PROTHONOTARY

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF STATE

2009 APR -3 PH 4: 22

BEFORE THE SECRETARY OF THE COMMONWEALTH

Department of State

Commonwealth of Pennsylvania, Bureau of Charitable Organizations,

Docket No. 0004-98-09

37E

File No. 08-98-11523

The Society for the Preservation of Animal Welfare & Safety, Inc.

Respondent

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and the Society for the Preservation of Animal Welfare and Safety 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, Act of December 19, 1990, P.L. 1200, No. 202, as amended ("Act"), 10 P.S. §§162.1-162.24.
- 2. Respondent was previously registered with the Bureau under registration #3247, however, said registration expired on April 11, 2005 and was not renewed until September 09, 2008.
- 3. At all relevant and material times, Respondent solicited charitable contributions from Pennsylvania residents.
- 4. At all relevant and material times, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

5. Respondent is currently registered with the Bureau.

STIPULATED FACTS

- 6. Respondent admits that the following allegations are true:
- a. Respondent's last known business address is PO Box 855, Camp Hill, PA 17001.
- b. On February 19, 2008, after receiving information that Respondent was soliciting contributions from Pennsylvania residents without being properly registered, the Bureau sent a due process letter to Respondent informing Respondent of its registration obligations under the Act, and providing Respondent with an application packet to register as a charitable organization in the Commonwealth of Pennsylvania.
- c. In response to the letter of February 19, 2008, Respondent sent partial registration documents to the Bureau.
- d. On August 5, 2008, the Bureau mailed a letter to Respondent detailing a list of information needed to complete Respondent's registration; Respondent was informed that failure to provide the requested information by August 29, 2008, would result in further action being taken against Respondent.
- e. On September 3, 2008, having not received complete registration documents, the Secretary of the Commonwealth issued a Cease and Desist Order against Respondent.

- f. On September 09, 2008, Respondent submitted registration documents for fiscal years, May 31, 2005, May 31, 2006 and May 31, 2007 and the Cease and Desist Order was lifted.
- g. The registration documents provided prove that Respondent should have been registered with the Bureau for fiscal years ending May 31, 2005 and May 31, 2006, as contributions to Respondent for fiscal years ending May 31, 2005 and May 31, 2006 were over \$25,000. More specifically, according to Respondent's financial information, Respondent raised \$34,322.18 during fiscal year ending May 31, 2005 and \$48,414.00 during fiscal year ending May 31, 2006.

AGREED VIOLATIONS

7. Respondent agrees that by engaging in the foregoing activities it violated the Act at 10 P.S. § 162.15(a)(1), by failing to register with the Bureau before soliciting charitable contributions in the Commonwealth of Pennsylvania in 2005 and 2006.

PROPOSED ORDER

- 8. 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)(1).

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** of two thousand two hundred and fifty dollars (\$2,250) is levied upon Respondent. Respondent shall tender the full sum of two thousand two hundred and fifty dollars (\$2,250), 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."

FILING OF REGISTRATION DOCUMENTS

- c. Respondent acknowledges its obligation to file registration documents with the Bureau.
- d. Respondent acknowledges its requirement to keep true and accurate fiscal records of its activities.
- e. Respondent acknowledges that its fiscal records must be made available for inspection by the Bureau at anytime.

CASE SETTLED AND DISCONTINUED

9. 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

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

11. 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

12. 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

13. 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

14. The parties acknowledge that other federal, state, and/or local agencies 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 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 or any officer, director, agent, employee or independent contractor of the Respondent.

VERIFICATION OF FACTS AND STATEMENTS

15. 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.

SOCIETY FOR THE PRESERVATION OF ANIMAL WELFARE AND SAFETY, INC.

Dean F. Picarella, Esquire

Prosecuting Attorney

Department of State

By: Pelvecca Little

Title: Treasurer

Respondent

DATED: 04/01/2009

DATED: 3/31/2009



IN THE MATTER OF THE SOCIETY FOR THE PRESERVATION OF ANIMAL WELFARE AND SAFETY, INC. FILE NO. 08-98-11523

ORDER

AND NOW, to wit, on this <u>3rd</u> day of <u>April</u> 2009, the terms of paragraph 8 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

Secretary of the Commonwealth