

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

NOTARIAL PUBLIC  
JULY 15 1998  
MONTGOMERY COUNTY, PA

Commonwealth of Pennsylvania,  
Bureau of Charitable Organizations,

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Docket No. 0007 -98-05  
File No. 05-98-05237

vs.

Francis J. Klemovitch,  
Respondent

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Francis J. Klemovitch ("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. §§162.1-162.24.

STIPULATED FACTS

2. Respondent admits that the following allegations are true:
  - a. Respondent's last known address is 241 East Main Street, Apt. 3, Plymouth, PA 18651.
  - b. Mountaintop Baseball and Softball Association ("Mountaintop Baseball") is a Pennsylvania non-stock nonprofit corporation registered with the Pennsylvania Corporation Bureau pursuant to 15 Pa.C.S.A. § 5507 on January 27, 1994.
  - c. Mountaintop Little League operates as a nonprofit organization but is not registered with the Corporation Bureau.

d. Mountaintop Youth Basketball League (“Mountaintop Basketball”) operates as a nonprofit organization but is not registered with the Corporation Bureau.

e. Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball each conducts business as a charitable organization as defined by the Act.

f. At all relevant and material times, Respondent was the treasurer for Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball.

g. At all relevant and material times, Respondent, as treasurer for Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball, had the authority to sign checks drawn on accounts in the names of each of the organizations and to otherwise withdraw money from each.

h. Pursuant to Section 162.21 of the Act, Respondent, as treasurer, is deemed a fiduciary and acting in a fiduciary capacity for Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball.

**Mountaintop Baseball and Softball Association**

**First Federal Bank, Account Number 1000016435**

i. At all relevant and material times, Mountaintop Baseball maintained a checking account at First Federal Bank, account number 1000016435.

j. From April 30, 2002 through June 13, 2002, Respondent, on five occasions, issued checks made payable to “Frank Klemovitch” from First Federal Bank, account number 1000016435, as follows:

Date	Check #	Payee	Amount
4/30/02	106	Frank Klemovitch	\$ 2,134.00
5/13/02	105	Frank Klemovitch	\$ 1,485.00

5/20/02	104	Frank Klemovitch	\$	1,230.00
6/5/02	107	Frank Klemovitch	\$	750.00
6/13/02	109	Frank Klemovitch	\$	600.00

k. The checks identified in paragraph 2(j) were for Respondent's own personal use and benefit.

l. The checks identified in paragraph 2(j) were not applied in a manner consistent with Mountaintop Baseball's charitable purpose.

m. The total amount of the checks issued by Respondent for his own personal use and benefit from First Federal Bank, account number 1000016435, was \$6,199.00.

First Federal Bank, Account Number 1000016450

n. At all relevant and material times, Mountaintop Baseball maintained a checking account at First Federal Bank, account number 1000016450.

o. From May 31, 2002 through July 17, 2004, Respondent, on 78 occasions, issued checks made payable to "cash" or received cash back from deposits from First Federal Bank, account number 1000016450, as follows:

Date	Check #	Payee		Amount
5/31/02	1013	Cash	\$	500.00
6/3/02	1014	Cash	\$	400.00
6/3/02	1015	Cash	\$	300.00
6/7/02	1047	Cash	\$	400.00
6/10/02	1048	Cash	\$	400.00
6/14/02	1049	Cash	\$	300.00
8/8/02	1071	Cash	\$	400.00
7/23/02	1064	Cash	\$	300.00
8/20/02	1080	Cash	\$	300.00
8/22/02	1082	Cash	\$	200.00
9/10/02	1084	Cash	\$	300.00
9/12/02	1087	Cash	\$	400.00
9/23/02	1096	Cash	\$	250.00

