

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

Department of State

2014 DEC 31 AM 10: 54

PROTHONOTARY

Commonwealth of Pennsylvania,  
Bureau of Corporations and  
Charitable Organizations

vs.

Fryburg Sportsman's Club  
Respondent

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Docket No.

0018

~~98-14~~

File No.

13-98-08402

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Fryburg Sportsman's Club ("Respondent") stipulate as follows in settlement 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 ("the Act"), Act of December 19, 1990, P.L. 1200, No. 202, *as amended*, 10 P.S. §§ 162.1-162.24.

2. At all relevant and material times, Respondent conducted business in Pennsylvania as a charitable organization as defined by the Act.

3. Respondent is currently registered to solicit charitable contributions within the Commonwealth of Pennsylvania under registration number 41526, having first become registered with the Bureau for fiscal year ending 12/31/2011.

4. The last known address on file with the Bureau for the Respondent is P.O. Box 93, Fryburg, PA 16326.

5. Respondent's principal place of business is located at 67 Club Alley, Fryburg, PA 16326.

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

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

#### **STIPULATED FACTS**

8. Respondent stipulates to the following factual averments:

a. A complaint was made to the Bureau advising that the Respondent was involved in gaming activities, which Respondent claimed were for charitable purposes.

b. The complaint advised that Respondent had sold the mineral rights to a large tract of land for a significant amount of money and that the land had been purchased with proceeds from the gaming activities.

c. Because Respondent was not listed on the website maintained by the Bureau as being registered as required by the Act, an investigation was conducted by the Bureau.

d. The investigation revealed that Respondent had been involved in soliciting contributions through small games of chance since February of 1990, and that the contributions had exceeded \$25,000 on an annual basis on or about March 15, 1990.

e. Respondent solicited contributions through small games of chance for a period of approximately 22 years without being registered with the Bureau as a charitable organization.

f. As part of the investigation, the Bureau requested certain financial information from the Respondent.

g. Because Respondent failed to provide the financial information requested by the Bureau in a timely manner, on May 7, 2012, the Secretary of the Commonwealth issued a Cease and Desist Order directing that Respondent discontinue soliciting contributions in the Commonwealth until such time as the organization became registered or provided documentation supporting that it was exempt from registration or excluded from the requirements of the Act.

h. Respondent attempted to register with the Bureau for fiscal years ending in 2009, 2010 and 2011.

i. As a result of the need to address numerous errors, discrepancies and omissions in the financial statements and IRS Forms 990 provided to the Bureau by Respondent, it was an extended period of time before Respondent was able to provide complete information necessary to become registered.

j. During the time that Respondent continued in the effort to become registered, which period continued after the Cease and Desist Order had been issued, Respondent continued to solicit contributions through small games of chance in that Respondent ran the daily number one day after receiving the Cease and Desist Order.

**AGREED VIOLATIONS**

9. The parties agree that by engaging in the foregoing activities Respondent committed multiple violations of:

a. Section 162.15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through the failure to comply with Section 162.5 of the Act, 10 P.S. § 162.5, in that Respondent solicited charitable contributions in Pennsylvania without being properly registered with the Bureau; and

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

**PROPOSED ORDER**

10. To address the violations of the Act raised by the Commonwealth and to resolve this matter on a compromise basis, the Commonwealth and the Respondent, intending to be legally bound, agree to the issuance of the following Order in settlement of this matter:

a. The Secretary finds that Respondent violated the Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by:

- i. soliciting charitable contributions in Pennsylvania without first being registered as required by Section 5 of the Act, 10 P.S. § 162.5;
- ii. soliciting contributions in direct violation of a Cease and Desist Order issued May 7, 2012; and
- iii. making a material misrepresentation in registration documents required to be filed with the Bureau for fiscal year ending December 31, 2010.

b. Under Section 17 of the Act, 10 P.S. § 162.17, the Secretary is authorized to refuse to register or to revoke or suspend the registration of Respondent; to revoke a grant of exemption to any provision of the Act; to issue an order directing that Respondent cease and desist specified fundraising activities; to impose an administrative fine for each act or omission which constitutes a violation of the Act and to impose an additional penalty, not to exceed \$100 a day, for each day a violation continues; and, to place Respondent on probation for such period of time and subject to such conditions as may be decided.

#### ADMINISTRATIVE FINE

c. Accordingly, an **ADMINISTRATIVE FINE** in the amount of **TWO-THOUSAND-DOLLARS (\$2,000.00)** is hereby levied upon Respondent.

- i. Respondent shall tender the full sum of Two-Thousand-Dollars (\$2,000.00) with this executed Consent Agreement;
- ii. 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.).
- iii. 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.

#### FILING OF REGISTRATION DOCUMENTS

d. Respondent shall continue to maintain its registration and to timely submit to the Bureau all required documents pertaining to registration.

e. Respondent agrees not to solicit charitable contributions in the Commonwealth of Pennsylvania without being properly registered with the Bureau in accordance with Section 162.5 of the Act, 10 P.S. § 162.5, unless Respondent meets the requisite criteria for exemption under the Act as determined by the Bureau or by a Court of Competent Jurisdiction.

f. Respondent acknowledges that failure to register with the Bureau when required to do so and failing to maintain the registration as required, may result in an administrative fine of \$1,000.00 for each violation, and in an additional penalty of \$100.00 for each day such violation continues.

g. Respondent acknowledges that failing to register with the Bureau when required to do so and failing to maintain the registration as required, may result in a subsequent registration being automatically suspended until such time as all fines are paid or until the normal expiration date of the registration in accordance with Section 162.17 of the Act, 10 P.S. § 162.17, and that no registration will be renewed while a fine remains unpaid.

h. Respondent shall not enter into any contract or agreement or 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**

i. This case shall be deemed settled and discontinued upon the Secretary issuing an Order adopting this Consent Agreement and the Respondent's successful completion of the requirements of the Order. 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.

#### **ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING**

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

12. 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: 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**

13. 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.

14. 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 approving and adopting this Consent Agreement.

#### **EFFECT OF SECRETARY'S REJECTION**

15. 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.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

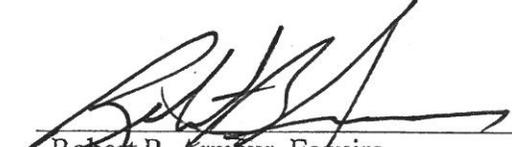
16. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent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

ENTIRE AGREEMENT

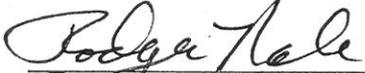
17. This Agreement contains the whole agreement between the parties; provided, however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

VERIFICATION OF FACTS AND STATEMENTS

18. 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: 11/25/14

  
Rodger Hale  
For Fryburg Sportsman's Club  
Respondent

DATED: 11/12/14



IN THE MATTER OF:

**FRYBURG SPORTSMAN'S CLUB**

DOCKET NO. -98-14

FILE NO. 13-98-08402

ORDER

AND NOW, this 30<sup>th</sup> day of December 2014 the foregoing Consent Agreement is hereby approved and the terms set forth in paragraph 10 are hereby adopted and incorporated herein as the Order of the Secretary of the Commonwealth, now issued in resolution of this matter.

THIS ORDER shall take effect immediately.

BY ORDER

A handwritten signature in cursive script, appearing to read "Carol Aichele", written over a horizontal line.

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

For Respondent:

Fryburg Sportsman's Club  
67 Club Alley; P.O. Box 93  
Fryburg, PA 16326

12/31/14