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

Commonwealth of Pennsylvania,

**Bureau of Charitable Organizations** 

Docket No. 0002 - 98-07

VS.

: File No.

07-98-00874

The United Farm Workers of America,

AFL-CIO, Respondent

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and The United Farm Workers of America, AFL-CIO (UFWA) ("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 solicited charitable contributions in Pennsylvania.
- 3. At all times relevant and material to this Consent Agreement, Respondent did not hold a current registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

#### STIPULATED FACTS

- 4. The Respondent admits to the following facts:
  - a. Respondent's last known business address on file with the Bureau is P. O.

Box 62—La Paz, Keene, California 93531.

- b. Respondent was previously registered with the Bureau, however, that registration expired on May 15, 2003.
- c. The Bureau received evidence that Respondent was soliciting in Pennsylvania after its registration had expired.
- d. A Cease and Desist Order was issued against Respondent on February 14, 2006.
- e. An investigative subpoena was issued on February 14, 2006 ordering

  Respondent to provide information concerning its unregistered solicitation activity in

  Pennsylvania.
- f. In response to the investigative subpoena, Respondent provided the Bureau with records indicating that it sent a total of ninety-seven thousand six hundred and thirty-nine (97,639) solicitations into Pennsylvania from March 16, 2003, when its registration expired, until February 14, 2006.
- g. Respondent collected two hundred thousand eight hundred and fifty-two dollars and eighty cents (\$200,852.80) in contributions in Pennsylvania while it was not properly registered.
- h. Respondent entered into a previous Consent Agreement with the Bureau on September 18, 2001 whereby it agreed to violations for unregistered activity and soliciting while under a Cease and Desist Order.

#### AGREED VIOLATION

5. Respondent agrees that by engaging in the foregoing activities, Respondent committed multiple violations of the Act by soliciting charitable contributions without

being registered with the Bureau in violation of 10 P.S. § 162.15 (a)(1), by and through § 162.5(a).

#### PROPOSED ORDER

- 6. The parties consent to the issuance of the following Order in settlement of this matter:
- a. Based on the above-referenced facts, the Secretary finds that Respondent committed multiple violations of the Solicitation of Funds for Charitable Purposes Act by soliciting charitable contributions without being registered with the Bureau in violation of 10 P.S. § 162.15 (a)(1), by and through § 162.5(a).

#### ADMINISTRATIVE FINE

- b. An ADMINISTRATIVE FINE of eight thousand five dollars (\$8,500.00) is levied upon Respondent. Respondent shall tender the full sum of eight thousand five hundred dollars (\$8,500.00) 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."
- c. Respondent shall submit a completed registration statement along with any required supporting documents to the Bureau within thirty (30) days of the date of the Secretary's Order adopting this Consent Agreement. Upon receipt of the administrative fine and appropriately completed registration statement, the Bureau will approve Respondent's registration to solicit charitable contributions in Pennsylvania.
- d. Respondent shall cease all solicitation in Pennsylvania and not again commence solicitation until it has an approved registration statement on file with the Bureau.

e. Upon receiving an approved registration, Respondent shall not solicit in Pennsylvania unless and until each of its professional fundraising counsel and solicitors is registered with the Bureau and its contracts are approved in accordance with the Act.

#### VIOLATION OF THE SECRETARY'S ORDER

- 7. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the imposition of additional penalties under the following procedures:
  - a. The prosecuting attorney with the Bureau shall file with the Secretary a

    Petition that indicates that Respondent has violated the terms and conditions of this

    Consent Agreement and Order.
  - b. 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 solicit charitable contributions.
  - c. Respondent shall be notified of the Preliminary Order within three (3) days of its issuance by certified mail and by first class mail, postage prepaid, sent to the last registered address on file with the Bureau. A copy shall also be sent to Respondent's attorney at P. O. Box 9009, Bakersfield, California 93389 by first class mail.
  - d. 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 the Respondent's alleged violation of the Consent Agreement and Order, 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 Bureau of Charitable Organizations at 2601 North Third Street, Harrisburg, Pennsylvania 17110. Respondent shall serve the prosecuting attorney for the Bureau with a copy of the answer and all subsequent filings at 209 North Office Building, Harrisburg, Pennsylvania 17120.

- e. 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
  that 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 within fifteen (15) days of the Preliminary Order, the
  Respondent's motion shall be deemed denied.
- f. If a request from 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.
- g. The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing.
- h. 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.
- i. 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.

#### 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

9. 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

10. 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

11. 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

12. 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.

#### CASE DEEMED SETTLED AND DISCONTINUED

Order adopting this Consent Agreement and the Respondent's successful completion of any ordered discipline or remedial measures and payment of any administrative fines. However, nothing in this Consent Agreement and 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 and Order.

#### VERIFICATION OF FACTS AND STATEMENTS

14. 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.

#### UNITED FARM WORKERS OF AMERICA

Karen L. Cummings, Esquire Prosecuting Attorney Department of State

3/2/07 DATED:

By: TANIS Harra

Title: SacreTary Treasurer

Respondent

DATED: 2/22/07

## RECEIVED

MAR 2 2 2007

Department or caste Prothonotary



# IN THE MATTER OF THE UNITED FARM WORKERS OF AMERICA FILE NO. 2007-98-00874

AND NOW, this do day of March	_ 2007, the terms of Paragraph (
of the foregoing Consent Agreement are hereby adopted and in	corporated as the Order of the
Secretary of the Commonwealth in resolution of this matter. T	his Order shall take effect

**ORDER** 

**AMENDED** 

immediately.

BY ORDER

Pedro A. Cortés

Secretary of the Commonwealth