9/23/02	1099	Cash	\$	450.00
9/24/02	1100	Cash	\$	350.00
10/1/02	1101	Cash	\$	650.00
10/3/02	1107	Cash	\$	550.00
10/15/02	1108	Cash	\$	350.00
11/13/02	1110	Cash	\$	670.00
11/19/02	1114	Cash	\$	820.00
11/25/02	1116	Cash	\$	300.00
11/30/02	1118	Cash	\$	650.00
12/6/02	1121	Cash	\$	250.00
12/10/02	1122	Cash	\$	650.00
12/12/02	1124	Cash	\$	300.00
12/14/02	1126	Cash	\$	650.00
12/18/02	1130	Cash	\$	250.00
12/22/02	1133	Cash	\$	650.00
1/13/03	1135	Cash	\$	500.00
1/21/03	1137	Cash	\$	850.00
1/27/03	1140	Cash	\$	750.00
1/29/03	1142	Cash	\$	760.00
2/15/03	1147	Cash	\$	300.00
3/14/03	1148	Cash	\$	1,200.00
3/21/03	1149	Cash	\$	950.00
3/21/03	1150	Cash	\$	450.00
3/27/03	1151	Cash	\$	950.00
3/28/03	1152	Cash	\$	850.00
3/28/03	1153	Cash	\$	350.00
4/24/03	1162	Cash	\$	300.00
5/2/03	1169	Cash	\$	950.00
5/3/03	1171	Cash	\$	400.00
5/5/03	W/D	Cash w/d from deposit	\$	100.00
5/6/03	1174	Cash	\$	300.00
5/9/03	1185	Cash	\$	850.00
5/10/03	1187	Cash	\$	400.00
5/12/03	1190	Cash	\$	600.00
5/14/03	1194	Cash	\$	300.00
5/15/03	1195	Cash	\$	400.00
5/16/03	1196	Cash	\$	400.00
5/19/03	1224	Cash	\$	300.00
5/19/03	W/D	Cash w/d from deposit	\$	100.00
5/21/03	1219	Cash	\$	30.00
5/30/03	1230	Cash	\$	1,150.00
6/2/03	1240	Cash	\$	300.00
6/3/03	1204	Cash	\$	30.00
6/3/03	W/D	Cash w/d from deposit	\$	100.00
6/9/03	1243	Cash	\$	1,150.00

6/10/03	1245	Cash	\$	400.00
6/19/03	1264	Cash	\$	1,150.00
6/30/03	1283	Cash	\$	200.00
6/30/03	1285	Cash	\$	100.00
7/3/03	1293	Cash	\$	600.00
7/7/03	1296	Cash	\$	800.00
7/10/03	1297	Cash	\$	600.00
12/30/03	1330	Cash	\$	120.00
12/31/03	1331	Cash	\$	150.00
1/10/04	1334	Cash	\$	1,800.00
1/12/04	1339	Cash	\$	800.00
1/14/04	1340	Cash	\$	500.00
1/20/04	1341	Cash	\$	300.00
3/31/04	1360	Cash	\$	100.00
4/2/04	1362	Cash	\$	1,200.00
4/12/04	1368	Cash	\$	300.00
4/15/04	1369	Cash	\$	300.00
4/19/04	1370	Cash	\$	900.00
6/15/04	1377	Cash	\$	300.00
7/17/04	1381	Cash	\$	300.00

p. From June 17, 2002 through July 27, 2004, Respondent, on 22 occasions, issued checks made payable to "Frank Klemovitch" from First Federal Bank, account number 1000016450, as follows:

Date	Check #	Payee	Amount
6/19/02	1056	Frank Klemovitch	\$ 1,100.00
6/17/02	1050	Frank Klemovitch	\$ 1,500.00
7/29/02	1065	Frank Klemovitch	\$ 650.00
8/12/02	1073	Frank Klemovitch	\$ 975.00
8/15/02	1074	Frank Klemovitch	\$ 1,525.00
8/22/02	1081	Frank Klemovitch	\$ 500.00
9/12/02	1086	Frank Klemovitch	\$ 2,850.00
9/18/02	1088	Frank Klemovitch	\$ 650.00
9/25/02	1085	Frank Klemovitch	\$ 1,700.00
9/30/02	1106	Frank Klemovitch	\$ 1,850.00
10/7/02	1102	Frank Klemovitch	\$ 1,550.00
11/19/02	1111	Frank Klemovitch	\$ 830.00
11/25/02	1115	Frank Klemovitch	\$ 1,250.00
11/29/02	1117	Frank Klemovitch	\$ 1,425.00
12/10/02	1123	Frank Klemovitch	\$ 750.00
1/4/03	1134	Frank Klemovitch	\$ 800.00

