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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,

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:
: Docket No. 0013-98-10

vs.

:
: File No. 09-98-09828
:
:

Wilkes-Barre Township Volunteer Fire
Department,
Respondent

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Wilkes-Barre Township Volunteer Fire Department ("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. Respondent solicited charitable contributions from Pennsylvania residents.

3. At all relevant and material times, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

STIPULATED FACTS

4. Respondent admits that the following allegations are true:

a. Respondent's last known address is 150 Watson Street, Wilkes-Barre, PA 18702.

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- b. Respondent is not registered with the Bureau.
- c. On March 4, 2008, Bureau personnel served an Investigative Subpoena upon Respondent seeking financial and other records from the Respondent.
- d. On March 19, 2008, Respondent's President telephoned the Bureau and requested some time to get together the requested documents, however he also stated that several of the documents requested in the subpoena were not available and were not kept by Respondent. Respondent was informed that if any requested document was not available, the reason for its unavailability should be disclosed in response to the subpoena.
- e. On April 4, 2008, Respondent's President again telephoned the Bureau and advised on the progress in gathering the requested information and documents. During the conversation Respondent's President stated that the organization did not keep Board Minutes, and as such that item was not available. Respondent's President was again informed that if an item could not be provided, the reason the item was not available should be stated in a written statement in response to the subpoena.
- f. On May 20, 2008, the Bureau received a box containing miscellaneous receipts and documents from Respondent, however, the documents did not adequately respond to the March 4, 2008 subpoena.
- g. On June 18, 2008 a letter was sent to Respondent by the Bureau's Prosecutor outlining the information that was missing in the response, as well as

indicating that the Respondent was to indicate in writing why any information or documents that could not be supplied were unavailable.

h. Respondent failed to respond to the letter of June 18, 2008, and a Cease and Desist Order was entered against the Respondent on September 15, 2008.

VIOLATIONS

5. Respondent agrees that by engaging in the foregoing activities, Respondent has committed multiple violations of the Act by:

a. Failing to keep true and accurate records in violation of 10 P.S. § 162.12;
and

b. Failing to produce any records or to disclose any information required to be disclosed under this act or the regulations of the Department after being requested to do so, in violation of 10 P.S. §162.17(a)(2).

PROPOSED ORDER

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

- a. Respondent violated the Act at 10 P.S. § 162.12; and
- b. Respondent violated the Act at 10 P.S. §162.17(a)(2).

ADMINISTRATIVE FINE

c. An **ADMINISTRATIVE FINE** of two thousand dollars (\$2,000.00) is levied upon Respondent. Respondent shall tender the full sum of two thousand dollars (\$2,000.00) 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."

MAINTAINING RECORDS

d. Respondent acknowledges its requirement to true and accurate records of its fiscal activities in accordance with Section 162.12 of the Act. Should Respondent fail to keep true and accurate records of its fiscal activities, Respondent shall pay an administrative fine of \$1,000.00, and an additional penalty of \$100.00 for each day during which such violation continues; and Respondents registration shall be 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. No registration shall be renewed until the fine is paid.

CEASE AND DESIST

e. The Cease and Desist Order entered on September 15, 2008, shall remain in full force and effect until an order lifting the Cease and Desist Order is signed by the Secretary.

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 any ordered discipline.

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 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

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. 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. 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.

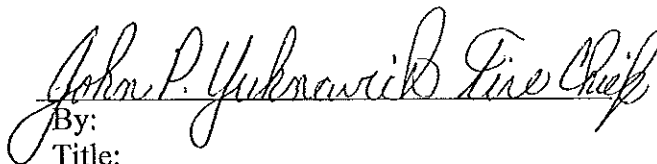
VERIFICATION OF FACTS AND STATEMENTS

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.

Wilkes-Barre Township Volunteer
Fire Department



Jacquelyn E. Pfirsich
Prosecuting Attorney
Department of State



By:
Title:
Respondent

DATED:

4/12/10

DATED:

4-6-10



**IN THE MATTER OF
Wilkes-Barre Volunteer Fire Department
File No. 09-98-09828**

ORDER

AND NOW, to wit, on this 15th day of April 2010, 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

Pedro A. Cortés
Pedro A. Cortés
Secretary of the Commonwealth