

HISTORY

This case was initiated on an appeal by Champion Publishing and Printing, Inc. (Champion) from a determination by the Bureau on Charitable Organizations (the Bureau) that Champion acted as a professional solicitor for a charitable organization under the Charitable Organization Reform Act (Act), Act of April 30, 1986, P.L. 107, 10 P.S. §161.1 et seq. and was required to be registered under Section 10 of the Act, 10 P.S. §161.10.

Pursuant to Champion's request for a hearing on the matter, a hearing was scheduled for January 14, 1988. Coincident with that notice, the Bureau notified Champion that it would present evidence of past violations of the Act and seek an order barring Champion from obtaining registration under the Act. The hearing scheduled for January 14, 1988 was subsequently continued to January 21, 1988.

A hearing was held on that date for James J. Haggerty, Esquire, Secretary of the Commonwealth. Mary S. Wyatte, Assistant Counsel, represented the Bureau. Champion was not present, nor was it represented by counsel.

FINDINGS OF FACT

1. By letter of December 22, 1987, Champion requested a hearing before the Secretary of the Commonwealth for January 14, 1988. (Exhibit C-6)

2. By letter of January 5, 1988, the Bureau notified Champion that a formal hearing would be held on January 14, 1988 as requested and further, that the Commonwealth would present evidence of past violations of the Act and seek an order from the Secretary denying registration as a professional solicitor to Champion. (Exhibit C-9)

3. By letter of January 13, 1988, Champion was notified of the time and place of the rescheduled hearing of January 21, 1988. (Exhibit C-10)

4. Champion Printing & Publishing, Inc. is a business corporation organized and existing under the laws of Pennsylvania. (Exhibit C-4)

5. Champion has also conducted business in the Commonwealth under the name RAF Associates. (N.T. 16, Exhibit C-1)

6. The location and registered office of Champion in the Commonwealth is 6911 Castor Avenue, Philadelphia PA 19111. (Exhibit C-11)

7. Champion was incorporated on or about April 10, 1986. (Exhibit C-11)

8. Pennsylvania Special Olympics (PASO) is a charitable organization registered under the Act. (Bureau records)

9. For several years prior to 1987 PASO had a working relationship with Champion whereby Champion would sell advertisements to individuals on behalf of PASO. (N.T. 30-31)

10. On or about October 12, 1987, PASO and Champion entered into a Letter of Agreement in which Champion agreed to conduct a telemarketing

campaign in Pennsylvania to solicit donations from consumers and businesses for PASO. (Exhibit C-4)

11. The agreement provided that collected receipts would be distributed as follows: 35% for PASO and 65% for Champion. (Exhibit C-4)

12. The telemarketing campaign under the agreement was to consist of a target market calling in which Champion agreed to ask businesses and consumers to support tournaments and a state-wide campaign for program books in which Champion agreed to solicit program book advertisements from businesses throughout Pennsylvania four times per year to coincide with the seasonal state games. (Exhibit C-4)

13. From January 1, 1987 to December 10, 1987, Champion delivered to PASO on a weekly basis contributions it solicited on behalf of PASO; an accounting for that period indicates gross contributions of \$506,861, \$325,486 to Champion for expenses and a net of \$181,373 to PASO. (N.T. 42, Exhibit C-17)

14. On October 26, 1987, the Bureau received notice from Steven C. Arter, Senior Financial Investigator of the Charitable Trusts and Organizations Section of the Attorney General's Office that Champion, a/k/a RAF, was soliciting funds on behalf of PASO. (Exhibit C-1)

15. On October 29, 1987, James Maxey, III (Maxey), Director of the Bureau, notified Champion of the registration requirements of the Act. (Exhibit C-2)

16. On November 23, 1987, Champion, through its counsel, William J. Winning (Winning), requested a meeting with Maxey to explain Champion's position that it was not required to be registered under the Act. (Exhibit G-3)

17. On December 4, 1987, Maxey met with Winning; at Maxey's request, Winning, on December 8, 1987, provided the Bureau with additional information concerning Champion's operations, including a proposed solicitation project and a program booklet of advertisers distributed in connection with the solicitation for PASO. (Exhibit C-4)

18. On December 14, 1987, Mary S. Wyatte, counsel for the Bureau, notified Champion, through its counsel, Winning, that the Bureau had determined that Champion was a professional solicitor as defined in the Act; Champion was also notified that the Act prohibited Champion from obtaining reimbursement for solicitation expenses in excess of 15% of the contributions received (Section 8 of the Act, 63 P.S. §161.8). (Exhibit C-7)

