

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

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Department of State

Commonwealth of Pennsylvania, :
Bureau of Corporations and Charitable :
Organizations : Docket No: 0006 -98-16
vs. :
Edward Koch, : File No: 15-98-02375
Respondent :

CONSENT AGREEMENT

The Commonwealth of Pennsylvania, Bureau of Corporations and Charitable Organizations (Bureau) and Edward Koch (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, Act of December 19, 1990, P.L. 12000, No. 202, *as amended* (here and after referred to as 'Act'), 10 P.S. §§ 162.1-162.24.
2. Greater Pittston Stoners Soccer Association (hereinafter referred to as 'G.P.S.S.A.'), located in Exeter, Luzerne County, PA., is a charitable organization as defined in Section 162.3 of the Act, 10 P.S. § 162.3.

STIPULATED FACTS

3. The Respondent admits to the following facts:
 - a. The last known mailing address for the Respondent is: SCI Camp Hill, P.O. Box 200 (inmates), Camp Hill, PA 17001

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b. Prior to the Respondent being incarcerated in SCI Camp Hill, his last known address was: 128 Whitlock Street, Exeter, PA 18643.

c. At all relevant and material times during 2014, Respondent was the Treasurer of G.P.S.S.A.

d. During the period that Respondent served as its Treasurer, G.P.S.S.A. operated as a nonprofit organization.

e. During the period that Respondent served as its Treasurer, G.P.S.S.A. conducted business as a charitable organization as defined by the Act.

f. During the period that Respondent served as its Treasurer, G.P.S.S.A. had bank accounts at Landmark Bank, Pittston, and Luzerne Bank, Wyoming.

g. At all relevant and material times, Respondent had access to checks issued by the Landmark Bank, Pittston, and Luzerne Bank, Wyoming for the accounts held by G.P.S.S.A. at those institutions.

h. Pursuant to Section 162.21 of the Act, 10 P.S. § 162.21, Respondent, as Treasurer of G.P.S.S.A., was deemed to be a fiduciary, and was required to act in a fiduciary capacity, on behalf of G.P.S.S.A.

i. During the period in 2013 and 2014, Respondent misappropriated funds belonging to G.P.S.S.A. through:

a. checks written from accounts belonging to G.P.S.S.A. made payable to cash, the proceeds of which were used for

Respondent's personal use, needs and benefit and not for the benefit of G.P.S.S.A.;

- b. checks written from accounts belonging to G.P.S.S.A. made payable to Respondent or to others, the proceeds of which were used for Respondent's personal use, needs and benefit and not for the benefit of G.P.S.S.A.;
- c. checks written from accounts belonging to G.P.S.S.A. for the purchase of goods and services used for Respondent's personal use, needs and benefit and not for the benefit of G.P.S.S.A.; and,
- d. the failure to deposit cash received on behalf of G.P.S.S.A.; which was used for Respondent's personal use, needs and benefit and not for the benefit of G.P.S.S.A.

j. The funds misappropriated by the Respondent were not applied in a manner consistent with G.P.S.S.A.'s charitable purposes.

AGREED VIOLATIONS

4. Respondent agrees that by engaging in the aforementioned activities he committed the following violations of the Act:

- a. Respondent violated Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through a violation of Section 162.13(a) of the Act, 63 P.S. § 162.13(a), in that when Respondent misappropriated funds from G.P.S.S.A. for his personal use, needs and benefit, he caused G.P.S.S.A. to apply contributions in a manner that was inconsistent with G.P.S.S.A.'s charitable purpose; and,

b. Respondent violated Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through a violation of Section 162.21 of the Act, 63 P.S. § 162.21, in that Respondent, as Treasurer, breached the fiduciary duty he owed to G.P.S.S.A. to assure that contributions were used in a manner consistent with G.P.S.S.A.'s charitable purpose.

PROPOSED ORDER

5. Intending to be legally bound, the participants consent to the issuance by the Secretary of the following Order in resolution of this matter:

VIOLATION

a. Respondent violated Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Sections 162.13(a) and 162.21 of the Act, 10 P.S. §§ 162.13(a) and 162.21, through the misappropriation of funds belonging to a charitable organization.

PUBLIC REPRIMAND

b. A **PUBLIC REPRIMAND** is hereby issued upon the Respondent.

