

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

PROTHONOTARY  
2010 OCT -7 AM 11:44  
Department of State

Commonwealth of Pennsylvania,  
Bureau of Charitable Organizations,

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:  
: Docket No. 0053-98-10  
: File No. 10-98-02115  
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:  
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v.

Xentel, Inc.,  
Respondent

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Xentel, Inc. ("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 ("the Act"), Act of December 19, 1990, P.L. 1200, No. 202, *as amended* ("Act"), 10 P.S. §§ 162.1 *et. seq.*

2. Respondent is a professional solicitor as defined by the Act.

3. At all relevant and material times, Respondent held a registration to provide solicitor services to charitable organizations within the Commonwealth of Pennsylvania, certificate number 19647.

4. Respondent has been registered to conduct professional solicitor activities with the Bureau since February 14, 2000.

STIPULATED FACTS

5. Respondent admits that the following allegations are true:

a. Respondent's last known business address, as on file with the Department of State, is 101 NE Third Avenue, Suite 203, Ft. Lauderdale, Florida 33301.

b. Respondent employs individuals to work as solicitors in various offices throughout the Commonwealth as well as other states.

c. Respondent's solicitors, among other things, make telephone calls to Commonwealth residents in an effort to secure contributions for various charities.

d. On or about May 24, 2010, the Bureau sent via certified mail, an investigative subpoena requesting, among other things, a list of Respondent's employees as well as a list of Respondent's employees who solicit for compensation in Pennsylvania and have been convicted by a court of any state or the United States of any felony or of any misdemeanor involving dishonestly.

e. On or about June 11, 2010, Respondent provided a response to the Bureau's investigative subpoena.

f. Respondent's response indicated that Respondent employed twenty-four (24) individuals who were convicted of felonies or misdemeanors involving dishonesty to solicit monetary contributions from Pennsylvania residents.

g. Twenty (20) of those employees answered "NO" on their employment application which asked whether or not the individual had been convicted of a felony in the last five years.

h. Respondent's response also indicating that four of Respondent's solicitors indicated on their employment application that they had been convicted of a felony or a misdemeanor involving dishonesty within the last five years.

- i. Respondent has since terminated those twenty-four (24) individuals.
- j. In addition to the twenty-four (24) individuals listed in Respondent's response as having been convicted of a felony or a misdemeanor involving dishonesty, Respondent's list of employees also contains at least three additional individuals who have been convicted of a felony or a misdemeanor involving dishonesty within the last five years.
- k. Respondent employed J.W.K., who was convicted on November 6, 2009 of a felony of the second degree for Criminal Trespassing - Breaking Into a Structure.
- l. Respondent employed J.M.J., who was convicted on September 28, 2007 of various misdemeanors including Theft by Unlawful Taking – Movable Property, Receiving Stolen Property, and Access Device Issued to Another Who Did Not Authorize Use.
- m. Respondent employed S.A.Y., who was convicted on May 9, 2006 for Forgery – Unauthorized Act in Writing, three counts of Burglary and Theft by Unlawful Taking.

#### AGREED VIOLATIONS

- 6. Respondent admits and agrees that by engaging in the foregoing activities:
  - a. Respondent violated the Act multiple times at 10 P.S. § 162.9(q)(1), by and through § 162.15(a)(1), by employing individuals who have been convicted by a court of any state or the United States of any felony, or of any misdemeanor involving dishonestly or arising from the conduct of a solicitation for a charitable organization or purpose.

#### PROPOSED ORDER

- 7. 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 multiple times at 10 P.S. § 162.9(q)(1), by and through §162.15(a)(1).

ADMINISTRATIVE FINE

b. An ADMINISTRATIVE FINE of twenty thousand dollars (\$20,000.00) is levied upon Respondent. All payments 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." Respondent agrees that all payments shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check. The Administrative fine shall be paid as follows:

i. Respondent shall tender the sum of three thousand three hundred thirty three dollars and thirty-five cents (\$3,333.35) with this executed Consent Agreement.

ii. Respondent shall make the second payment of three hundred thirty three dollars and thirty-three cents (\$3,333.33) on or before November 1, 2010.

iii. Respondent shall make the third payment of three hundred thirty three dollars and thirty-three cents (\$3,333.33) on or before December 1, 2010.

iv. Respondent shall make the forth payment of three hundred thirty three dollars and thirty-three cents (\$3,333.33) on or before January 1, 2011.

v. Respondent shall make the fifth payment of three hundred thirty three dollars and thirty-three cents (\$3,333.33) on or before February 1, 2011.

vi. Respondent shall make the sixth and final payment of three hundred thirty three dollars and thirty-three cents (\$3,333.33) on or before March 1, 2011.

#### FAILURE TO MAKE TIMELY PAYMENTS

c. In the event that Respondent becomes more than thirty (30) days late in making a payment as scheduled the entire remaining administrative fine (i.e. \$20,000.00 minus total payments made) shall become immediately due and payable. Respondent acknowledges that if Respondent fails to make timely payments under this Consent Agreement and the entire remaining administrative fine becomes due and payable, the collection of this administrative fine may be referred to the Office of Attorney General for collection proceedings.

#### CASE SETTLED AND DISCONTINUED

8. 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. This Consent Agreement resolves all issues contained in the Bureau's Order to Show Cause filed with the Department of State Prothonotary's Office on August 17, 2010.

#### ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

9. 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

10. 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

11. 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

12. 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

13. 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

14. 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.

  
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Jacquelyn E. Pfursich  
Prosecuting Attorney  
Department of State

  
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For Xentel, Inc.  
Title: **Peter R. Plesticker**  
Respondent **Chief Financial Officer**  
**Assistant Secretary**

DATED: 10/8/10

DATED: JCAT 27/10

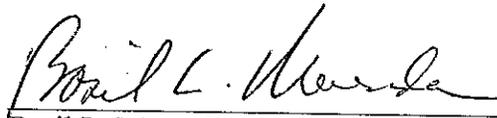


IN THE MATTER OF  
Xentel, Inc.  
File No. 10-98-02115

**ORDER**

AND NOW, to wit, on this 6<sup>th</sup> day of October 2010, the terms of paragraph 7 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

  
Basil L. Merenda  
Secretary of the Commonwealth