically through the system or manually.

46. Fourth, the client (or an authorized employee when the client is a company) must sign the form and send it to United Asset Recovery.

47. Fifth, United Asset Recovery assembles the supporting documentation that the Treasurer requires to release assets to the property owner. The exact documents that the Treasurer needs before it will release the property to the owner vary, but for United Asset Recovery's clients it often includes the following:

- a. The tax identification number of the company or individual claiming the property;

- b. Proof of the claimant's current (and sometimes past) addresses;
- c. Photo identification for the claimant or its authorized employee;
- d. If the claimant is a company, a letter from the company authorizing one of its employees to sign the claim form and receive the property;
- e. If the claimant is a company, proof of the authorized employee's title within the claimant company;
- f. A letter demonstrating that the claimant has granted United Asset Recovery the legal authority to submit claims on its behalf;
- g. The fee agreement between the claimant and United Asset Recovery; and
- h. When the name or address of the claimant differs from the name or address on the property listing, documents establishing the claimant's ownership of the asset.

48. The last category—documents establishing ownership of the specific asset—is broad. Often, this is simply documentary evidence of a claimant's change of address or a merger or acquisition that led a claimant company to acquire ownership of the asset. Other times, the Treasurer requires documents establishing the claimant's history with the address associated with the asset or establishing the relationship between the claimant and the property holder (the person or entity who turned over the property to the state).

49. United Asset Recovery acquires these required documents in one of three ways: (1) accessing publicly available documents, such as merger and acquisition filings; (2) communicating with the property holder who turned over the property to the state; and (3) communicating with the claimant to obtain documents from their records.

Generally, David prefers to find what he needs through research into publicly available documents rather than bother his clients.

50. United Asset Recovery bundles these documents together and submits them to the Treasurer along with the signed claim form.

51. Once United Asset Recovery has submitted its information to the Treasurer, it is up to the Treasurer to determine whether that information establishes the claimant as the owner of the property. If the evidence that David's company provides to the Treasurer is "sufficient to establish" ownership to the satisfaction of the Treasurer, the Treasurer "must honor [the] claim for [the] property" and "pay or deliver [the] property to [the] claimant," David's client. 765 ILCS 1026/15-904.

52. David's company then responds to any requests from the Treasurer asking for additional evidence and continues providing that evidence until the Treasurer determines that David's client is the property owner and returns the property.

53. If the claim is denied, the denial does not legally bind David's client, waive any of the client's rights, or affect the client's ability to recover the asset later. The client could submit an amended claim in the future to establish evidence of ownership. 765 ILCS 1026/15-904(c)(2). And the Treasurer is required to "consider an amended claim . . . as an initial claim," subject to the same standards for proving ownership of the property. *Id.* at 15-904(c)(3).

54. When the Treasurer determines that the evidence it has received sufficiently establishes that David's client is the owner of the claimed property, the Treasurer then returns the property (or equivalent monetary value) to David's client.

55. Only once David's client receives its property from the Treasurer does the client pay United Asset Recovery—usually with a contingent commission of 10% of the value of the assets recovered.

56. All of David and his company's work helping clients recover unclaimed property in Illinois is performed in exchange for a contingent commission of no more than 10% of the asset's value, a fee which is permitted by Illinois law. *See* 765 ILCS 1026/15-1302(e)(c); 74 Illinois Administrative Code 760.650(a).

57. Clients are unwilling to hire asset finders like David and his company with any fee structure aside from a contingent commission. To find work helping clients find and recover unclaimed property in Illinois, David and his company must work on a contingent commission basis.

58. Put together, David and his company's activities helping clients find and recover assets from the Treasurer consist of:

- a. Reading public documents (both on the Treasurer's database and elsewhere, such as SEC filings);
- b. Analyzing those public documents;
- c. Communicating with the client (and, at times, the company that turned the property over to the state);
- d. Compiling information and documents;
- e. Communicating information to the Treasurer identifying United Asset Recovery's client as the owner of property held by the state; and
- f. Communicating any additional information that the Treasurer requests to satisfy the Treasurer that United Asset Recovery's client is the owner of the property.