1/23/03	1138	Frank Klemovitch	\$	850.00
1/29/03	1141	Frank Klemovitch	\$	750.00
3/2/04	1348	Frank Klemovitch	\$	1,400.00
6/9/04	1374	Frank Klemovitch	\$	900.00
7/27/04	1489	Frank Klemovitch	\$	1,250.00
7/17/04	1380	Frank Klemovitch	\$	300.00

q. The disbursements identified in paragraphs 2(o) and (p) were for Respondent's own personal use and benefit.

r. The checks identified in paragraphs 2(o) and (p) were not applied in a manner consistent with Mountaintop Baseball's charitable purpose.

s. The total amount of the disbursements to Respondent for his own personal use and benefit from First Federal Bank, account number 1000016450, was \$64,335.00.

First Federal Bank, Account Number 1000017391

t. At all relevant and material times, Mountaintop Baseball maintained a checking account at First Federal Bank, account number 1000017391.

u. On July 5, 2002 and January 30, 2003, Respondent, on two occasions, issued checks made payable to "cash" from First Federal Bank, account number 1000017391, as follows:

Date	Check #	Payee	Amount
7/5/02	105	Cash	\$ 400.00
1/30/03	109	Cash	\$ 200.00

v. From June 24, 2002 through July 17, 2002, Respondent, on four occasions, issued checks made payable to "Frank Klemovitch" from First Federal Bank, account number 1000017391, as follows:

Date	Check #	Payee	Amount
6/24/02	102	Frank Klemovitch	\$ 1,000.00
6/25/02	103	Frank Klemovitch	\$ 1,200.00
7/2/02	104	Frank Klemovitch	\$ 1,200.00
7/17/02	107	Frank Klemovitch	\$ 1,250.00

w. The checks identified in paragraphs 2(u) and (v) were for Respondent's own personal use and benefit.

x. The checks identified in paragraphs 2(u) and (v) were not applied in a manner consistent with Mountaintop Baseball's charitable purpose.

y. The total amount of the checks to Respondent for his own personal use and benefit from First Federal Bank, account number 1000017391, was \$5,250.00.

First Federal Bank, Account Number 1001001014

z. At all relevant and material times, Mountaintop Baseball maintained a checking account at First Federal Bank, account number 1001001014.

aa. On March 20, 2004, Respondent, issued a check made payable to "cash" from First Federal Bank, account number 1001001014, as follows:

Date	Check #	Payee	Amount
3/20/04	101	Cash	\$ 800.00

bb. The check identified in paragraph 2(aa) was for Respondent's own personal use and benefit.

cc. The check identified in paragraph 2(aa) was not applied in a manner consistent with Mountaintop Baseball's charitable purpose.

dd. The total amount of the check to Respondent for his own personal use and benefit from First Federal Bank, account number 1001001014, was \$800.00.

