

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

PROTHONOTARY  
2014 OCT 24 PM 1:41  
Department of State

Commonwealth of Pennsylvania,  
Bureau of Corporations and  
Charitable Organizations

v.

SOS American Foundation, Inc.,  
Respondent

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Docket No. 0012-98-14

File No. 13-98-10638

**CONSENT AGREEMENT AND ORDER**

**PARTIES**

The Commonwealth of Pennsylvania, Department of State, Bureau of Corporations and Charitable Organizations (“Bureau”) and **SOS American Foundation, Inc.** (“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 2006 to 2012, 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 January 3, 2014, Respondent became registered as a charitable organization with the Department of State, Bureau of Corporations and Charitable Organizations (Bureau) and held certificate number 41394 issued by the Bureau.

e. Respondent's registration expires on May 11, 2015.

f. The last known mailing address for the Respondent is 421 Leggett Street, Scranton, PA 18508.

### **FACTUAL ALLEGATIONS**

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

a. On or about March 8, 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 March 8, 2012 letter by submitting a Charitable Organization Registration Statement-Form BCO-10.

c. The BCO-10 Form states that Respondent first solicited contributions from Pennsylvania residents on September 18, 2006.

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 September 15, 2011.

e. A review of Respondent's Form 990, Return of Organization Exempt From Income Tax filed with the Internal Revenue Service ("IRS") from years

2006 through 2011 indicates that Respondent grossed over \$25,000 for the following years, in the following amounts:

- i. Fiscal Year Ending June 30, 2007; \$428,774
- ii. Fiscal Year Ending June 30, 2008; \$112,391
- iii. Fiscal Year Ending June 30, 2009; \$197,805
- iv. Fiscal Year Ending June 30, 2010; \$149,205
- v. Fiscal Year Ending June 30, 2011; \$90,490
- vi. Fiscal Year Ending June 30, 2012; \$123,226

f. Based on the 990 Forms filed with the IRS, Respondent grossed over \$25,000 since 2006; thus, requiring registration with the Bureau.

g. Based on the 990 Forms filed with the IRS, the first time Respondent grossed over \$25,000 was not September 15, 2011, but rather was during the Fiscal Year Ending 2007.

#### **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.

b. Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through Section 17(a)(3), 10 P.S. § 162.17(a)(3), by making a materially false statement on application, statement, or report required to be filed under the Act.

**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.

b. Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through Section 17(a)(3), 10 P.S. § 162.17(a)(3), by making a materially false statement on application, statement, or report required to be filed under the Act.

**ADMINISTRATIVE FINE**

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

d. Respondent shall tender the full sum of the **ADMINISTRATIVE FINE** as follows:

(1) Respondent shall tender the sum of five hundred dollars (\$500.00) with this executed Consent Agreement;

(2) Respondent shall make the second payment of five hundred dollars (\$500.00) on or before September 30, 2014;

(3) Respondent shall make the third payment of five hundred dollars (\$500.00) on or before October 30, 2014;

(4) Respondent shall make the fourth and final payment of five hundred dollars (\$500.00) on or before November 30, 2014.

e. Each payment of the ADMINISTRATIVE FINE shall be made 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.).

f. 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.

g. 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**

h. 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.

i. 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

Tina DiMartino  
SOS American Foundation, Inc.  
Respondent

DATED: 10/6/2014

DATED: August 29, 2014



**SOS AMERICAN FOUNDATION, INC.**

**DOCKET NO. -98-14**  
**FILE NO. 13-98-10638**

**ORDER**

**AND NOW**, this 23<sup>RD</sup> day of OCTOBER 2014 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, appearing to read "Carol Aichele".

**Carol Aichele**  
**Secretary of the Commonwealth**

For the Commonwealth:

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

For Respondent:

SOS American Foundation, Inc.  
421 Leggett Street  
Scranton, PA 18508

Date of Mailing: October 27, 2014