19. On December 22, 1987, Champion requested a hearing before the Secretary of the Commonwealth to contest the Bureau's determination. (Exhibit C-6)

20. On November 20, 1987, the Bureau advised PASO that the contract between itself and Champion must be cancelled and that no further solicitations could be conducted on behalf of PASO by Champion. (Exhibit C-5)

21. On November 23, 1987 Janine M. Cesare, Director of Finance and Administration of PASO, advised Champion that it could no longer solicit for PASO. (Exhibit C-18)

22. Champion continued to solicit and to retain 65% of contributions made to PASO after the November 23, 1987 communication from Cesare to Champion until at least December 10, 1987. (Exhibit C-17)

23. On December 17, 1987, Cesare requested on behalf of PASO that Champion escrow any funds solicited up to December 4, 1987 pending a determination by the Bureau. (Exhibit C-15)

24. Champion has not submitted any evidence to the Bureau that it has escrowed any funds solicited on behalf of PASO after its last accounting of December 10, 1987 to PASO. (Board records)

CONCLUSIONS OF LAW

1. The Department notified Champion of the registration requirements of the Act by certified mail to its last known address.

2. Champion filed a timely appeal of the determination of the Bureau that Champion was required to register as a professional solicitor with the Bureau and that Champion was required to comply with the statutory limitations on reimbursements for expenses incurred in connection with solicitations.

3. Champion received notice of the hearing scheduled for January 14, 1988 and notice of the rescheduled hearing on January 21, 1988, and was given an opportunity to be heard.

4. Champion was required to register as a professional solicitor under Section 10 of the Act, 10 P.S. §161.10, in order to solicit funds on behalf of PASO.

5. The Department is empowered to refuse to accept the registration of Champion under the Act pursuant to Section 15(a) of the Act, 10 P.S. §161.15(a).

DISCUSSION

At the hearing in this matter, which Champion requested, Champion did not appear to press its claim that it is not a professional solicitor under the Act, 10 P.S. §161.1 et seq. The only evidence at the hearing was that of the Bureau. This evidence established that Champion solicited donations for a charitable organization for which registration as a professional solicitor is required. Although Champion was requested to register by the Bureau, it failed to do so. Furthermore, the evidence established that Champion has since January 1, 1987, solicited charitable donations for which it retained expenses in excess of the maximum amount allowed by law, 10 P.S. §161.8(b). Finally, the evidence established that after having received notice from the charitable organization, Champion has failed to provide that organization with a final accounting of the amounts it collected on behalf of PASO.

Having concluded that Champion's activities required it to be registered, the Commonwealth presses the further contention that Champion should be denied registration as a professional solicitor. The criteria for registration is provided in Section 10 of the Act, 10 P.S. §12. Although Champion has not filed a registration application, it could arguably do so. Under Section 15(a) of the Act, 10 P.S. §161.15(a), the Department has the authority to refuse to accept the registration of delinquent professional solicitors. The foregoing findings of fact and the evidence of record establish multiple and continuing violations of both the registration requirements of the Act as well as the Act's limitation on expenses of professional solicitors. The conclusion is inescapable that registration should be refused in this instance. Accordingly, the following Order shall be entered upon the record.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE

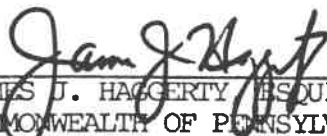
BUREAU ON CHARITABLE ORGANIZATIONS :
v. : File No. 87-00
CHAMPION PUBLISHING AND :
PRINTING, INC. :

ORDER

AND NOW, this *30th* day of March, 1988, the Secretary of the Commonwealth, having heard evidence and testimony in the above-captioned matter, hereby Orders that Champion Publishing and Printing, Inc. be denied registration as a professional fundraising counsel or professional solicitor.

Champion is further Ordered to cease and desist from acting as a professional fundraising solicitor in contravention of the Act.

This Order shall constitute a final Order in the above matter and shall be effective on the date of mailing, to wit, *31st day of March* 1988.


JAMES J. HAGGERTY, ESQUIRE, SECRETARY
COMMONWEALTH OF PENNSYLVANIA

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Date of Mailing: *March 31, 1988*