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

2003-07-16 3:46
DEPT. OF STATE

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

The Richard Norman Company,
Respondent

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Docket No. 0011 -98-03
File No. 03-98-08765

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations (“Bureau”) and The Richard Norman Company, (“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*, 10 P.S. §§162.1-162.24.
2. Respondent was registered as a professional fundraising counsel, number 11246.
3. Respondent’s registration expired on January 8, 2003.

STIPULATED FACTS

4. Respondent’s last known business address on file with the Bureau is 11951 Freedom Drive, Suite 1120, Reston, VA 20190.
5. Respondent’s registration as a professional fundraising counsel expired on January 8, 2003, and was not renewed thereafter.

6. American Conservative Union ("ACU") was registered with the Bureau as a charitable organization, number 15768.

7. ACU's registration expired on November 11, 2002, and was not renewed thereafter.

8. On July 18, 2003, the Bureau received evidence that Respondent performed professional fundraising counsel services for ACU pursuant to a written contract between Respondent and ACU.

9. There is no approved contract on file with the Bureau between Respondent and ACU.

10. From November 11, 2002 to July 17, 2003, nine hundred and fifty-five (955) Pennsylvania residents made donations totaling \$16,765.55 as a result of the services provided by Respondent on behalf of ACU.

11. Respondent failed to verify whether ACU was registered with the Bureau before entering into the written contract with ACU.

12. Vision America a/k/a Vision America Mobilized, Inc. ("Vision America"), is a charitable organization which has submitted an incomplete registration application to the Bureau, and, as such, is not registered with the Bureau.

13. On August 25, 2003, the Bureau received a contract submitted for approval by Respondent to provide fundraising counsel services to Vision America, which was rejected because neither Respondent nor Vision America was registered with the Bureau.

14. Respondent failed to verify whether Vision America was registered with the Bureau before entering into the contract with Vision America.

15. In 1998, Respondent was fined \$1,000 for providing professional fundraising counsel services while unregistered and \$4,500 for providing services pursuant to nine unapproved contracts. In 2003, Respondent was fined \$500 for providing services pursuant to an additional unapproved contract.

AGREED VIOLATIONS

16. The parties agree that by engaging in the foregoing activities, Respondent violated the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.8(a), by providing services as a professional fundraising counsel for ACU in the Commonwealth of Pennsylvania after Respondent's registration had expired.

17. The parties agree that by engaging in the foregoing activities, Respondent violated the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.8(d), by failing to submit the contract with ACU to the Bureau for review and approval at least ten (10) days prior to performing services under that contract, and performed professional fundraising counsel services for ACU without an approved contract on file with the Bureau.

18. The parties agree that by engaging in the foregoing activities, Respondent violated the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.8(d)(1), by failing to verify whether ACU was registered with the Bureau before entering into the contract with ACU.

19. The parties agree that by engaging in the foregoing activities, Respondent violated the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.10(a), by entering into a contract with ACU at a time when Respondent was not registered as a professional fundraising counsel in the Commonwealth of Pennsylvania.

20. The parties agree that by engaging in the foregoing activities, Respondent violated the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.8(d)(1), by failing to verify

whether Vision America was registered with the Bureau before entering into the contract with Vision America.

21. The parties agree that by engaging in the foregoing activities, Respondent violated the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.10(a), by entering into a contract with Vision America at a time when Respondent was not registered as a professional fundraising counsel in the Commonwealth of Pennsylvania.

PROPOSED ORDER

22. To address concerns raised by the Commonwealth and to resolve this matter on a compromise basis, the Commonwealth and the Respondent agree 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 10 P.S. §§162.8(a), (d), and (d)(1) and §162.10(a).

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** of seven thousand five hundred dollars (\$7,500.00) is levied upon Respondent. Respondent shall tender the full sum of seven thousand five hundred dollars (\$7,500.00) 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 shall submit to the Bureau all unapproved contracts within fifteen (15) days of the date of the Secretary's Order adopting this Consent Agreement.

d. Respondent's registration as a professional fundraising counsel will not be approved by the Bureau until the Bureau receives and approves all unapproved contracts.

e. Respondent is prohibited from providing professional fundraising counsel services to charitable organizations soliciting contributions in Pennsylvania until the Bureau approves the contracts and Respondent's registration.

f. Respondent shall not enter into any contract or agreement to provide professional fundraising services to a charitable organization in the Commonwealth of Pennsylvania unless that charitable organization is registered with the Bureau.