Illinois Stops David from Helping his Clients

59. Helping clients find and recover assets from the Treasurer is a lot of work, but it made a difference for David's clients. In the years before 2021, David helped his clients recover more than \$600,000 in unclaimed property from Illinois.

60. But in 2021, the Treasurer put a stop to that. On August 5, 2021, the office of the Treasurer sent a letter to David and his company ordering them to stop helping clients recover their property unless David and his company obtained private detective licenses in Illinois.

61. The Treasurer's August 2021 letter informed David that it had learned that United Asset Recovery had been retained by three clients "to perform asset recovery measures for them."

62. All three companies had been David's clients for over five years, and two had been clients for over ten years.

63. Even so, the Treasurer's August 2021 letter accused David and his company of violating Illinois law by finding assets for their clients and submitting claims to recover those assets.

64. The Treasurer's letter accused David and United Asset Recovery of violating an Illinois statute—765 ILCS 1026/15-1302—and its implementing regulation—74 Illinois Administrative Code § 760.650.

65. 765 ILCS 1026/15-1302(e) prohibits David and his company from collecting an agreed industry-standard contingent commission from his clients for "discovering, on behalf of an apparent owner, presumptively abandoned property" without a private detective license. 765 ILCS 1026/15-1302(e)(e).

66. David is not a licensed private detective in Illinois or any other state. Neither does United Asset Recovery hold a private detective license in Illinois or any other state.

67. In other words, 765 ILCS 1026/15-1302(e) prevents David or his company from:

- a. Reading public documents when the content of those documents concerns a client's unclaimed property;
- b. Analyzing public documents when the content of those documents concerns a client's unclaimed property;
- c. Communicating with the client or others when the content of those communications concerns a client's unclaimed property; or
- d. Compiling information and documents when the content of that information or those documents concerns a client's unclaimed property.

68. 74 Illinois Administrative Code § 760.650(c)(2) requires any claim for property submitted to the Treasurer where a "finder is assisting an apparent owner" to include "a copy of the active private detective license issued by the Illinois Department of Financial and Professional Regulation to the [asset] finder" if the finder charges a contingent commission.

69. Because David and his company charge an industry-standard contingent commission but neither have an "active private detective license," no claim that they assist with can be submitted to the Treasurer under 74 Illinois Administrative Code § 760.650(c)(2).

70. In other words, 74 Illinois Administrative Code § 760.650(c)(2) prevents David or his company from:

- a. Reading public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- b. Analyzing public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- c. Communicating with the client, potential client, or others when the content of those communications concerns a client's or potential client's unclaimed property;
- d. Compiling information and documents when the content of that information or those documents concerns a client's or potential client's unclaimed property;
- e. Communicating with the Treasurer when the content of those communications identifies a client as the owner of property held by the state; or
- f. Communicating with the Treasurer when the content of those communications concerns requests from the Treasurer for additional information identifying a client as the owner of property held by the state.

71. David is not a licensed private detective because the work he performs is materially different than that of a private detective.

72. Obtaining a private detective license would require David to spend at least three years working as a detective or investigator and pass an exam on topics irrelevant to his work finding and recovering unclaimed property.

73. To become a private detective, David would need at least three years' experience (during the five years preceding his application) performing investigative work full-time for:

- a. A licensed private detective agency;
- b. A licensed attorney;
- c. A corporation with 100 or more employees;
- d. The armed forces; or
- e. A law enforcement agency.

74. David could also have three years of "alternative experience working full-time for a private detective agency licensed in another state or for a private detective agency in a state that does not license such agencies if the experience is substantially equivalent" to that of an Illinois private detective. 225 ILCS 447/15-10(a)(6).

