

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

PROTHONOTARY

2010 MAR 24 PM 3: 52

Department of State

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

dDaniel Advertising Agency,
Respondent

Docket No: 0008 -98-10

File No: 10-98-01327

CONSENT AGREEMENT

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations (Bureau) and dDaniel Advertising Agency (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, and Act of December 19, 1990, P.L. 12000, No. 202, *as amended* (Act), 10 P.S. §§162.1-162.24.

2. At all relevant and material times, Respondent did not hold a registration to provide professional solicitor services for a charitable organization in the Commonwealth of Pennsylvania.

FACTS

3. The Respondent admits to the following facts:

a. Respondent's last known mailing address is 723 Shenango Road, Beaver Falls, Pennsylvania 15010.

b. Respondent has never registered with the Bureau as a professional solicitor.

c. The Bureau received evidence that Respondent was acting as a professional solicitor in Pennsylvania without being properly registered.

d. Respondent entered into a contract with The Freedom Group of America (FGA) for the period from June 1, 2007 to July 31, 2008.

e. FGA is self-described as a company that “generates ideas to garner money for worthy causes...” and “a non-profit organization dedicated to raising and distributing proceeds to charitable groups.”

f. The purpose of the contract between Respondent and FGA was to engage Respondent in the promotion of an FGA event, the National Wave.

g. The National Wave was an event intended to bring the nation together for the “largest rally ever” and to generate revenue for charities.

h. Under the contract, Respondent was to receive consideration in the form of a monthly retainer fee and ten percent (10%) of the gross sponsorship revenues for the National Wave.

i. The contract required Respondent to: develop a marketable product and scheme; pursue a spokesperson, pursue sponsorships and begin initialization of sponsorship contracts in concert with FGA

j. As part of the campaign, Respondent coordinated the selling of “Uniting Towels” as “fundraisers for schools, churches and other interested organizations...”

k. In an attempt to secure funds for the event, Respondent created National Wave Sponsorship Packages, including sponsorship levels of: Exclusive

(\$5,000,000), Freedom (\$1,000,000), Supporting (\$250,000), Uniting (\$100,000), Contributing (\$50,000) and Associate (\$25,000).

l. Promotional materials stated that, "All proceeds from sponsorships of the campaign, which launches on Labor Day, 2007, will be split equally to each celebrity participant's charity."

m. A bonus to becoming the Exclusive Sponsor was the privilege of "Donation and Award Presenter to Charities."

n. Various celebrities were sought to promote the National Wave event.

o. Promotional materials indicated that:

- "[a]ll proceeds from sponsorships of the campaign....will be split equally to each celebrity participant's charity"
- "[a] fourteenth part of the proceeds would be donated to each celebrity's charity of choice" and
- "Official Uniting Towel of America will be distributed...as fundraisers for schools, churches and other interest organizations...."

AGREED VIOLATIONS

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

a. Contracting with a charitable organization without first registering as a professional solicitor with the Bureau in violation of 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.10(a); and

b. Failing to file with the Bureau a copy of the contract no less than 10 days prior to the commencement of the solicitation campaign in violation of 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.9(e).

PROPOSED ORDER

5. The parties consent to the issuance of the following Order in settlement of the matter:

VIOLATION

a. Respondent violated the Act at 10 P.S. § 162.15(a)(1), by and through § 162.10(a) and §162.9(e).

ADMINISTRATIVE FINE

b. An administrative fine of one thousand five hundred dollars (\$1,500) is levied upon Respondent. Respondent shall tender the full sum of one thousand five hundred dollars (\$1,500) 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."

COMPLIANCE WITH ACT

c. Respondent shall cease providing professional solicitor services in Pennsylvania and not commence providing professional solicitor services unless and until it has an approved registration statement on file with the Bureau.

ACTIONS ON OTHER VIOLATIONS NOT PRECLUDED

d. Nothing in the 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.

CASE SETTLED AND DISCONTINUED

e. 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 or remedial measures and payment of any administrative fines.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

6. 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 orally or through submission of a brief, and to take appeal from any final adverse decision.

AGREEMENT NOT BINDING ON OTHER PARTIES

7. 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, the Consent Agreement is to have no legal effect if the Office of General Counsel objects to the Consent Agreement's form or legality unless and until the Secretary issues the stipulated Order.

EFFECT OF SECRETARY'S REJECTION

8. 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.

ENTIRE AGREEMENT

9. This Consent Agreement contains the entire agreement between the parties. The paragraphs heading are for identification purposes 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 of any kind whatsoever concerning this Agreement.

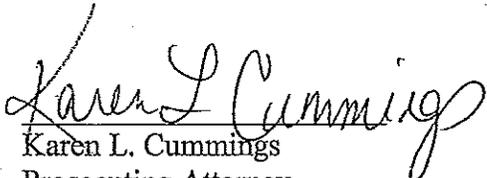
AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

10. 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 and its officers, directors, agents, employees, or independent contractors. 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, and/or local agency or governmental unit having jurisdiction over the activities of Respondent or any officers, directors, agents, employees, or independent contractor of the Respondent.

VERIFICATION OF FACTS AND STATEMENTS

11. 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 understand that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

dDaniel Advertising Agency


Karen L. Cummings
Prosecuting Attorney
Department of State

Date: 3/22/10

By: 
Title: PRES -
Respondent

Date: 3/10/10



**IN THE MATTER OF THE SOLICITATION OF
FUNDS FOR CHARITABLE PURPOSES BY
Daniel Advertising Agency
FILE NO: 2010-98-01327**

ORDER

AND NOW, this 24th day of March, 2010, 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. The Order shall take effect immediately.

By:

Pedro A. Cortés

Pedro A. Cortés
Secretary of the Commonwealth