

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BEFORE THE SECRETARY OF THE COMMONWEALTH

RECEIVED
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DEPARTMENT OF STATE

Commonwealth of Pennsylvania, :
Bureau of Corporations and :
Charitable Organizations :

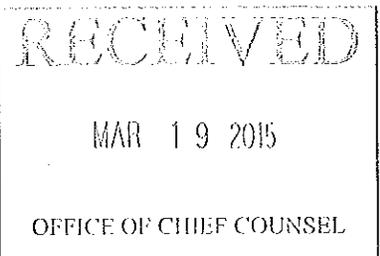
v. :

Leechburg Lodge #102, Loyal Order of Moose, :
A/K/A Leechburg Moose Family Center #102, :
A/K/A Rock for Life, :
Respondent :

Docket No. 0603 -98-14

File No. 13-98-06185

CONSENT AGREEMENT AND ORDER



PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Corporations and Charitable Organizations ("Bureau") and Leechburg Lodge #102, Loyal Order of Moose, A/K/A Leechburg Moose Family Center #102, A/K/A Rock for Life ("Respondent") stipulate as follows in settlement of the above-captioned matter:

JURISDICTION

1. This matter is before the Secretary of the Commonwealth ("Secretary") pursuant to the Solicitation of Funds for Charitable Purposes Act ("the Act"), Act of December 19, 1990, P.L. 1200, No. 202, *as amended*, 10 P.S. §§ 162.1-162.24.

LICENSE AND REGISTRATION STATUS

2. Respondent does not deny the truth of the following averments regarding its professional licensure:

- a. At all relevant and material times, Respondent conducted business in Pennsylvania as a charitable organization, as defined by the Act.

b. At all relevant and material times, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

c. At all relevant and material times, Respondent was not exempt or excluded from the requirements of the Act.

d. The last known mailing address for the Respondent is 102 Market Street, Leechburg, PA 15656.

FACTUAL ALLEGATIONS

3. The Respondent admits that the following allegations are true:

a. On or about May 25, 2012, the Bureau of Corporations and Charitable Organizations (Bureau) notified Respondent that it may be required to register pursuant to the Act and that it had thirty (30) days to respond by becoming properly registered or providing evidence that it is exempt or excluded from registering under the Act.

b. Respondent replied to the May 25, 2012 letter by submitting a Pennsylvania Public Disclosure Form BCO-23; however, the form contained numerous discrepancies.

c. On or about July 30, 2012, the Bureau notified Respondent of the discrepancies in the form and provided a thirty (30) day deadline for Respondent to return the appropriate registration documentation or a cease and desist order would be issued by the Secretary.

d. On or about October 5, 2012, Respondent contacted the Bureau and requested additional time for it to comply with the July 30, 2012 letter requesting the appropriate registration documentation.

- e. Respondent failed to provide the appropriate registration documentation.
- f. As a result, on or about January 11, 2013, the Secretary issued a Cease and Desist Order against Respondent.
- g. The January 11, 2013 Order ordered that Respondent cease and desist from soliciting contributions in the Commonwealth until such time as it is duly registered with the Bureau or provides evidence that it is excluded or exempt from registration.
- h. On or about April 30, 2013, Respondent sent incomplete registration materials to the Bureau.
- i. On or about May 14, 2013, the Bureau notified Respondent that its registration was incomplete and advised that it address the issues.
- j. Respondent continues to hold a concert series under the name of "Rock for Life," with proceeds from the series benefitting needy individuals suffering from life-threatening illnesses.
- k. Respondent listed on its BCO-23 form that it collected over \$50,000.00 in income from small games for the fiscal year ending in 2011.
- l. Respondent's Form 990 filings from 2010, 2011 and 2012 indicate that Respondent's gross annual contributions exceeded \$25,000.00.

AGREED VIOLATIONS

4. The parties agree that by engaging in the foregoing activities, Respondent committed the following violations of the Act at:

- a. Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by soliciting contributions in violation of an Order issued by the Secretary of the Commonwealth; and,

b. Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by soliciting contributions in the absence of an approved registration.

TERMS OF BOARD ORDER

5. To address concerns raised by the Commonwealth and to resolve this matter on a compromise basis, the Commonwealth and the Respondent, intending to be legally bound, agree to the issuance by the Secretary of the following Order in settlement of this matter:

a. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), in that the organization continued to solicit contributions in violation of Orders issued by the Secretary of the Commonwealth.

b. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), in that the organization solicited contributions in the absence of an approved registration.

ADMINISTRATIVE FINE

c. An **ADMINISTRATIVE FINE** in the amount of **TWO-THOUSAND-DOLLARS (\$2,000.00)** is hereby levied upon Respondent.