75. David does not meet this requirement because David has not worked for a private detective agency, a licensed attorney, a corporation with 100 or more employees, the armed forces, or a law enforcement agency in the past five years.

76. Nor would his work at his company satisfy the "alternative experience" requirement. Although California licenses private detectives, United Asset Recovery is not a private detective agency and neither David nor his company are required to be licensed to help clients recover unclaimed property in California.

77. In fact, the vast majority of states do not require asset finders like David and his company to obtain private detective licenses (or equivalent licenses) to help clients find and recover unclaimed property, regardless of the fee structure.

78. To meet the experience requirement, David would have to leave his company for at least three years to work full-time as a detective or investigator doing work unrelated to helping clients find and recover unclaimed property.

79. David does not want to spend three years working in a different occupation performing work unrelated to helping clients find and recover unclaimed property.

80. To obtain a license, David would also have to “pass[] an examination authorized by” the Illinois Department of Financial and Professional Regulation. 225 ILCS 447/15-10(a)(8).

81. The private detective exam includes questions on topics such as “[e]valuating crime scenes,” “[i]nterviewing and interrogation,” “[s]urveillance techniques,” and “[f]irearm regulations and requirements.” *See* Private Detective and Private Security Contractor Licensure Examination Information, Continental Testing, <https://www.continentaltesting.net/downloads/7-17%20DETSECGDE.pdf>. The exam does not include questions on helping clients find and recover unclaimed property. *See id.*

82. David’s work helping clients find and recover unclaimed property does not involve evaluating crime scenes, interviewing and interrogation, surveillance, or firearms. In fact, all of David’s work can be performed from his company’s office in Carlsbad, California (or the nearby post office) without ever stepping foot in Illinois.

83. To pass the exam, David would have to spend time studying these and other topics that are irrelevant to his work helping clients find and recover unclaimed property, which David does not want to do.

84. The Treasurer’s letter directed David and his company to contact the Private Detective Board, which enforces private detective laws and regulations in Illinois and administers the private detective exam.

85. Under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 (“Act”), practicing (or attempting to practice) private detective work without a license is a Class A misdemeanor, elevated to a Class 4 felony for “second or subsequent violation[s].” 225 ILCS 447/45-50(a). Each offense also incurs a civil penalty of up to \$10,000. *Id.* at 45-50(c).

86. On information and belief, neither the Department nor the Private Detective Board interprets the Act as independently requiring asset finders to be licensed as private detectives and neither would enforce the Act against unlicensed asset finders like David and his company but for 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) requiring asset finders to obtain private detective licenses.

87. David and his company must satisfy 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) (together, the “license requirement”) to help clients and potential clients find and recover unclaimed property in Illinois even though Defendants lack any evidence that the license requirement prevents property owners or anyone else from being harmed.

88. Defendants have no evidence that fewer property owners or other people are harmed by asset finders under the license requirement than would be harmed if the license requirement was removed.

89. Defendants have no evidence that fewer property owners or other people are harmed by asset finders under the license requirement than were harmed prior to the enactment of the license requirement.

90. Defendants have no evidence that fewer property owners or other people are harmed by asset finders in Illinois than are harmed in other states that do not require asset finders to have a private detective license (or equivalent license).

91. Defendants have no evidence that more property owners or other people are harmed by unlicensed asset finders working for a contingent commission of 10% or less of the recovered asset's value than by licensed asset finders operating under the same fee arrangement.

92. Defendants have no evidence that more property owners or other people are harmed by unlicensed asset finders working for a contingent commission of 10% or less of the recovered asset's value than by unlicensed asset finders working under a different fee arrangement.

93. Any possible harms that unlicensed asset finders could cause could be addressed by laws less restrictive of First Amendment rights, such as other Illinois laws and regulations governing asset finders, targeted anti-fraud laws, or maintaining a registry of asset finders working in the state.

94. On information and belief, before the Treasurer sent David the August 2021 letter it returned the assets David was seeking to only one of David's three clients. As of March 2024, the Treasurer still holds the assets David was attempting to help his other two clients recover.

