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

Commonwealth of Pennsylvania,
Bureau of Corporations and
Charitable Organizations

v.

Malignant Hyperthermia Association
of the US,
Respondent

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Docket No.: 0079-98-17

File No.: 16-98-11503

Department of State

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PROTHONOTARY

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Corporations and Charitable Organizations ("Bureau"), by and through its undersigned prosecuting attorney, Michael J. Gennett and Malignant Hyperthermia Association of the US ("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, Act of December 19, 1990, P.L. 1200, No. 202, as amended ("Act"), 10 P.S. §§ 162.1 et. seq.

2. At all relevant and material times, Respondent acted as a charitable organization as defined by the Act.

STIPULATED FACTS

3. Respondent's last known address on file with the Bureau is P.O. Box 1069, Sherburne, NY 13460.

4. Respondent was issued Certificate of Registration number 1217 by the Bureau.
5. Respondent admits that the following allegations are true:
 - a. Respondent was unregistered in Pennsylvania from August 11, 2013 through September 15, 2016.
 - b. During that time, Respondent solicited and received twenty (20) contributions in Pennsylvania of approximately \$4,286.90.
 - c. Respondent was not exempt from registration under 10 P.S. § 162.6(a)(8) since Respondent received total contributions in excess of \$25,000.00 per annum.

AGREED VIOLATIONS

5. Respondent admits and agrees that by engaging in the aforementioned activities, Respondent committed violations of the Act as follows:
 - a. Violating Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.5(a), by soliciting contributions without the approved registration filed with the Bureau.

PROPOSED ORDER

6. The participants, intending to be legally bound, consent to issuance of the following Order in settlement of this matter:
 - a. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.5(a), by soliciting contributions without the approved registration filed with the Bureau.

ADMINISTRATIVE PENALTIES

7. An **ADMINISTRATIVE FINE** of Two Thousand Dollars (\$2,000.00) is levied upon Respondent. Respondent shall tender the full sum of Two Thousand Dollars (\$2,000.00), with this executed Consent Agreement.

a. Payment shall be by **certified check, cashier's check, attorney's check, or U.S. Postal money order.**

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

c. Respondent agrees that payment will be made by one of the methods indicated in subparagraph (a) above and that payment by uncertified personal check, corporate check or cash will not be accepted.

CASE SETTLED AND DISCONTINUED

8. 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 this 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

9. 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 the 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

10. This Consent Agreement is between the Bureau and Respondent only. It does not bind any other administrative or governmental 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

11. 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


12. 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


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.



Michael J. Gennett, Esquire
Prosecuting Attorney
Department of State



Malignant Hyperthermia Association of US
Respondent
By: Dianne Daugherty
Title: Executive Director

DATED: 19 JUN 2017

DATED: June 9, 2017



**IN THE MATTER OF
Malignant Hyperthermia Association of US
File No.: 16-98-11503
Docket No.: 0079 -98-17**

ORDER

AND NOW, this 19TH day of June 2017, the foregoing Consent Agreement is hereby approved and the terms set forth in paragraph 6 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:



Robert Torres
Executive Deputy Secretary

For the Commonwealth:

Michael J. Gennett, Esquire
306 North Office Building
401 North Street
Harrisburg, PA 17120

For Respondent:

Dianne Daugherty, Executive Director
Malignant Hyperthermia Assoc. of US
P.O. Box 1069
Sherburne, NY 13460