

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

Docket No. 0005-98-02  
File No. 02-98-01806

v.

Sports & Entertainment  
Strategies, Inc.

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**ADJUDICATION AND ORDER**

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C. Michael Weaver  
Secretary of the Commonwealth

302 North Office Building  
Harrisburg, PA 17120  
(717) 787-7630

## HISTORY

This case comes before the Secretary of the Commonwealth (Secretary) to determine whether good cause exists for the Secretary to grant the Commonwealth's Motion to Enter Default and Deem Facts Admitted (MDFA) and impose upon Respondent an appropriate penalty, including the possibility of, among others, the following penalties: refusal to issue Respondent's registration as a professional solicitor, the issuance of an order directing Respondent to Cease and Desist specified fundraising activities and the imposition of an administrative fine of up to one thousand dollars (\$1,000) for each and every violation of the Act and an additional penalty of one hundred dollars (\$100) for each day the violation continues.

The prosecuting attorney filed an Order to Show Cause (OSC) on June 19, 2002 charging that Respondent violated two provisions of the Solicitation of Funds for Charitable Purposes Act (Act), an Act of December 19, 1990, P.L. 1200, No. 202, *as amended*, 10 P.S. §§ 162.1-162.24. Specifically, Respondent was charged with two counts of violating Section 15(a)(1) and one count of violating Section 9(e) of the Act, 10 P.S. §§ 162.15(a)(1) and 162.9(e), in that: 1) Respondent committed multiple violations of the Act at 10 P.S. § 162.15(a)(1) by soliciting charitable contributions, in the form of corporate sponsorships of fundraising events held on behalf of the Arthritis Foundation, Eastern PA Chapter, without being registered with the Bureau of Charitable Organizations (Bureau) as a Professional Solicitor (PS); 2) Respondent committed multiple violations of the Act at 10 P.S. § 162.9(e) in that it failed to submit to the Bureau its contracts to serve as a PS for the Arthritis Foundation, Eastern PA Chapter, for review at least ten (10) days prior to performing PS services and by performing services in the Commonwealth without an approved contract and 3) Respondent committed additional violations of the Act at 10 P.S. § 162.15(a)(1) by performing services as a PS in violation of a Cease and Desist Order.

The prosecuting attorney served the OSC upon Respondent by certified mail, return receipt requested and first class mail, postage pre-paid and directed the Respondent to file an Answer thereto within thirty (30) days of its date or by no later than July 19, 2002. On or about June 24, 2002, Respondent received the OSC as evidenced by P.S. Form 3811, Article #7001 0320 0003 3073 8221. As of this date, however, Respondent has failed to file an Answer to the OSC.

On August 9, 2002, the Commonwealth filed an MDFA, which was served upon Respondent by first class mail, postage prepaid. As of this date, the Commonwealth has yet to receive Respondent's response to the MDFA.

## FINDINGS OF FACT

1. Respondent has never been registered with the Bureau as a PS or in any other capacity. (Bureau records)

2. Respondent's last known business address, as on file with the Department of State is 1420 Walnut Street, Suite 708, Philadelphia, PA 19102. However, the prosecuting attorney has reason to believe that Respondent is now affiliated with In-Hand Promotions Inc., 360 West 253<sup>rd</sup> Street, Riverdale, NY 10471. (OSC ¶ 3)

3. In June 2000, the Bureau received evidence that Respondent had performed services on behalf of a charitable organization soliciting contributions in Pennsylvania. (OSC ¶ 4)

4. On June 19, 2000, the Bureau sent the Respondent a letter informing it of its registration obligations under the Act, and providing Respondent with an application packet to register as a PS. (OSC ¶ 5)

5. In response to the letter, Respondent submitted a pamphlet describing the types of services it performs. (OSC ¶ 6)

6. On July 12, 2000, the Bureau informed Respondent by letter that the Bureau's review of the pamphlet had resulted in the determination that Respondent must register as a PS under the Act and offered the Respondent the opportunity to provide additional information to show that it was not required to register under the Act. (OSC ¶ 7)

7. On August 24, 2000, the Bureau forwarded Respondent a letter again informing Respondent of its registration obligations under the Act and requesting that Respondent either register or provide evidence that it was exempt from the registration requirements. (OSC ¶ 8)

