

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. 0007 -98-13
vs. :
 : File No. 13-98-06183
Tracey's Hope Hospice Care Program & :
Rescue for Domestic Animals, Inc. :
Respondent :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations, ("Bureau") and Tracey's Hope Hospice Care Program & Rescue for Domestic Animals, Inc. ("Respondent") stipulate as follows in resolution of the above-captioned matter:

JURISDICTION

1. This matter is before the Secretary of the Commonwealth ("Secretary") pursuant to the Solicitation of Funds for Charitable Purposes Act ("Act"), Act of December 19, 1990, P.L. 1200, No. 202, *as amended*, 10 P.S. §§ 162.1-162.24.

2. Respondent admits the following facts:

a. Respondent is currently registered as a charitable organization in the Commonwealth of Pennsylvania, registration number 41990, having first become registered with the Bureau on July 12, 2013.

b. At all times relevant and material to the stipulated facts set forth below, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

c. At all times relevant and material to the stipulated facts set forth below, Respondent was not exempt from registration nor excluded from the requirements of the Act.

d. The address for the Respondent currently on file with the Bureau is: 113 Foote Avenue, Duryea, PA 18642-1105.

STIPULATED FACTS

3. Respondent does not deny the truth of the following averments:

a. In August 2012, the Bureau received a complaint setting forth allegations that Respondent was soliciting charitable contributions in Pennsylvania without being registered in accordance with the Act.

b. An investigation was conducted during which several conversations occurred between a representative of the Bureau and representatives of Respondent.

c. During the conversations, a representative of the Respondent advised the representative of the Commonwealth that Respondent was exempt from registering with the Bureau and that documentation supporting the claim of exemption would be forwarded to the Bureau.

d. Because the alleged supporting documentation of exemption was not provided as represented, and because the Respondent continued to solicit contributions within the Commonwealth, on January 30, 2013, the Secretary for the Commonwealth issued a Cease and Desist Order directing that Respondent cease soliciting contributions in the Commonwealth until such

time as Respondent became duly registered or submitted information showing that the organization was excluded or exempt from registration.

e. Respondent continued to solicit contributions after the issuance of the Cease and Desist Order as shown by the following:

(1) As observed in March 2013, Respondent continued to solicit donations on the website it maintained by or on behalf of the organization;

(2) Respondent held a fundraising event at a restaurant in Moosic, PA, on March 23, 2013;

(3) As observed in March 2013, Respondent announced on the website it maintained that a play to benefit the organization was scheduled to be held May 9 – 19, 2013; and,

(4) As observed in March 2013, Respondent invited visitors to the website it maintained, to patronize a retail establishment in Pittston, PA, where sales proceeds would benefit the organization.

AGREED VIOLATIONS

4. The parties agree that by engaging in the foregoing activities, Respondent committed violations of the Act including, but not limited to, the following:

a. Violating Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by soliciting charitable contributions in Pennsylvania without being properly registered as required by Section 162.5 of the Act, 10 P.S. § 162.5; and

b. Violating Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by soliciting contributions in violation of a Cease and Desist Order issued by the Secretary of the Commonwealth.

PROPOSED ORDER

5. The parties, intending to be legally bound, consent to the issuance by the Secretary of the following Order in resolution of this matter:

FINDING BY THE SECRETARY

a. The Secretary finds that:

i. Respondent violated Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by soliciting charitable contributions in Pennsylvania without first being registered as required by Section 162.5 of the Act, 10 P.S. § 162.5.

ii. Respondent violated Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by soliciting contributions in direct violation of a Cease and Desist Order issued by the Secretary of the Commonwealth.

ADMINISTRATIVE FINE

b. As a result of the violations found to exist, an **ADMINISTRATIVE FINE** in the amount **ONE-THOUSAND-DOLLARS (\$1,000.00)** is hereby levied upon Respondent.

i. The fine represents a penalty in the amount of Five-Hundred-Dollars (\$500.00) for each of the two (2) violations found to exist.

ii. Respondent shall tender the full sum of One-Thousand-Dollars (\$1,000.00) with the return of this executed Consent Agreement.

iii. Payment shall be made by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.).

iv. The instrument of payment shall be payable to the 'Commonwealth of Pennsylvania,' and shall be valid for a period of at least one hundred eighty (180) days.

v. Respondent agrees that payment shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check.

