

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

PROTHONOTARY  
2010 MAR 24 PM 3:51  
Department of State

Commonwealth of Pennsylvania,  
Bureau of Charitable Organizations,

vs.

Delaware County SPCA,  
Respondent

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:  
: Docket No. 0007 -98-10  
:  
: File No. 10-98-01324  
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**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and the Delaware County SPCA, ("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, Act of December 19, 1990, P.L. 1200, No. 202, *as amended* ("Act"), 10 P.S. §§162.1-162.24.

2. At all relevant and material times, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

**STIPULATED FACTS**

3. Respondent admits that the following allegations are true:

a. Respondent's last known business address is 555 Sandy Bank Road,  
Media, PA 19063.

b. According to Bureau records, Respondent was registered under certificate number 884 as a charitable organization until November 11, 2008.

c. On January 20, 2009, the Bureau received a complaint that Respondent was not registered as required and was actively soliciting contributions from the public.

d. As of January 20, 2009, Respondent received at least two letters from the Bureau regarding its delinquent registration status.

e. On January 26, 2009, Respondent's CPA was advised via telephone that the organization cannot legally solicit contributions until its registration is approved.

f. On February 6, 2009, Respondent was advised in person that it was not permitted to legally solicit contributions in PA.

g. On March 11, 2009, Respondent registered with the Bureau as a charitable organization.

h. From November 11, 2008 to March 11, 2009, Respondent solicited approximately \$23,815.42. (This figure does not take into account money that was received during November 11, 2008 to March 11, 2009 in response to solicitation campaigns that were held prior to November 11, 2009.)

### AGREED VIOLATIONS

4. Respondent agrees that by engaging in the foregoing activities it violated the Act at 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.5(a), by soliciting charitable contributions in the Commonwealth of Pennsylvania while not being properly registered to do so.

### MITIGATION

5. In mitigation of the agreed upon violations, Respondent asserts as follows:
- a. The former Executive Director did not inform the Officers and Directors of the letters received from the bureau regarding its delinquent registration status or of the Bureau's February 6, 2009 instruction, during an on-site visit, that Respondent was not permitted to legally solicit contributions in Pennsylvania;
  - b. All solicitation activity ceased after the Bureau's February 6, 2009 on-site visit and did not resume until after March 11, 2009, when Respondent filed its Audited Financial Statements and thus, fulfilled its registration requirement; and
  - c. Respondent did not intentionally violate the Act. Its Directors and Officers relied on its staff and auditor to comply with the registration requirements and were not put on notice of Respondent's failure to renew its 2007 registration before conducting solicitations between November 11, 2008 and January 20, 2009.

### PROPOSED ORDER

6. The participants consent to issuance of the following Order in settlement of this matter:
- a. Respondent violated the Act at 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.5(a).

**ADMINISTRATIVE FINE**

b. An ADMINISTRATIVE FINE of six thousand dollars (\$6,000) is levied upon Respondent. Respondent shall tender the full sum of six thousand dollars (\$6,000), 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."

**COMPLIANCE WITH ACT**

c. Respondent must file renewal documents as required by law.

**CASE SETTLED AND DISCONTINUED**

7. This case shall be deemed settled and discontinued upon the Secretary issuing an Order adopting this Consent Agreement.

**ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING**

8. 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**

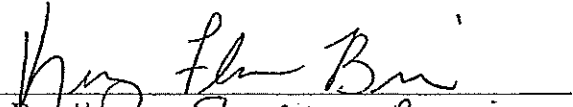
12. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent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

**VERIFICATION OF FACTS AND STATEMENTS**

13. 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.

Delaware County SPCA

  
Karen L. Cummings, Esquire  
Prosecuting Attorney  
Department of State

  
By: Kerry Flanagan Bruner  
Title: Executive Director  
Respondent

DATED: 3/18/10

DATED: 3-16-10



**IN THE MATTER OF THE  
Delaware County SPCA  
FILE NO.: 10-98-01324**

**ORDER**

AND NOW, to wit, on this 24<sup>th</sup> day of March 2010, the terms of paragraph 6 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

*Pedro A. Cortés*

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Pedro A. Cortés  
Secretary of the Commonwealth