8. On August 29, 2000, the Bureau mailed Respondent another registration packet. (OSC ¶ 9)

9. On December 14, 2000, because of Respondent's failure to register or provide the requested information, the Secretary of the Commonwealth issued a Cease and Desist Order, which prohibited Respondent from soliciting contributions in Pennsylvania until it had registered or had provided information requested by the Bureau. (OSC ¶ 10)

10. On January 11, 2001, the Bureau served on Respondent an Investigative Subpoena to obtain information related to Respondent's activities in Pennsylvania to which the Respondent responded on or about February 1, 2001 by providing information related to its activities in Pennsylvania, including copies of contracts with the Arthritis Foundation, Eastern PA Chapter that state that Respondent will solicit corporate sponsors for various charitable fundraising events. (OSC ¶¶ 11-13)

11. On June 19, 2001, the prosecuting attorney filed the OSC, served upon Respondent by certified mail, return receipt requested and first class mail, postage pre-paid, setting forth allegations that Respondent had engaged in two counts of violating Section 15(a)(1) and one count of violating Section 9(e) of the Act, 10 P.S. §§ 162.15(a)(1) and 162.9(e), in that: 1) Respondent solicited charitable contributions, in the form of corporate sponsorships of fundraising events held on behalf of the Arthritis Foundation, Eastern PA Chapter, without being registered with the Bureau in violation of Section 15(a)(1) of the Act; 2) Respondent failed to submit to the Bureau its contracts to serve as a PS for the Arthritis Foundation, Eastern PA Chapter, for review at least ten (10) days prior to performing PS services and by performing services in the Commonwealth without an approved contract in violation of Section 9(e) of the Act; and 3) Respondent performed services as a PS in direct violation of a valid Cease and Desist Order. (OSC ¶¶ 14-19, MDFA ¶ 1)

12. On or about June 24, 2002, Respondent received the OSC as evidenced by P.S. Form 3811, Article #7001 0320 0003 3073 8221. (MDFA ¶ 3)

13. On August 9, 2002, the Commonwealth filed an MDFA because Respondent failed to file its answer to the OSC within the time period required. (MDFA ¶¶ 4-6)

## CONCLUSIONS OF LAW

1. The Bureau has jurisdiction in this matter. (Findings of Fact, nos. 6, 10)
2. Respondent received notice of the charges against it and has been given an opportunity to be heard in this proceeding in accordance with Administrative Agency Law, 2 Pa.C.S. § 504. (Findings of Fact, nos. 4, 6-8, 11-13)
3. Respondent's solicitation of charitable contributions, in the form of corporate sponsorships of fundraising events held on behalf of the Arthritis Foundation, Eastern PA Chapter, without being registered with the Bureau; Respondent's failure to submit to the Bureau its contracts to serve as a PS for the Arthritis Foundation, Eastern PA Chapter, for review at least ten (10) days prior to performing PS services and by performing services in the Commonwealth without an approved contract; and Respondent's performance of services as a PS in direct violation of a valid Cease and Desist Order is in violation of Sections 15(a)(1) and 9(e) of the Act. (Finding of Fact, no. 11)
4. There is good cause to grant the Commonwealth's MDFA in that Respondent failed to respond to either the OSC or the MDFA. In addition, the Commonwealth has presented ample evidence that the Respondent is guilty of three counts of violating the Act.

## DISCUSSION

This case is brought before the Secretary of the Commonwealth pursuant to the Solicitation of Funds for Charitable Purposes Act at 10 P.S. §§ 162.9(e), 162.15(a)(1) and 162.17(a)(1)-(2) and (b)(2)-(3), which provide in pertinent part as follows:

### **§ 162.9. Registration of professional solicitor; contract and disclosure requirements; bonds; records; books**

(d) Contract filing. - No less than ten working days prior to the commencement of each solicitation campaign, event or services a professional solicitor shall file with the department a copy of the contract described in subsection (f) and a written solicitation notice. No solicitation or services pursuant to the contract shall begin before the department has approved the contract pursuant to subsection (g)....

### **§ 162.15. Prohibited acts**

(a) General rule. - Regardless of a person's intent or the lack of injury, the following acts and practices are prohibited in the planning, conduct or execution of any solicitation or charitable sales promotion:

(1) Operating in violation of, or failing to comply with, any of the requirements of the act, regulations of the department or an order of the secretary, or soliciting contributions after registration with the department has expired or has been suspended or revoked or soliciting contributions prior to the solicitation notice and contract have been approved by the department.