VIOLATION OF THE SECRETARY'S ORDER

i. Notification of a violation of the terms and conditions of this Consent Agreement and Order shall result in the imposition of additional penalties as follows:

(1) The prosecuting attorney for the Bureau shall file with the Secretary a Petition which indicates that Respondent has violated the terms and conditions of this Consent Agreement and Order.

(2) Upon a probable cause determination that Respondent has violated the terms and conditions of this Consent Agreement and Order, the Secretary, or his designee, shall, without holding a formal hearing, issue a Preliminary Order, effective thirty (30) days after its mailing, which imposes a sixty (60) day period of suspension on Respondent's registration to act as a professional solicitor.

(3) Respondent shall be notified of the Preliminary Order within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Bureau by facsimile or first class mail.

(4) Within fifteen (15) days of mailing of the notification of the Preliminary Order, Respondent may answer the Commonwealth's petition,

request that a formal hearing be convened concerning Respondent's alleged violation of the terms of this Agreement, and move that the period of suspension be stayed until the Secretary or his designee issues a final order. Respondent shall file all answers and subsequent filings with the Prothonotary for the Department of State, 2601 North Third Street, Harrisburg, PA 17110. Respondent shall serve the prosecuting attorney for the Bureau with a copy of the answer and all subsequent filings in this matter.

(5) If the Respondent moves for a stay of the period of suspension, Respondent shall set forth properly verified facts and/or state concisely the matter of law which the Respondent believes justifies a stay of the period of suspension. The Secretary or his designee shall issue a ruling on the Respondent's motion within fifteen (15) days from the date of the mailing of the notification of the Preliminary Order. If the Secretary or his designee makes no ruling on the Respondent's motion within the fifteen (15) days from mailing of the notification of the Preliminary Order, the Respondent's motion shall be deemed denied.

(6) If a request for a formal hearing is received from Respondent, a formal hearing shall be convened within forty-five (45) days from the date of filing of Respondent's request for a formal hearing.

(7) The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing.

(8) If the Secretary, or his designee, after such hearing makes a determination adverse to Respondent, the Secretary or his designee will issue a Final Order imposing any disciplinary measures he deems appropriate. The

Secretary or his designee may, but is not required to, take into account any period of active suspension already served by the Respondent pursuant to the Preliminary Order.

(9) If a request for a formal hearing is not received from Respondent within the prescribed fifteen (15) day period, the Preliminary Order shall become a Final Order.

(10) Nothing in this 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; provided, however, the Bureau agrees to not re-open its investigation with regard to any Registration Statements or Contracts on file with the Secretary as of the date of this Consent Agreement and Order unless the Bureau becomes aware of material facts or omission of material facts which have previously not been disclosed to it and would give it probable cause that other violations existed during such period of time which it failed to uncover in its previous investigation.

23. This case shall be deemed settled and discontinued upon the Secretary issuing an Order adopting this Consent Agreement.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

24. 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

25. 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

26. 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

27. 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.

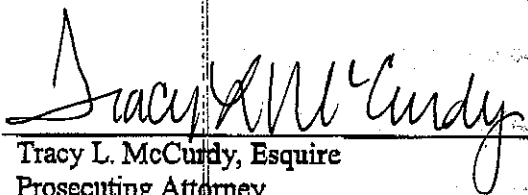
AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

28. 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,

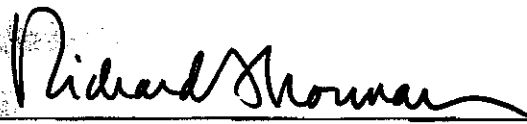
directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent Agreement shall preclude representatives of the Bureau from referring any information or data produced as a result of this matter to any federal, state, or local agency or governmental 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

29. 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



For The Richard Norman Company,
Respondent

DATED: 12-12-03

DATED: 12/10/03



IN THE MATTER OF
THE RICHARD NORMAN COMPANY
FILE NO. 03-98-08765

ORDER

AND NOW, this 15th day of December 2003, the terms of Paragraph 22 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