

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

PROTHONOTARY  
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Department of State

Commonwealth of Pennsylvania :  
Bureau of Charitable :  
Organizations :  
vs. : Docket No. 0005 -98-13  
: File No. 13-98-02414  
Diamond Fire Company of Walnutport, :  
Respondent :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations (“Bureau”) and the Diamond Fire Company of Walnutport, (“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. Respondent is registered as a charitable organization with the Bureau, registration number 30544, which is set to expire November 11, 2013.

STIPULATED FACTS

4. The Commonwealth and the Respondent agree to the following facts:

a. Respondent's principal place of business is located at 120 Main Street, Walnutport, PA 18088.

b. At all relevant and material times, Respondent was required to be registered with the Bureau.

c. Respondent primarily receives charitable contributions in Pennsylvania through direct solicitations of donations and gaming to wit: Bingo and small games of chance.

**VIOLATION OF CEASE AND DESIST ORDER**

d. On July 26, 2010 a Cease and Desist Order was issued by the Secretary of the Commonwealth.

e. Respondent continued to solicit charitable contributions without being registered with the Bureau in violation of the Cease and Desist Order from July 26, 2010 through March 1, 2013.

f. On March 1, 2013 Respondent perfected registration with the Bureau, which is set to expire November 11, 2013.

**AGREED VIOLATIONS**

5. Respondent, by engaging in the foregoing activities, 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.

6. Respondent, by engaging in the foregoing activities, violated the Act at 10 P.S. § 162.15(a)(1) by and through 10 P.S. § 162.17(a)(1) in that Respondent failed to Cease and Desist in accordance with the order issued by the Secretary of the Commonwealth.

**PROPOSED ORDER**

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

a. Respondent, by engaging in the foregoing activities, 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.

b. Respondent, by engaging in the foregoing activities, violated the Act at 10 P.S. § 162.15(a)(1) by and through 10 P.S. § 162.17(a)(1) in that Respondent failed to Cease and Desist in accordance with the order issued by the Secretary of the Commonwealth.

**ADMINISTRATIVE FINE**

c. An **ADMINISTRATIVE FINE** of three thousand dollars (\$3,000.00) is levied upon Respondent. Respondent shall tender the full sum of three thousand dollars (\$3,000.00), with this executed Consent Agreement which 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."**

**FILING OF REGISTRATION DOCUMENTS**

d. Accordingly, 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.

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 a 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.

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

#### **CASE SETTLED AND DISCONTINUED**

8. 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**

9. 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**

10. 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**

11. 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**

12. 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.

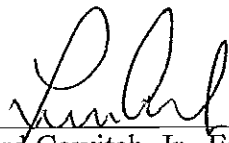
#### **AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES**

13. 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

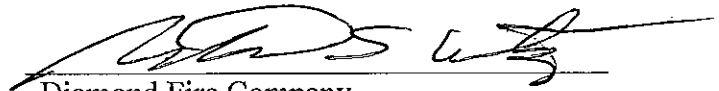
agency or governmental unit having jurisdiction over the activities of Respondent or any officer, director, agent, employee or independent contractor of the Respondent.

**VERIFICATION OF FACTS AND STATEMENTS**

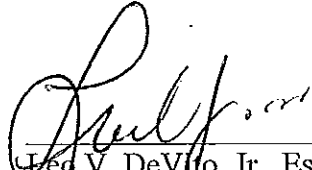
14. Respondent verifies that the facts and statements set forth in this Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Agreement are made subject to the criminal penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

  
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Leonard Cowitch, Jr., Esquire  
Prosecuting Attorney  
Department of State

DATED: 7-12-13

  
\_\_\_\_\_  
Diamond Fire Company  
Name: Michael S Wartz  
Title: Trustee  
Respondent

DATED: July 1, 2013

  
\_\_\_\_\_  
Leo V. DeVito, Jr., Esq.  
BROUGHAL & DEVITO, LLP



**IN THE MATTER OF  
DIAMOND FIRE COMPANY OF WALNUTPORT  
FILE NO. 13-98-02414**

**ORDER**

AND NOW, this 6<sup>th</sup> day of August, 2013, the terms of Paragraph 7 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, reading "Carol Aichele".

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Carol Aichele  
Secretary of the Commonwealth