### **§ 162.17. Administrative enforcement and penalties**

(a) General rule. - The secretary may refuse to register or revoke or suspend the registration of any charitable organization, professional fundraising counsel or professional solicitor whenever he finds that a charitable organization, professional fundraising counsel or professional solicitor, or an agent, servant to employee thereof:

(1) Has violated or is operating in violation of any of the provisions of this act, the regulations of the department, or an order issued by the secretary.

(2) Has refused or failed or any of its principal officers has refused or failed, after notice, to produce any records of such organization or to disclose any information required to be disclosed under this act or the regulations of the department....

(b) Additional actions. - When the secretary finds that the registration of any person may be refused, suspended or revoked under the terms of subsection (a), the secretary may:



(2) Issue an order directing that the person cease and desist specified fundraising activities.

(3) Impose an administrative fine not to exceed \$1,000 for each act or omission which constitutes a violation of this act and an additional penalty, not to exceed \$100 for each day during which such violation continues....

In Count One, the Commonwealth alleged that Respondent solicited charitable contributions, in the form of corporate sponsorships of fundraising events held on behalf of the Arthritis Foundation, Eastern PA Chapter, without being registered with the Bureau.

In Count Two, the Commonwealth alleged that Respondent failed to submit to the Bureau its contracts to serve as a PS for the Arthritis Foundation, Eastern PA Chapter, for review at least ten (10) days prior to performing PS services and by performing services in the Commonwealth without an approved contract.

In Count Three, the Commonwealth alleged that Respondent performed services as a PS in direct violation of a valid Cease and Desist Order.

Given that the Respondent failed to respond to the Commonwealth's OSC and MDFA and the fact that the Commonwealth has proven all three counts it brought against Respondent, the Respondent is in default and the Commonwealth's MDFA should issue.

The only other question to be determined here is the appropriate sanction to be imposed. The obligations that Respondent failed to perform are critical requirements to which a PS must adhere under the Act and Respondent did not provide any mitigating evidence in this matter.

Accordingly, based on the foregoing findings of fact, conclusions of law and discussion, and in the absence of mitigation, the following order shall issue.

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

**Commonwealth of Pennsylvania,  
Bureau of Charitable Organizations**

**Docket No. 0005-98-02  
File No. 02-98-01806**

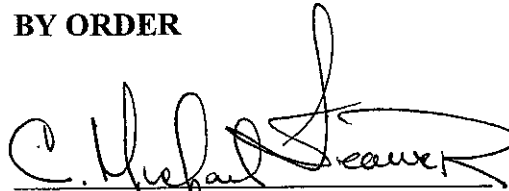
v.

**Sports & Entertainment  
Strategies, Inc.**

**ORDER**

AND NOW, this 10<sup>th</sup> day of December, 2002, in accordance with the foregoing findings of fact, conclusions of law and discussion, the Secretary of the Commonwealth hereby grants the Commonwealth's Motion to Deem Facts Admitted and **ORDERS** that Sports & Entertainment Strategies, Inc. immediately **Cease and Desist** from all fundraising activities in the Commonwealth and that it pay an administrative fine in the amount of **\$3,000** or \$1,000 per violation. It is further ordered that no registration shall be accepted on behalf of Respondent Sports & Entertainment Strategies, Inc. for a period of two years (or 24 months) from the date of issuance of the order. After the end of two year period, the Respondent shall only be issued a registration after the administrative fine and any outstanding additional penalties are paid in full.

**BY ORDER**



**C. Michael Weaver  
Secretary of Commonwealth**

**Date of Mailing:**

*For the Commonwealth:*  
Bridget K. Guilfoyle  
Department of State  
116 Pine Street  
P.O. Box 2649  
Harrisburg, PA 17105-2649

*Respondent:*  
Sports & Entertainment Strategies, Inc.  
c/o In-Hand Promotions, Inc.  
360 West 253<sup>rd</sup> Street  
Riverdale, NY 10471

Date of Mailing 12/13/02



Office of General Counsel Assigned to the  
Department of State

**Counsel for Bureau of Charitable  
Organizations**

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Mailing Date: 12/13/02