**Mountaintop Little League**

**First Federal Bank, Account Number 1000016468**

ee. At all relevant and material times, Mountaintop Little League maintained a checking account at First Federal Bank, account number 1000016468.

ff. From March 14, 2002 through June 15, 2004, Respondent, on 59 occasions, issued checks made payable to "cash" or received cash back from deposits from First Federal Bank, account number 1000016468, as follows:

Date	Check #	Payee	Amount
3/14/02	1008	Cash	\$ 300.00
4/8/02	1016	Cash	\$ 400.00
4/23/02	1025	Cash	\$ 225.00
5/17/02	1043	Cash	\$ 300.00
5/22/02	1044	Cash	\$ 300.00
8/28/02	1089	Cash	\$ 300.00
8/31/02	1090	Cash	\$ 400.00
9/4/02	1092	Cash	\$ 225.00
2/3/03	1094	Cash	\$ 750.00
2/5/03	1098	Cash	\$ 850.00
2/6/03	1099	Cash	\$ 300.00
2/10/03	1103	Cash	\$ 300.00
2/12/03	1109	Cash	\$ 875.00
2/14/03	1110	Cash	\$ 750.00
2/18/03	1112	Cash	\$ 850.00
2/25/03	1114	Cash	\$ 850.00
2/28/03	1116	Cash	\$ 850.00
3/3/03	1117	Cash	\$ 560.00
3/4/03	1125	Cash	\$ 1,400.00
3/6/03	1126	Cash	\$ 250.00
3/7/03	1128	Cash	\$ 970.00
3/7/03	1129	Cash	\$ 370.00
3/11/03	1131	Cash	\$ 550.00
3/11/03	1132	Cash	\$ 300.00
3/13/03	1135	Cash	\$ 750.00
3/19/03	1138	Cash	\$ 300.00



4/1/03	1144	Cash	\$	750.00
4/1/03	1145	Cash	\$	350.00
7/22/03	1171	Cash	\$	300.00
8/25/03	1194	Cash	\$	500.00
8/26/03	1196	Cash	\$	900.00
9/9/03	1200	Cash	\$	250.00
9/15/03	1206	Cash	\$	220.00
9/25/03	1300	Cash	\$	500.00
12/23/03	1212	Cash	\$	175.00
2/2/04	1214	Cash	\$	400.00
2/4/04	1220	Cash	\$	870.00
2/6/04	1221	Cash	\$	1,130.00
2/7/04	1222	Cash	\$	300.00
2/13/04	1225	Cash	\$	1,250.00
2/19/04	1229	Cash	\$	600.00
2/23/04	1231	Cash	\$	350.00
3/6/04	1240	Cash	\$	1,050.00
3/13/04	1244	Cash	\$	800.00
3/16/04	1245	Cash	\$	200.00
3/27/04	1248	Cash	\$	250.00
5/8/04	1261	Cash	\$	200.00
5/10/04	1263	Cash	\$	300.00
5/13/04	1265	Cash	\$	300.00
5/15/04	1267	Cash	\$	600.00
5/28/04	W/D	Cash w/d from deposit	\$	100.00
5/20/04	1271	Cash	\$	950.00
5/20/04	1272	Cash	\$	400.00
5/25/04	1278	Cash	\$	300.00
5/27/04	1280	Cash	\$	400.00
6/2/04	1287	Cash	\$	300.00
6/4/04	1283	Cash	\$	1,200.00
6/5/04	1284	Cash	\$	1,200.00
6/15/04	W/D	Cash w/d from deposit	\$	100.00

gg. From March 19, 2002 through March 10, 2004, Respondent, on 16 occasions, issued checks made payable to "Frank Klemovitch" from First Federal Bank, account number 1000016468, as follows:

Date	Check #	Payee	Amount
3/19/02	1010	Frank Klemovitch	\$ 300.00
4/24/02	1024	Frank Klemovitch	\$ 775.00
5/15/02	1042	Frank Klemovitch	\$ 200.00