95. Since receiving the Treasurer's letter, David has helped no clients find unclaimed property in Illinois.

96. Since receiving the Treasurer's letter, David has helped no clients recover unclaimed property in Illinois.

INJURY TO PLAINTIFFS

97. Plaintiffs want to continue helping clients find and recover their unclaimed property in Illinois but cannot do so without risking government enforcement actions.

98. Enforcement of 765 ILCS 1026/15-1302(e) would invalidate contracts that David and his company enter into to help clients find and recover unclaimed property in exchange for an industry-standard contingent commission. *See* 765 ILCS 1026/15-1302(e). David and his company cannot perform work helping their clients find and recover unclaimed property if they "must be licensed as [] private detective[s]" to "collect [their] contingent fee" after their clients receive their property. *Id.*

99. The threat of enforcement of 765 ILCS 1026/15-1302(e) has thus prevented Plaintiffs from doing the following:

- a. Reading public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- b. Analyzing public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- c. Communicating with the client, potential client, or others when the content of those communications concerns a client's or potential client's unclaimed property; or
- d. Compiling information and documents when the content of that information or those documents concerns a client's or potential client's unclaimed property.

100. Enforcement of 74 Illinois Administrative Code § 760.650(c)(2) would result in the denial of claims if David or his company “assist[ed]” the claimant in exchange for an industry-standard “contingent fee” because neither David nor his company have an “active private detective license” to “submit[] to the administrator,” as required by 74 Illinois Administrative Code § 760.650(c)(2). David and his company cannot perform work helping clients find and recover unclaimed property if the Treasurer will deny any claims that they work on.

101. The threat of enforcement of 74 Illinois Administrative Code § 760.650(c)(2) has thus prevented Plaintiffs from doing the following:

- a. Reading public documents when the content of those documents concerns a client’s or potential client’s unclaimed property;
- b. Analyzing public documents when the content of those documents concerns a client’s or potential client’s unclaimed property;
- c. Communicating with the client, potential client, or others when the content of those communications concerns a client’s or potential client’s unclaimed property;
- d. Compiling information and documents when the content of that information or those documents concerns a client’s or potential client’s unclaimed property;
- e. Communicating with the Treasurer when the content of those communications identifies a client as the owner of property held by the state; or

- f. Communicating with the Treasurer when the content of those communications concerns requests from the Treasurer for additional information identifying a client as the owner of property held by the state.

102. If Plaintiffs were to help clients or potential clients find and recover unclaimed property in Illinois without private detective licenses in violation of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2), they would face possible criminal prosecution and hefty civil penalties for the unlicensed practice of private detective work.

103. The threat of enforcement of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) has prevented Plaintiffs from helping clients find and recover unclaimed property in Illinois, a major hub of business and industry.

104. The threat of enforcement of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) has prevented Plaintiffs from offering to help new clients find and recover their unclaimed property, both in Illinois and nationwide. Many clients prefer to contract with asset finders who can help find and recover their assets across many jurisdictions. Being prohibited from providing services in Illinois thus prevents Plaintiffs from landing new accounts, even to help find and recover assets outside of Illinois.

105. The threat of enforcement of the license requirement has prevented Plaintiffs from receiving commissions on the property they could help find and recover for new and existing clients.

106. The threat of enforcement of the license requirement has prevented Plaintiffs from working in the occupation of their choosing.

107. But for Defendants' enforcement of the license requirement, Plaintiffs would not fear future prosecution or other government actions.

108. But for Defendants' enforcement of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2), Plaintiffs would not decline to do the following and would immediately resume offering to do the same in Illinois:

- a. Read public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- b. Analyze public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- c. Communicate with the client, potential client, or others when the content of those communications concerns a client's unclaimed property; and
- d. Compile information and documents when the content of that information or those documents concerns a client's or potential client's unclaimed property.