(1) Respondent shall tender the full sum of the **ADMINISTRATIVE FINE** with the return of this executed Consent Agreement;

(2) Payment of the **ADMINISTRATIVE FINE** shall be by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.).

(3) The instrument of payment shall be payable to the 'Commonwealth of Pennsylvania,' and shall be valid for a period of at least one hundred eighty (180) days.

(4) Respondent agrees that payment shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check.

FILING OF REGISTRATION DOCUMENTS

d. Respondent agrees not to solicit charitable contributions in the Commonwealth of Pennsylvania without first being properly registered with the Bureau in accordance with Section 162.5 of the Act, 10 P.S. § 162.5.

e. Respondent acknowledges that failure to register with the Bureau when required to do so, may result in an administrative fine of \$1,000.00, and an additional penalty of \$100.00 for each day the violations continue.

f. Respondent acknowledges that failing to register with the Bureau when required to do so may result in subsequent registrations being automatically suspended until the fine is paid or until the normal expiration date of the registration in accordance with Section 162.17 of the Act, 10 P.S. § 162.17.

g. Respondent acknowledges that no subsequent registration shall be renewed until the fine is paid.

h. Respondent shall not enter into any contract or agreement or employ any professional fundraising counsel or professional solicitor unless that professional fundraising counsel or professional solicitor is registered with the Bureau.

CASE SETTLED AND DISCONTINUED

i. This case shall be deemed settled and discontinued upon the Secretary issuing an Order approving and adopting this Consent Agreement and upon the Respondent's successful completion of the requirements of this Order.

j. Nothing in this Consent Agreement and Order shall preclude the Prosecuting Attorney for the Bureau from filing charges, or the Secretary from imposing, disciplinary or corrective measures for violations or facts not contained in this Consent Agreement and Order.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of an Act enforced by this Board in the future, this Consent Agreement and Order shall be admitted into evidence without objection in that proceeding.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

7. Respondent waives the filing of an Order to Show Cause in this matter.

8. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and to the following rights related to that hearing: to be represented by counsel at the hearing; to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation; to cross-examine witnesses and to challenge evidence presented by the Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

9. Respondent acknowledges that it is aware that it has the right to consult with, and be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement.

10. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed in this matter without the assistance of legal counsel.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

11. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Secretary or her counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. This paragraph is binding on the participants even if the Secretary does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

12. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

13. This Consent Agreement is between the Bureau and Respondent only. It does not bind any other governmental or administrative entity of the Commonwealth of Pennsylvania, including any other bureau within the Department of State.

14. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Secretary issues an Order approving and adopting this Consent Agreement.

EFFECT OF SECRETARY'S REJECTION OF CONSENT AGREEMENT

15. Should the Secretary not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Secretary shall not prejudice the Secretary from further participation in the adjudication of this matter. This

paragraph is binding on the participants even if the Secretary does not approve this Consent Agreement.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

16. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent Agreement shall preclude representatives of the Bureau from referring any information or data produced as a result of this matter to any federal, state, or local agency or governmental unit having jurisdiction over the activities of Respondent or any officer, director, agent, employee or independent contractor of the Respondent.

ENTIRE AGREEMENT

17. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.

VERIFICATION OF FACTS AND STATEMENTS

18. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief.

Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Theresa M. Evancho

Theresa M. Evancho
Prosecuting Attorney
Department of State

DATED: 3/12/15

Walter H. Gov.

Leechburg Lodge #102, Loyal Order of
Moose, A/K/A Leechburg Moose Family
Center #102, A/K/A Rock for Life
Respondent

DATED: 1-26-15



Leechburg Lodge #102, Loyal Order of Moose, A/K/A Leechburg Moose Family Center
#102, A/K/A Rock for Life

DOCKET NO. -98-15
FILE NO. 13-98-06185

ORDER

AND NOW, this 17th day of March 2015 the foregoing Consent Agreement is approved and the terms set forth in paragraph 5 are hereby adopted and incorporated herein as the Order of the Secretary of the Commonwealth issued in resolution of this matter.

THIS ORDER shall take effect immediately.

BY ORDER

A handwritten signature in cursive script, reading "Pedro A. Cortés".

Pedro A. Cortés
Acting Secretary of the Commonwealth

For the Commonwealth:

T'rese M. Evancho, Esquire
2601 North Third Street
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

Leechburg Lodge #102,
Loyal Order of Moose, A/K/A
Leechburg Moose Family Center #102,
A/K/A Rock for Life
Fred Ulmer
102 Market Street
Leechburg, PA 15656

Date of Mailing:

3/19/15