5/23/02	1045	Frank Klemovitch	\$	500.00
5/29/02	1050	Frank Klemovitch	\$	1,475.00
9/4/02	1091	Frank Klemovitch	\$	250.00
2/6/03	1096	Frank Klemovitch	\$	1,250.00
2/18/03	1108	Frank Klemovitch	\$	1,750.00
2/25/03	1113	Frank Klemovitch	\$	750.00
2/28/03	1115	Frank Klemovitch	\$	1,400.00
3/10/03	1127	Frank Klemovitch	\$	1,450.00
3/17/03	1136	Frank Klemovitch	\$	1,200.00
2/10/04	1223	Frank Klemovitch	\$	1,850.00
2/23/04	1230	Frank Klemovitch	\$	1,800.00
2/24/04	1233	Frank Klemovitch	\$	2,150.00
3/10/04	1241	Frank Klemovitch	\$	<u>2,600.00</u>

hh. The disbursements identified in paragraphs 2(ff) and (gg) were for Respondent's own personal use and benefit.

ii. The checks identified in paragraphs 2(ff) and (gg) were not applied in a manner consistent with Mountaintop Little League's charitable purpose.

jj. The total amount of the disbursements to Respondent for his own personal use and benefit from First Federal Bank, account number 1000016468, was \$51,470.00.

First Federal Bank, Account Number 1000017409

kk. At all relevant and material times, Mountaintop Little League maintained a checking account at First Federal Bank, account number 1000017409.

ll. On August 28, 2002, Respondent issued a check made payable to "cash" from First Federal Bank, account number 1000017409, as follows:

Date	Check #	Payee	Amount
8/28/02	102	Cash	\$ <u>250.00</u>

mm. On August 28, 2002, Respondent issued a check made payable to "Frank Klemovitch" from First Federal Bank, account number 1000017409, as follows:

Date	Check #	Payee	Amount
1/15/03	103	Frank Klemovitch	\$ 150.00

nn. The checks identified in paragraphs 2(ll) and (mm) were for Respondent's own personal use and benefit.

oo. The checks identified in paragraphs 2(ll) and (mm) were not applied in a manner consistent with Mountaintop Little League's charitable purpose.

pp. The total amount of the checks to Respondent for his own personal use and benefit from First Federal Bank, account number 1000017409, was \$400.00.

**Mountaintop Youth Basketball Association**

**First Federal Bank, Account Number 1000016427**

qq. At all relevant and material times, Mountaintop Basketball maintained a checking account at First Federal Bank, account number 1000016427.

rr. From February 25, 2002, through July 21, 2004, Respondent, on 22 occasions, issued checks made payable to "cash" from First Federal Bank, account number 1000016427, as follows:

Date	Check #	Payee	Amount
2/25/02	160	Cash	\$ 400.00
10/10/02	189	Cash	\$ 550.00
10/11/02	190	Cash	\$ 500.00
10/17/02	192	Cash	\$ 450.00
10/22/02	196	Cash	\$ 425.00
10/31/02	199	Cash	\$ 570.00
11/18/02	200	Cash	\$ 630.00
12/2/02	203	Cash	\$ 250.00

12/23/02	207	Cash	\$	500.00
12/30/02	208	Cash	\$	850.00
1/8/02	209	Cash	\$	300.00
1/21/03	217	Cash	\$	870.00
5/27/03	250	Cash	\$	1,200.00
10/10/03	258	Cash	\$	950.00
10/14/03	260	Cash	\$	600.00
10/20/03	261	Cash	\$	950.00
10/29/03	265	Cash	\$	400.00
11/3/03	266	Cash	\$	950.00
11/8/03	268	Cash	\$	950.00
11/14/03	269	Cash	\$	1,100.00
11/14/03	270	Cash	\$	600.00
7/21/04	296	Cash	\$	<u>100.00</u>

ss. From October 21, 2002 through December 26, 2002, Respondent, on four occasions, issued checks made payable to "Frank Klemovitch" from First Federal Bank, account number 1000016427, as follows:

Date	Check #	Payee	Amount
10/21/02	193	Frank Klemovitch	\$ 850.00
11/4/02	197	Frank Klemovitch	\$ 850.00
12/23/02	205	Frank Klemovitch	\$ 1,250.00
12/26/02	206	Frank Klemovitch	\$ 750.00

tt. The checks identified in paragraphs 2(rr) and (ss) were for Respondent's own personal use and benefit.

uu. The checks identified in paragraphs 2(rr) and (ss) were not applied in a manner consistent with Mountaintop Basketball's charitable purpose.

vv. The total amount of the checks to Respondent for his own personal use and benefit from First Federal Bank, account number 1000016427, was \$17,795.00.