109. But for Defendants' enforcement of 74 Illinois Administrative Code § 760.650(c)(2), Plaintiffs would not decline to do the following and would immediately resume offering to do the same in Illinois:

- a. Communicate with the Treasurer when the content of those communications identifies a client as the owner of property held by the state; and
- b. Communicate with the Treasurer when the content of those communications concerns requests from the Treasurer for additional information identifying a client as the owner of property held by the state.

110. Were Defendants to cease enforcing 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) to prohibit Plaintiffs from doing any or all of the following activities, Plaintiffs would not decline to do the activities which Defendants ceased prohibiting and would immediately resume offering to do the same in Illinois, even if Defendants still prohibited Plaintiffs from doing other of these activities:

- a. Reading public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- b. Analyzing public documents when the content of those documents concerns a client's or potential client's unclaimed property;
- c. Communicating with the client, potential client, or others when the content of those communications concerns a client's or potential client's unclaimed property;
- d. Compiling information and documents when the content of that information or those documents concerns a client's or potential client's unclaimed property;
- e. Communicating with the Treasurer when the content of those communications identifies a client as the owner of property held by the state; or
- f. Communicating with the Treasurer when the content of those communications concerns requests from the Treasurer for additional information identifying a client as the owner of property held by the state.

CAUSES OF ACTION

Count I

First Amendment (Freedom of Speech)

111. Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1–110 as if fully stated here.

112. Plaintiffs have a right to engage in speech under the First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment.

113. Plaintiffs want to read, analyze, communicate, and compile information and documents concerning their clients' and potential clients' unclaimed property held by the Treasurer.

114. Reading, analyzing, communicating, and compiling information and documents concerning their clients' or potential clients' unclaimed property are speech within the meaning of the First Amendment, fall outside any recognized exception to the First Amendment, and are fully protected by the First Amendment.

115. The First Amendment fully protects Plaintiffs' right to read, analyze, communicate, and compile information and documents concerning their clients' or potential clients' unclaimed property regardless of Plaintiffs' charging an industry-standard contingent commission for that speech.

116. 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) prohibit Plaintiffs from reading, analyzing, communicating, or compiling information and documents concerning their clients' or potential clients' unclaimed property in exchange for an industry-standard contingent commission. That is a content-based restriction on speech; the law applies to Plaintiffs only because of the type of

information and documents—the communicative content—that they want to read, analyze, communicate, and compile.

117. The operation and enforcement of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) mean that Plaintiffs cannot read, analyze, or communicate information and documents concerning their clients' or potential clients' unclaimed property to anyone, including the clients or potential clients who own the property. In other words, the license requirement prohibits Plaintiffs from telling property owners that Illinois is holding their property in exchange for an industry-standard contingent commission.

118. Defendants lack even a substantial interest—much less a compelling one—in preventing Plaintiffs from reading, analyzing, communicating, and compiling information and documents concerning their clients' or potential clients' unclaimed property in exchange for an industry-standard contingent commission.

119. The experience and exam necessary to get a private detective license have nothing to do with Plaintiffs' business helping clients find and recover unclaimed property.

120. Regardless of any interest Defendants may have in regulating Plaintiffs' business, requiring a private detective license is not narrowly tailored or even substantially tailored to that interest.

121. Defendants' restriction of Plaintiffs' speech is not sufficiently tailored to any other state interest, compelling or otherwise.

122. Under Illinois law, as interpreted and enforced by Defendants, only licensed private detectives may engage in reading, analyzing, communicating, or compiling,

information and documents concerning clients' or potential clients' unclaimed property in exchange for an industry-standard contingent commission.

123. On their face and as applied to Plaintiffs, 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) restrain Plaintiffs' ability to read, analyze, communicate, and compile information and documents concerning their clients' or potential clients' unclaimed property.

124. Application of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) acts as a content- and speaker-based restriction on the availability and use of information.

125. Defendants' enforcement of the license requirement to suppress Plaintiffs' speech rights cannot withstand any level of First Amendment scrutiny.

