

PRO. JUDICIAL

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

2012 APR -9 11 2:11

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

Free Geek Penn,
Respondent

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: Docket No. 0014 -98-12
: File No. 12-98-00999
:
:
:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations (“Bureau”) and the Free Geek Penn, (“Respondent”) stipulate as follows in settlement of the above-captioned case:

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* (“Act”), 10 P.S. §§ 162.1 *et. seq.*
2. At all relevant and material times, Respondent conducted business in Pennsylvania as a charitable organization, as defined by the Act.
3. At all relevant and material times, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.
4. At all relevant and material times, Respondent was not exempt from registration or excluded from the requirements of the Act.

STIPULATED FACTS

5. Respondent's last known mailing address 400 West Main Street, Suite 6, Ephrata, PA 17522.

6. Respondent solicits charitable contributions in Pennsylvania through the internet.

7. On or about June 28, 2011, the Bureau sent via certified mail, a request for information including but not limited to the total number of Pennsylvania residents that contributed to Respondent's organization since Respondent first solicited in the Commonwealth, as well as the total amount of contributions received from Pennsylvania residents since Respondent first solicited in the Commonwealth.

8. On or about December 14, 2011, the Secretary of the Commonwealth issued a Cease and Desist Order against the Respondent.

9. The Bureau did not receive a written response to its June 28, 2011 letter until January 13, 2012.

10. Respondent's response indicated that Respondent had been soliciting Pennsylvania residents since 2004, that Respondent exceeded \$25,000 in gross contributions in 2004, and that Respondent received at least \$512,000.00 in contributions from Pennsylvania residents between fiscal year ending 2007 and fiscal year ending 2011.

11. Between on or about December 14, 2011 and the current date, Respondent has continued to soliciting charitable contributions on its website.

AGREED VIOLATIONS

12. Respondent admits and agrees that by engaging in the foregoing activities it repeatedly violated the Act at, 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.5, by soliciting charitable contributions in Pennsylvania without being properly registered; and

13. Respondent repeatedly violated the Act at 10 P.S. § 162.15(a)(1), by violating an Order issued to the Respondent by the Secretary of the Commonwealth.

PROPOSED ORDER

14. The parties, intending to be legally bound, agree to the issuance of the following Order in settlement of this matter:

a. Respondent repeatedly violated the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.5, by soliciting charitable contributions in Pennsylvania without first being registered; and

b. Respondent repeatedly violated the Act at 10 P.S. § 162.15(a)(1), by violating an Order issued to the Respondent by the Secretary of the Commonwealth.

ADMINISTRATIVE FINE

c. An **ADMINISTRATIVE FINE** of ten thousand dollars (\$10,000.00) is levied upon Respondent. Respondent shall tender the sum of ten thousand dollars (\$10,000.00) in two installment payments. All payments shall be paid by **certified check, cashier's check, attorney's check or U.S. Postal money order made payable to the "Commonwealth of Pennsylvania."** Respondent agrees that all payments shall only be made by one of the methods indicated above and shall not be made by **uncertified personal or corporate check.** The Administrative fine shall be paid as follows:

i. Respondent shall tender the sum of five thousand dollars (\$5,000.00) along with the signed Consent Agreement.

ii. Respondent shall make the second and final payment of five thousand dollars (\$5,000.00) on or before September 30, 2012.

FAILURE TO MAKE PAYMENTS

d. In the event that Respondent becomes more than thirty (30) days late in making a payment as scheduled the entire remaining administrative fine (i.e. \$10,000.00 minus total payments made) shall become immediately due and payable. Respondent acknowledges that if Respondent fails to make timely payments under this Consent Agreement and the entire remaining administrative fine becomes due and payable, the collection of this administrative fine may be referred to the Office of Attorney General for collection proceedings.

CASE SETTLED AND DISCONTINUED

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

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

16. Respondent waives the filing of an Order to Show Cause in this matter. 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 Bureau; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

AGREEMENT NOT BINDING ON OTHER PARTIES

17. 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. Except as otherwise noted, this Agreement is to have no legal effect if a) the Office of General Counsel expresses an objection to the Agreement's form or legality and/or b) unless and until the Secretary issues the stipulated Order.

EFFECT OF SECRETARY'S REJECTION

18. 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.

ENTIRE AGREEMENT

19. This Agreement contains the whole agreement between the parties; 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.

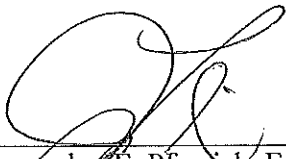
AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

20. 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.

VERIFICATION OF FACTS AND STATEMENTS

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

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



Jacquelyn E. Pfursich, Esquire
Prosecuting Attorney
Department of State

DATED: 3/21/12



Free Geek Penn
Title: CEO
Respondent

DATED: 3/19/2012



**IN THE MATTER OF
FREE GEEK PENN
FILE NO. 12-98-00999**

ORDER

AND NOW, this 3 day of April 2012, the terms of Paragraph 14 of the foregoing Consent Agreement are hereby adopted and incorporated as the Order of the Secretary of the Commonwealth in resolution of this matter. This Order shall take effect immediately.

BY ORDER

A handwritten signature in cursive script, appearing to read "Carol Aichele".

Carol Aichele
Secretary of the Commonwealth