

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

PROFESSORIAL

2011 JUL 13 PM 3:42

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

Dawn M. Bower,
Respondent

Department of State

Docket No: 0025-98-11

File No: 11-98-06414

CONSENT AGREEMENT

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations (Bureau) and Dawn M. Bower (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, and Act of December 19, 1990, P.L. 12000, No. 202, *as amended* (Act), 10 P.S. §§162.1-162.24.

2. At all relevant and material times, Respondent was the Treasurer for Goodwill Fire Company located in Steelton, PA.

FACTS

3. The Respondent admits to the following facts:

a. Respondent's last known mailing address is 420 Highland Street, Steelton, PA 17113.

b. Respondent served as the Treasurer of the Enhaut Fire Company Engine 42, D/B/A Goodwill Fire Company, 647 Highland Street, Steelton, PA 17113 ("Goodwill").

c. Goodwill is no longer in existence and has merged with Citizens Fire Company of Oberlin to form the Swatara Township Volunteer Fire Department.

d. During the period when Respondent served as its Treasurer, Goodwill operated as a nonprofit organization.

e. Goodwill conducted business as a charitable organization as defined by the Act.

f. At all relevant and material times, Respondent had the authority to sign checks drawn on fire department accounts and to otherwise withdraw money.

g. Pursuant to Section 162.21 of the Act, Respondent, as Treasurer, was deemed a fiduciary and was acting in a fiduciary capacity for Goodwill.

h. Over a three-year period, Respondent misappropriated approximately \$65,475 from Goodwill.

i. The misappropriated funds were for the Respondent's personal use and benefit.

j. The misappropriated funds were not applied in a manner consistent with Goodwill's charitable purposes.

k. On, June 7, 2011, Respondent pled guilty to theft by deception, theft by failure to make the required disbursement of funds, and two counts of violating the Act.

AGREED VIOLATIONS

4. Respondent agrees that by engaging in the aforementioned activities it committed violations of the Act as follows:

a. Respondent violated 10 P.S. § 162.15(a)(1), by and through § 162.13(a), in that when Respondent misappropriated approximately \$65,475 from Goodwill, for her personal use and benefit, she caused Goodwill to apply contributions in a manner not consistent with Goodwill's charitable purpose; and

b. Respondent violated 10 P.S. § 162.15(a)(1), by and through § 162.21, in that Respondent, as Treasurer, breached the fiduciary duty she owed to Goodwill.

PROPOSED ORDER

5. The parties consent to the issuance of the following Order in settlement of the matter:

VIOLATION

a. Respondent violated the Act at 10 P.S. § 162.15(a)(1), by and through § 162.13(a) and § 162.21.

PUBLIC REPRIMAND

b. A PUBLIC REPRIMAND is hereby issued to Respondent.

COOPERATION WITH DAUPHIN COUNTY DISTRICT ATTORNEY

c. Respondent shall fully cooperate with the Dauphin County District Attorney's Office in its efforts to achieve full restitution to Goodwill.

ADDITIONAL PROVISIONS

d. Respondent shall not represent, either directly or indirectly, that by this Consent Agreement the Bureau of Charitable Organizations has sanctioned, condoned or approved any part or aspect of Respondent's activities.

e. Respondent shall not, either directly or indirectly, participate in any activities within the Commonwealth of Pennsylvania in violation of the Act.

f. Respondent shall not assume any position, whether voluntary or paid, in any charitable organization, which involves the solicitation, collection or expenditure of contributions.

CASE SETTLED AND DISCONTINUED

g. 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 any ordered discipline.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

6. 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 orally or through submission of a brief, and to take appeal from any final adverse decision.

AGREEMENT NOT BINDING ON OTHER PARTIES

7. 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, the Consent Agreement is to have no legal effect if the Office of General Counsel objects

to the Consent Agreement's form or legality unless and until the Secretary issues the stipulated Order.

EFFECT OF SECRETARY'S REJECTION

8. Should the Secretary decide not to 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

9. This Consent Agreement contains the entire agreement between the parties. The paragraphs heading are for identification purposes 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 of any kind whatsoever concerning this Agreement.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

10. The parties acknowledge that other federal, state and/or local agencies or governmental units may have jurisdiction over the activities of or representations made by Respondent. Nothing in this Consent Agreement and Order shall preclude representatives of the Bureau from referring any information or data produced as a result of this matter to any federal, state, and/or local agency or governmental unit having jurisdiction over the activities of Respondent.

VERIFICATION OF FACTS AND STATEMENTS

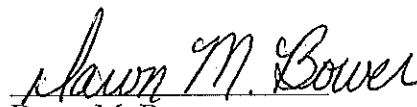
11. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information, and belief. Respondent understand that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.



Karen L. Cummings
Prosecuting Attorney
Department of State

Date:

7/11/11



Dawn M. Boyer
Respondent

Date:

7/7/2011



IN THE MATTER OF
Dawn M. Bower
FILE NO: 11-98-06414

ORDER

AND NOW, this 13th day of July, 2011, 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. The Order shall take effect immediately.

BY ORDER:

A handwritten signature in cursive script, appearing to read "Carol Aichele".

Carol Aichele
Secretary of the Commonwealth