

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

PROTHONOTARY
2011 MAR -9 AM 8:32
Department of State

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

Christian Rose,
Respondent

Docket No. 0014 -98-11
File No. 10-98-10162

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau"), and Christian Rose ("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.*

STIPULATED FACTS

2. Respondent admits that the following allegations are true:
 - a. Respondent's last known address is 534 Pine Street, Johnstown, PA 15902.
 - b. On or about late May 2010, Respondent placed a contribution jar with the Make-A-Wish Foundation (hereinafter "Make-A-Wish") logo at the Wendy's located at 1251 Scalp Avenue, Johnstown, PA.
 - c. On or about early June 2010, Respondent picked up a partially filled contribution jar from the Wendy's and placed an empty contribution jar in the Wendy's Restaurant.

d. Respondent's contributions jars claimed to be raising funds through the Make-A-Wish Foundation for Ava Montgomery, a four-year-old girl suffering from Acute Respiratory Distress Syndrome.

e. On or about late May 2010, Respondent provided a letter with the Make-A-Wish logo printed at the top, to the manager's of the Red Lobster located at 525 Galleria Drive, Johnstown, PA, in which Respondent solicited a contribution.

f. At no point was Respondent authorized by the Make-A-Wish Foundation to use its name or logo.

AGREED VIOLATIONS

3. 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. § 162.15(a)(3), by utilizing the Make A Wish Foundation's name without first obtaining written authorization from the organization.

PROPOSED ORDER

4. 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. § 162.15(a)(3).

PROPOSED ORDER

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

a. Respondent violated the Act as set forth in Paragraph 4.

CEASE AND DESIST

b. Respondent shall **CEASE AND DESIST** from using the Make-A-Wish Foundation name and logo in any form unless and until the Make-A-Wish Foundation has given Respondent written authorization to use the Make-A-Wish Foundation name and/or logo.

PUBLIC REPRIMAND

c. A **PUBLIC REPRIMAND** is hereby issued to Respondent.

ADDITIONAL PROVISIONS

d. Respondent shall not represent, either directly or indirectly, that by this Consent Agreement the Bureau of Charitable Organizations has sanctioned, condoned or approved any part or aspect of Respondent's activities.

e. Respondent shall not, either directly or indirectly, participate in any activities within the Commonwealth of Pennsylvania in violation of the Act.

f. Respondent shall not assume any position, whether voluntary or paid, in any charitable organization, which involves the solicitation, collection, or expenditure of contributions.

CASE SETTLED AND DISCONTINUED

6. 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

7. 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

8. 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

9. 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

10. 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

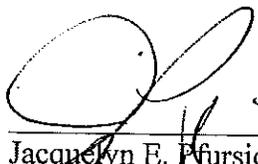
reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

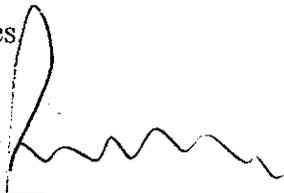
11. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent 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

12. 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



Christian Rose
Respondent

DATED:

12/27/10

DATED:

12/16/2010



**IN THE MATTER OF
CHRISTIAN ROSE
FILE NO. 10-98-10162**

ORDER

AND NOW, to wit, on this 8th day of March 2011, the terms of paragraph 5 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".

Carol Aichele
Acting Secretary of the Commonwealth