

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. 0005-98-09
: File No. 09-98-02511

v.

:
:

Mary Beth Snyder; a/k/a Mary Beth Miller,
Respondent

:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Mary Beth Snyder, a/k/a Mary Beth Miller, ("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 860 Blythburn Road, Mountaintop, PA 18707.

b. Wilkes-Barre Bears Jr. Football and Cheerleading, located at P.O. Box 482, Wilkes-Barre, PA 18703, operates as a nonprofit organization.

c. Wilkes-Barre Bears Jr. Football and Cheerleading conducted business as a charitable organization as defined by the Act.

d. Wilkes-Barre Bears Jr. Football and Cheerleading is not registered with the Bureau.

e. At all relevant and material times, Respondent was the treasurer of Wilkes-Barre Bears Jr. Football and Cheerleading.

f. At all relevant and material times, Respondent, as treasurer for Wilkes-Barre Bears Jr. Football and Cheerleading, had the authority to withdraw funds and issue checks drawn on a Wilkes-Barre Bears Jr. Football and Cheerleading bank account.

g. Pursuant to Section 162.21 of the Act, Respondent is deemed a fiduciary and was acting in a fiduciary capacity for Wilkes-Barre Bears Jr. Football and Cheerleading.

h. At all relevant and material times, Wilkes-Barre Bears Jr. Football and Cheerleading maintained a checking and savings account at PNC Bank.

i. At all relevant and material times, Respondent collected proceeds from fundraising events and registration fees for Wilkes-Barre Bears Jr. Football and Cheerleading. Proceeds from said fundraising events and registration fees were to be deposited into the Wilkes-Barre Bears Jr. Football bank account at PNC Bank.

j. During the period of May 2003 through March 2006, Respondent misappropriated approximately \$11,000.00 in fundraising proceeds and

registration fees from the Wilkes-Barre Bears Jr. Football and Cheerleading bank account.

k. The misappropriation of funds identified in this Consent Agreement was for Respondent's personal use and benefit.

l. The funds identified in this Consent Agreement were not applied in a manner consistent with Wilkes-Barre Bears Jr. Football and Cheerleading's charitable purpose.

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)(2), in that when Respondent misappropriated a total of \$11,000.00 from the account in the name of Wilkes-Barre Bears Jr. Football and Cheerleading, for her personal use and benefit, she utilized unfair and deceptive acts and engaged in fraudulent conduct which created a likelihood of confusion or of misunderstanding.

b. 10 P.S. § 162.15(a)(1), by and through § 162.13(a), in that when Respondent misappropriated a total of \$11,000.00 from the account in the name of Wilkes-Barre Bears Jr. Football and Cheerleading, for her personal use and benefit, she caused Wilkes-Barre Bears Jr. Football and Cheerleading to apply contributions in a manner not consistent with Wilkes-Barre Bears Jr. Football and Cheerleading's charitable purpose;

c. 10 P.S. § 162.15(a)(1), by and through § 162.21, in that when Respondent misappropriated a total of \$11,000.00 from the account in the name

of Wilkes-Barre Bears Jr. Football and Cheerleading, for her personal use and benefit, she breached the fiduciary duty she owed to Wilkes-Barre Bears Jr. Football and Cheerleading.

PROPOSED ORDER

4. 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. § 162.15(a)(2), by and through § 162.13(a);
- b. Respondent violated the Act at 10 P.S. § 162.15(a)(1), by and through § 162.13(a); and
- c. Respondent violated the Act at 10 P.S. § 162.15(a)(1), by and through § 162.21.

PUBLIC REPRIMAND

- d. A PUBLIC REPRIMAND is hereby issued to Respondent.

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 Wilkes-Barre Bears Jr. Football and Cheerleading.

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.

h. 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

5. 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

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 by means of a brief; and to take an 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, 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

8. 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

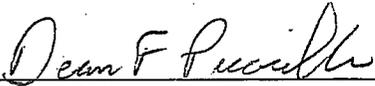
9. This Agreement contains the whole agreement between the parties; provided, however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

10. 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

11. 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.



Dean F. Picarella
Prosecuting Attorney
Department of State



Marybeth Snyder Miller
Respondent

DATED: 04/02/2009

DATED:



**IN THE MATTER OF
Mary Beth Snyder; a/k/a Mary Beth Miller
File No. 09-98-02511**

ORDER

AND NOW, to wit, on this 6th day of April 2009, the terms of paragraph 4 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