ADMINISTRATIVE PENALTY

c. Respondent shall not in the future assume any position in any charitable organization, whether voluntary or paid, that involves the solicitation, collection or expenditure of a contribution as defined in the Act.

COOPERATION WITH DISTRICT ATTORNEY

d. Respondent shall fully cooperate with the Luzerne District Attorney's Office in all efforts taken by that office to pursue any actions and to achieve full restitution to G.P.S.S.A. in this matter.

ADDITIONAL PROVISIONS

e. Respondent shall not represent, either directly or indirectly, that by this Consent Agreement the Bureau of Corporations and Charitable Organizations has sanctioned, condoned, approved or pardoned any part or aspect of Respondent's activities in the misappropriation of funds belonging to a charitable organization.

f. Respondent shall not, either directly or indirectly, participate in the future in any activities in the Commonwealth of Pennsylvania which are in violation of the Act.

CASE SETTLED AND DISCONTINUED

g. This case shall be deemed settled and discontinued upon the Secretary issuing an Order that approves this Consent Agreement and adopts and incorporates the terms set forth in this paragraph.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

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

7. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter and knowingly and voluntarily waives 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 orally or through submission of a brief, and to take appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

8. Respondent acknowledges that he is aware that he has the right to consult with, and/or 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. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

AGREEMENT NOT BINDING ON OTHER PARTIES

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

10. 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 this Consent Agreement and adopting and incorporating the terms set forth in paragraph 5, above.

EFFECT OF SECRETARY'S REJECTION

11. Should the Secretary decide not to 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

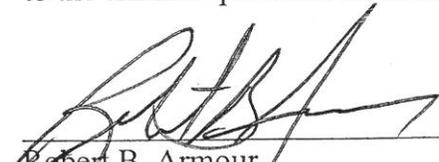
12. The parties acknowledge that other federal, state and/or local agencies or governmental units may have jurisdiction over the activities of or representations made by Respondent. Nothing in this Consent Agreement and Order shall preclude representatives of the Bureau from referring any information 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.

ENTIRE AGREEMENT

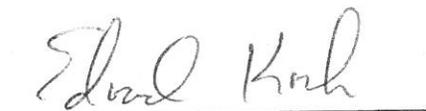
13. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants,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

VERIFICATION OF FACTS AND STATEMENTS

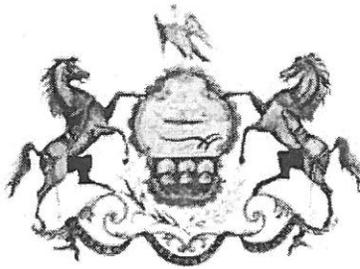
14. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information, and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S. § 4904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


Robert B. Armour
Prosecuting Attorney
Department of State

Date: 7/13/16


Edward Koch
Respondent

Date: 7/1/16



IN THE MATTER OF:

EDWARD KOCH

DOCKET NO. -98-16

FILE NO. 15-98-02375

ORDER

AND NOW, this _____ day of _____ 2016 the foregoing Consent Agreement is hereby approved and the terms set forth in paragraph 5 are hereby adopted and incorporated herein as the Order of the Secretary of the Commonwealth, now issued in resolution of this matter.

THIS ORDER shall take effect immediately.

BY ORDER

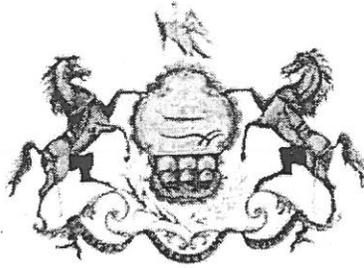
Pedro A. Cortés
Secretary of the Commonwealth

For the Commonwealth:

Robert B. Armour, Esquire
2601 North Third Street
P. O. Box 2649
Harrisburg, PA 17105-2649

Respondent:

Edward Koch, MM1995
SCI Camp Hill
P.O. Box 200 (inmates)
Camp Hill, PA 17001



IN THE MATTER OF:

EDWARD KOCH

DOCKET NO. -98-16
FILE NO. 15-98-02375

AND NOW, this 22nd day of July 2016 the foregoing Consent Agreement is hereby approved and the terms set forth in paragraph 5 are hereby adopted and incorporated herein as the Order of the Secretary of the Commonwealth, now issued in resolution of this matter.

THIS ORDER shall take effect immediately.

BY ORDER

Pedro A. Cortés

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Secretary of the Commonwealth

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