FILING OF REGISTRATION DOCUMENTS

c. Respondent agrees not to solicit charitable contributions in the Commonwealth of Pennsylvania at any time that it is not properly registered with the Bureau in accordance with Section 162.5 of the Act, 10 P.S. § 162.5.

d. Respondent acknowledges that soliciting contributions following a failure to register or a failure to renew a registration with the Bureau as required, may result in an administrative fine of \$1,000.00 and an additional penalty of \$100.00 for each day the violation continues, since each day constitutes a separate violation of the Act.

e. Respondent acknowledges that failing to register with the Bureau and

failing to renew a registration when required may result in a subsequent registration being automatically suspended until any fine is paid or until the normal expiration date of the registration in accordance with Section 162.17 of the Act, 10 P.S. § 162.17.

f. Respondent acknowledges that no subsequent registration shall be renewed until the fine is paid.

g. Respondent shall not enter into any contract or agreement to employ any professional fundraising counsel or professional solicitor unless that professional fundraising counsel or professional solicitor is registered with the Bureau.

CASE SETTLED AND DISCONTINUED

h. This case shall be deemed settled and discontinued upon the Secretary issuing an Order adopting this Consent Agreement and the successful completion by the Respondent of any requirement(s) set forth in that Order.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

6. Respondent waives the filing of an Order to Show Cause in this matter.

7. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter, and knowingly and voluntarily waives the following rights related to that hearing:

- a. to be represented by counsel at the hearing;
- b. to present witnesses and testimony in defense or in mitigation of any sanction that may be imposed for a violation;
- c. to cross-examine witnesses and to challenge evidence presented by the Bureau;

- d. to present legal arguments by means of a brief; and
- e. to take an appeal from any final adverse decision.

AGREEMENT NOT BINDING ON OTHER PARTIES

8. This Consent Agreement is between the Bureau and Respondent only. It does not bind any other governmental or administrative entity of the Commonwealth of Pennsylvania, including any other bureau within the Department of State.

9. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Secretary issues an Order adopting this Consent Agreement.

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.

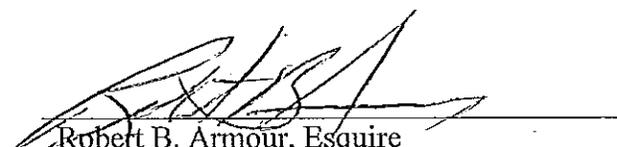
12. Nothing in this Agreement shall preclude the Prosecuting Attorney for the Bureau from filing charges nor shall it preclude the Secretary from imposing disciplinary or corrective measures for violations or facts not contained in this Agreement.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

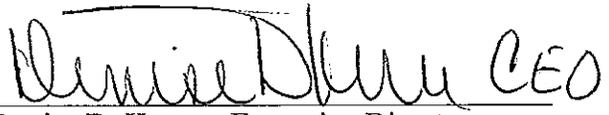
13. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent 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

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.


Robert B. Armour, Esquire
Prosecuting Attorney
Department of State

DATED: 10/22/13


Denise D. Kumor, Executive Director
Tracey's Hope Hospice Care Program &
Rescue for Domestic Animals, Inc.

DATED:



**IN THE MATTER OF
TRACEY'S HOPE HOSPICE CARE PROGRAM &
RESCUE FOR DOMESTIC ANIMALS, INC.**

FILE NO. 13-98-06183

ORDER

AND NOW, this 22ND day of October 2013, the terms of Paragraph 5 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

A handwritten signature in cursive script, reading "Carol Aichele".

Carol Aichele
Secretary of the Commonwealth

For the Commonwealth:

Robert B. Armour, Esquire
2601 North Third Street
P. O. Box 2649
Harrisburg, PA 17105-2649

Respondent:

Denise D. Kumor, Executive Director
Tracey's Hope Hospice Care Program &
Rescue for Domestic Animals, Inc.
113 Foote Avenue
Duryea, PA 18642-1105