

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

PROthonotary
March 19, 2013
Department of State

Commonwealth of Pennsylvania,
Bureau of Corporations and
Charitable Organizations

v.

Philadelphia Police & Fire Football Club,
Respondent

Docket No. 0002-98-15
File No. 13-98-10895

CONSENT AGREEMENT AND ORDER

RECEIVED
MAR 19 2013
OFFICE OF CHIEF COUNSEL

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Corporations and Charitable Organizations ("Bureau") and Philadelphia Police and Fire Football Club ("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. From 2004 to 2011, 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. On or about September 25, 2012, Respondent became registered as a charitable organization with the Department of State, Bureau of Corporations and Charitable Organizations (Bureau) and held certificate number 33226 issued by the Bureau.

e. Respondent's current registration expires on November 11, 2015.

f. The last known mailing address for the Respondent is 11974 Dumont Street, Philadelphia, PA 19116.

FACTUAL ALLEGATIONS

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

a. On or about June 25, 2012, Respondent submitted registration materials to the Bureau.

b. The registration materials included a Charitable Organization Registration Statement-Form BCO-10 for Respondent's fiscal year ending December 31, 2011.

c. The BCO-10 Form states that Respondent first solicited contributions from Pennsylvania residents on March 3, 2003.

d. The BCO-10 Form also states that Respondent first solicited contributions from Pennsylvania residents and received gross contributions totaling more than \$25,000 on December 31, 2003.

e. A review of Respondent's Form 990, Return of Organization Exempt From Income Tax filed with the Internal Revenue Service ("IRS") from years 2004 through 2010 indicates that Respondent grossed over \$25,000 for the following years, in the following amounts:

i. 2004; \$111,286

ii. 2005; \$144,244

iii. 2006; \$75,246

iv. 2007; \$97,102

v. 2008; \$87,040

vi. 2009; \$122,215

vii. 2010; \$117,754

f. Based on the 990 Forms filed with the IRS, Respondent grossed over \$25,000 yearly since 2004; thus, requiring registration with the Bureau.

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 and through actions that were not in accordance with Section 5(a), 10 P.S. § 162.5(a), by soliciting contributions in the absence of an approved registration from 2004 until 2010.

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. Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Section 5(a), 10 P.S. § 162.5(a), by soliciting contributions in the absence of an approved registration from 2004 until 2010.

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** in the amount of **FOUR-THOUSAND-DOLLARS (\$4,000.00)** 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.

CASE SETTLED AND DISCONTINUED

c. 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.

d. 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.

T'rese M. Evancho

T'rese M. Evancho
Prosecuting Attorney
Department of State

Joseph M. Gatta

Philadelphia Police & Fire Football Club
Respondent

DATED: 3/6/2015

DATED: 2-23-2015



Philadelphia Police & Fire Football Club

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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

Pedro A. Cortés

Pedro A. Cortés
Acting Secretary of the Commonwealth

For the Commonwealth:

Trrese M. Evancho, Esquire
2601 North Third Street
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

John R. McGrody, Esq.
11630 Caroline Road
Philadelphia, PA 19154

Date of Mailing:

3/19/15