Citizens Bank, Account Number 6201903317

ww. At all relevant and material times, Mountaintop Basketball maintained a checking account at Citizens Bank, account number 6201903317.

xx. On September 21, 2004 and September 22, 2004, Respondent, on two occasions, issued checks made payable to "cash" from Citizens Bank, account number 6201903317, as follows:

Date	Check #	Payee	Amount
9/22/04	101	Cash	\$ 220.00
9/21/04	102	Cash	\$ 1,000.00

yy. The checks identified in paragraph 2(xx) were for Respondent's own personal use and benefit.

zz. The checks identified in paragraph 2(xx) were not applied in a manner consistent with Mountaintop Basketball's charitable purpose.

aaa. The total amount of the checks to Respondent for his own personal use and benefit from Citizens Bank, account number 6201903317, was \$1,220.00.

Citizens Bank, Account Number 6201903740

bbb. At all relevant and material times, Mountaintop Basketball maintained a checking account at Citizens Bank, account number 6201903740.

ccc. From September 29, 2004 through October 15, 2004, Respondent, on five occasions, issued checks made payable to "cash" from Citizens Bank, account number 6201903740, as follows:

Date	Check #	Payee	Amount
9/29/04	991	Cash	\$ 1,200.00
10/4/04	992	Cash	\$ 750.00
9/30/04	993	Cash	\$ 700.00

10/6/04	996	Cash	\$	1,800.00
10/15/04	999	Cash	\$	<u>1,800.00</u>

ddd. From October 21, 2004 through November 1, 2004, Respondent, on four occasions, issued checks made payable to "Frank Klemovitch" from Citizens Bank, account number 6201903740, as follows:

Date	Check #	Payee	Amount
10/21/04	101	Frank Klemovitch	\$ 250.00
10/25/04	102	Frank Klemovitch	\$ 1,500.00
11/1/04	103	Frank Klemovitch	\$ 450.00
10/18/04	1000	Frank Klemovitch	\$ <u>700.00</u>

eee. The checks identified in paragraphs 2(ccc) and (ddd) were for Respondent's own personal use and benefit.

fff. The checks identified in paragraphs 2(ccc) and (ddd) were not applied in a manner consistent with Mountaintop Basketball's charitable purpose.

ggg. The total amount of the checks to Respondent for his own personal use and benefit from Citizens Bank, account number 6201903740, was \$9,150.00.

**Summary of All Accounts**

hhh. Respondent, on 226 separate occasions, caused a check or disbursement from an account in the name of Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball to be issued for his own personal use and benefit.

iii. The total amount of the checks or disbursements to Respondent for his own personal use and benefit from accounts in the name of Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball was \$156,619.00.

### AGREED VIOLATIONS

3. Respondent agrees that by engaging in the foregoing activities Respondent committed multiple violations of the Act as follows:

a. 10 P.S. § 162.15(a)(1), by and through § 162.13(a), in that when Respondent, as treasurer, issued 226 checks or disbursements to himself for his own personal use and benefit, from accounts in the name of Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball, he caused Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball to apply contributions in a manner not consistent with each organization's charitable purpose; and

b. 10 P.S. § 162.15(a)(1), by and through § 162.21, in that when Respondent, as treasurer, issued 226 checks or disbursements to himself for his own personal use and benefit, from accounts in the name of Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball, he breached the fiduciary duty he owed to Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball; and

c. 10 P.S. § 162.15(a)(2), in that when Respondent, as treasurer, issued 226 checks or disbursements to himself for his own personal use and benefit from accounts in the name of Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball, he utilized unfair and deceptive acts and engaged in fraudulent conduct which created a likelihood of confusion or of misunderstanding.