126. Unless 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) are declared unconstitutional and Defendants enjoined, Plaintiffs will suffer continuing and irreparable harm.

Count II
First Amendment (Right to Petition)

127. Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1–110 as if fully stated here.

128. Plaintiffs have the right to petition the government under the First Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment.

129. Plaintiffs want to communicate truthful documents and information to the Treasurer identifying Plaintiffs' clients as the owners of unclaimed property held by the

Treasurer so that the Treasurer may fulfill his statutory obligation to return the property to the property owner under 765 ILCS 1026/15-904.

130. Communicating truthful documents and information to the Treasurer identifying Plaintiffs' clients as the owners of unclaimed property to allow the Treasurer to return that property in fulfillment of his statutory duties is petitioning the government within the meaning of the First Amendment, falls outside any recognized exception to the First Amendment, and is fully protected by the First Amendment.

131. The First Amendment fully protects Plaintiffs' right to communicate truthful documents and information to the Treasurer identifying Plaintiffs' clients as the owners of unclaimed property regardless of Plaintiffs' charging an industry-standard contingent commission for making that petition.

132. By telling Plaintiffs not to communicate truthful documents and information to the Treasurer identifying Plaintiffs' clients as the owners of unclaimed property without obtaining a private detective license, Defendants are engaged in the restriction of Plaintiffs' right to petition.

133. The operation and enforcement of 74 Illinois Administrative Code § 760.650(c)(2) mean that Plaintiffs cannot communicate information and documents to the Treasurer identifying Plaintiffs' clients as the owners of unclaimed property in exchange for industry-standard contingent commissions from Plaintiffs' clients even though that information and those documents would assist the Treasurer in returning the property it is holding in trust for Plaintiffs' clients. In other words, 74 Illinois Administrative Code § 760.650(c)(2) prohibits Plaintiffs from telling the Treasurer whose property the Treasurer is holding or assisting the Treasurer in fulfilling his statutory

obligation to return the property to its rightful owner in exchange for an industry-standard contingent commission.

134. The experience and exam necessary to get a private detective license have nothing to do with Plaintiffs' business.

135. Defendants lack even a substantial interest—much less a compelling one—in preventing Plaintiffs from communicating truthful documents and information to the Treasurer identifying Plaintiffs' clients as the owners of unclaimed property.

136. Regardless of any interest Defendants may have in regulating Plaintiffs' business, requiring a private detective license is not narrowly tailored or even substantially tailored to that interest.

137. The license requirement is not sufficiently tailored to any other state interest, compelling or otherwise.

138. Under Illinois law, as interpreted and enforced by Defendants, only licensed private detectives may communicate truthful documents and information to the Treasurer identifying clients as the owners of unclaimed property in exchange for an industry-standard contingent commission.

139. On its face and as applied to Plaintiffs, 74 Illinois Administrative Code § 760.650(c)(2) restrains Plaintiffs' ability to communicate truthful documents and information to the Treasurer identifying Plaintiffs' clients as the owners of unclaimed property.

140. Defendants' enforcement of 74 Illinois Administrative Code § 760.650(c)(2) to suppress Plaintiffs' petition rights cannot withstand any level of First Amendment scrutiny.

141. Unless 74 Illinois Administrative Code § 760.650(c)(2) is declared unconstitutional and Defendants are enjoined, Plaintiffs will suffer continuing and irreparable harm.

Count III
Fourteenth Amendment (Due Process)

142. Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1–110 as if fully stated here.

143. Defendants may not deprive Plaintiffs of “life, liberty, or property, without due process of law” under the Fourteenth Amendment to the United States Constitution.

144. The Fourteenth Amendment’s Due Process Clause protects the right to earn a living in the occupation of a person’s choice subject to rational government regulation.

145. Plaintiffs want to help willing clients by reading documents, analyzing documents, communicating, compiling documents, and submitting claims concerning their clients’ unclaimed property held by the Treasurer in exchange for an industry-standard contingent commission.

