

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

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Department of State

Commonwealth of Pennsylvania, Bureau of Charitable Organizations	:	
	:	Docket No. 0002 -98-11
vs.	:	File No. 11-98-00809
Newport Creative Communications, Respondent	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau"), and Newport Creative Communications ("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, 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 acted as a professional fundraising counsel as defined by the Act.

3. At all relevant and material times, Respondent was registered as a professional fundraising counsel with the Bureau, certificate number 11866.

STIPULATED FACTS

4. Respondent admits that the following allegations are true:

a. Respondent's last known address on file with the Bureau is 33 Railroad Avenue, Duxbury, MA 02332.

b. The Tau Beta Pi Association is a charitable organization that is not registered as a charitable organization with the Bureau.

c. The Bureau received evidence that Respondent performed professional fundraising counsel services for The Tau Beta Pi Association pursuant to a written contract between Respondent and The Tau Beta Pi Association beginning on or about January 1, 2011.

d. At all relevant and material times, there was no approved contract on file with the Bureau between Respondent and The Tau Beta Pi Association.

AGREED VIOLATIONS

5. Respondent admits and agrees that by engaging in the aforementioned activities:

a. Respondent violated the Act at 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.8(d), by failing to file Respondent's contract with The Tau Beta Pi Association with the Bureau prior to rendering professional fundraising counsel services.

PROPOSED ORDER

6. The participants, intending to be legally bound, consent to issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.8(d).

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** of one thousand dollars (\$1,000.00) is levied upon Respondent. Respondent shall tender the full sum of one thousand dollars (\$1,000.00), with this executed Consent Agreement which shall be paid by **certified check, cashiers check, attorney's check, or U.S. Postal money order made payable to the**

“Commonwealth of Pennsylvania.” Respondent shall also pay any and all currently outstanding Administrative Fines levied by the Bureau’s registration unit.

FILING OF CONTRACTS

c. Respondent shall submit to the Bureau any and all current contracts to provide professional solicitation services within thirty (30) days of the date of the Secretary’s Order adopting this Consent Agreement. In the event that the contracts are not filed within the required time frame, the Respondent shall pay an administrative fine of \$1000.00, and shall pay an additional penalty of \$100.00 for each day during which the violation continues, in accordance with Section 162.17 of the Act.

CASE SETTLED AND DISCONTINUED

7. 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

8. 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 the 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

9. This Consent Agreement is between the Bureau and Respondent only. It does not bind any other administrative or governmental 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

10. 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

11. 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

12. 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

13. 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 M. Pfursich, Esquire
Prosecuting Attorney
Department of State

Newport Creative Communications



By: Benjamin Borne
Title: Senior Vice President
Respondent

DATED: 1/9/12

DATED: 12/28/11



IN THE MATTER OF
NEWPORT CREATIVE COMMUNICATIONS
FILE NO. 11-98-00809

ORDER

AND NOW, to wit, on this 12th day of January 2012, the terms of paragraph 6 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