## MITIGATION

4. The Commonwealth acknowledges that, as of the date of this Consent Agreement, Respondent has made payments toward restitution the Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball in the amount of \$81,000.

## PROPOSED ORDER

5. The participants consent to the 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 § 162.13(a), § 162.15(a)(1), by and through § 162.21, and § 162.15(a)(2).

### 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) as outlined in paragraph 5(d) below.

### ASSESSMENT FOR COSTS

c. An **ASSESSMENT FOR COSTS OF INVESTIGATION** in the amount of one thousand dollars (\$1,000.00) is levied upon Respondent. Respondent shall tender the full sum of one thousand dollars (\$1,000.00) as outlined in paragraph 5(d) below.

### INSTALLMENT PAYMENTS

d. The administrative fine and assessment for costs, totaling two thousand dollars (\$2,000.00), 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,"** as follows:



- (1) One hundred dollars (\$100) shall be tendered on or before July 15, 2005;
- (2) One hundred dollars (\$100) shall be tendered on or before August 15, 2005;
- (3) One hundred dollars (\$100) shall be tendered on or before September 15, 2005;
- (4) One hundred dollars (\$100) shall be tendered on or before October 15, 2005
- (5) Two hundred dollars (\$200) shall be tendered on or before November 15, 2005;
- (6) Two hundred dollars (\$200) shall be tendered on or before December 15, 2005;
- (7) Two hundred dollars (\$200) shall be tendered on or before January 15, 2006;
- (8) Two hundred dollars (\$200) shall be tendered on or before February 15, 2006;
- (9) Two hundred dollars (\$200) shall be tendered on or before March 15, 2006;
- (10) Two hundred dollars (\$200) shall be tendered on or before April 15, 2006;
- (11) Two hundred dollars (\$200) shall be tendered on or before May 15, 2006; and

(12) Two hundred dollars (\$200) shall be tendered on or before June 15, 2006.

Failure to make any of the foregoing payments shall (1) render this Agreement null and void; (2) constitute a forfeiture by Respondent of any payments made pursuant to this Agreement and (3) result in the initiation of formal administrative proceedings in this matter.

**COOPERATION WITH LUZERNE COUNTY DISTRICT ATTORNEY**

e. Respondent shall fully cooperate with the Luzerne County District Attorney's Office in its efforts to achieve full restitution to Mountaintop Baseball, Mountaintop Little League and Mountaintop Basketball.

**ADDITIONAL PROVISIONS**

f. 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.

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

**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 any ordered discipline.

**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 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**

8. 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**

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**

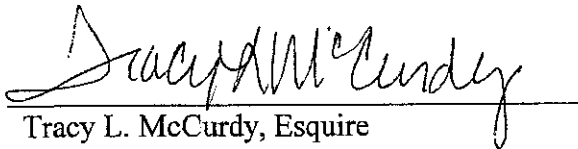
11. The parties acknowledge that other federal, state, and/or local agencies may have

jurisdiction over the activities of, or representations made by, Respondent. 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.

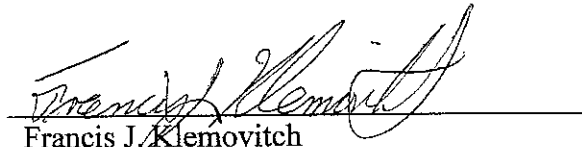
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**VERIFICATION OF FACTS AND STATEMENTS**

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.



Tracy L. McCurdy, Esquire  
Prosecuting Attorney  
Department of State



Francis J. Klemovitch  
Respondent

DATED: 6-6-05

DATED: 6/6/05



**IN THE MATTER OF  
FRANCIS J. KLEMOVITCH  
FILE NO. 05-98-05237**

**ORDER**

**AND NOW**, to wit, on this 10<sup>th</sup> day of June 2005, 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

*Pedro A. Cortés*

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Pedro A. Cortés  
Secretary of the Commonwealth