146. By barring Plaintiffs from reading documents, analyzing documents, communicating, compiling documents, and submitting claims in exchange for an industry-standard contingent commission, Defendants have prevented Plaintiffs from pursuing the occupation of their choosing.

147. Plaintiffs’ occupation is so different from conventional private detective work that any governmental interest in regulating private detectives is not implicated.

148. Working for three years as a private detective and taking an exam on detective work would not materially improve Plaintiffs’ ability to read documents, analyze

documents, communicate, compile documents, or submit claims concerning Plaintiffs' clients' unclaimed property held by the Treasurer.

149. None of the experience required to obtain a private detective license has any meaningful connection to Plaintiffs' work finding and recovering unclaimed property.

150. The exam that Plaintiffs would undergo tests nothing about finding or recovering unclaimed property. At the same time, the exam does test many topics that lack any meaningful connection to Plaintiffs' work finding and recovering unclaimed property.

151. The requirement to obtain a private detective license before finding and recovering clients' unclaimed property applies only if the asset finder charges the industry-standard contingent commission.

152. There is no reason that a private detective license would be any more relevant to work performed under a contingent-commission arrangement than under another pay structure such as a flat-fee arrangement.

153. Requiring Plaintiffs to obtain a private detective license would not protect the public.

154. Requiring Plaintiffs to obtain a private detective license is not rationally related to any legitimate government interest.

155. The license requirement is subject to increased scrutiny because the state has a profit incentive to retain as much unclaimed property as possible to divert to other budgetary shortfalls. *See, e.g.*, 765 ILCS 1026/15-801.

156. The license requirement cannot survive any level of constitutional scrutiny.

157. Unless 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) are declared unconstitutional and Defendants enjoined, Plaintiffs will suffer continuing and irreparable harm.

Count IV
Fourteenth Amendment (Privileges or Immunities)

158. Plaintiffs reallege and incorporate by reference the allegations in paragraphs 1–110 as if fully stated here.

159. Defendants may not “abridge the privileges or immunities” of Plaintiffs under the Fourteenth Amendment to the United States Constitution.

160. By barring Plaintiffs from finding and recovering unclaimed property without a private detective license, Defendants are violating the Privileges or Immunities Clause.

161. Unless 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) are declared unconstitutional and Defendants enjoined, Plaintiffs will suffer continuing and irreparable harm.

162. Plaintiffs recognize that this claim is foreclosed by *Slaughter-House Cases*, 83 U.S. (16 Wall.) 36 (1873). They preserve it here given the “overwhelming consensus among leading constitutional scholars” that *Slaughter-House* was “egregiously wrong.” *McDonald v. Chicago*, 561 U.S. 742, 756–57 (2010) (noting argument made in brief of Constitutional Law Professors as Amici Curiae, No. 08-1521, 561 U.S. 742 (filed July 9, 2009)).

PRAYER FOR RELIEF

As remedies for the constitutional violations described above, Plaintiffs respectfully request the following relief:

A. A declaration that Defendants' future enforcement of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) violate the First and Fourteenth Amendments on their face and as applied to Plaintiffs;

B. A permanent injunction enjoining future enforcement of 765 ILCS 1026/15-1302(e) and 74 Illinois Administrative Code § 760.650(c)(2) on their face and as applied to Plaintiffs.

C. Attorney's fees and costs under 28 U.S.C. § 1988 and any other applicable statute; and

D. Any other relief the Court deems just and proper.

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s/James T. Knight II
James T. Knight II
DC Bar No. 1671382
Institute for Justice
901 N. Glebe Rd., Ste. 900
Arlington, VA 22203
(703) 682-9320
jknight@ij.org

Robert E. Johnson
DC Bar No. 1013390
Institute for Justice
16781 Chagrin Blvd. #256
Shaker Heights, OH 44120
(703) 682-9320
rjohnson@ij.org

Counsel for Plaintiffs