

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

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

Movember, Inc.,
Respondent

Docket No: 0033-98-11

File No: 11-98-05501

CONSENT AGREEMENT

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations (Bureau) and Movember, Inc. (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 conducted business in Pennsylvania as a charitable organization as defined by the Act.

3. At all relevant and material times, Respondent did not hold a registration to engage in solicitation activities for a charitable organization in the Commonwealth of Pennsylvania.

FACTS

4. The Respondent admits to the following facts:

a. Respondent's last known mailing address is 1518 Abbott Kinney Blvd, Venice, California 90291.

- b. Respondent solicits contributions through the web-site and events.
- c. The Bureau received evidence that Respondent was engaged in solicitation activities in Pennsylvania without being properly registered.
- d. Since 2008, Movember, Inc. solicited \$238,112 in contributions from 7,224 Pennsylvania residents as an unregistered organization.
- e. The organization's registration was approved on April 29, 2011 and Movember, Inc. is currently registered as a charitable organization until March 10, 2012.

AGREED VIOLATIONS

5. Respondent agrees that by engaging in the aforementioned activities it committed violations of the Act at 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.5, by soliciting charitable contributions without being properly registered.

PROPOSED ORDER

6. 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 10 P.S. § 162.5.

ADMINISTRATIVE FINE

b. An administrative fine of two thousand five hundred dollars (\$2,500) is levied upon Respondent. Respondent shall tender the full sum of two thousand five hundred dollars (\$2,500) 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."

ACTIONS ON OTHER VIOLATIONS NOT PRECLUDED

c. Nothing in the 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.

CASE SETTLED AND DISCONTINUED

d. 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 or remedial measures and payment of any administrative fines.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

7. 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

8. 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

9. 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

10. 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

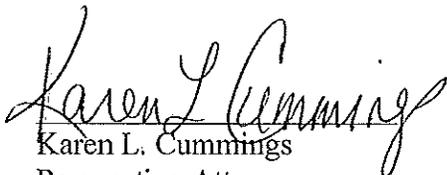
11. The parties acknowledge that other federal, state and/or local agencies or governmental units may have jurisdiction over the activities of or representations made by Respondent and its officers, directors, agents, employees, or independent contractors. Nothing in this Consent Agreement and Order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

VERIFICATION OF FACTS AND STATEMENTS

12. 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 understands 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.

Movember, Inc.



Karen L. Cummings
Prosecuting Attorney
Department of State

Date: 7/25/11

By: 
Title: PRESIDENT
Respondent
DONNY KILLIAN

Date: 7/18/11



**IN THE MATTER OF THE SOLICITATION OF
FUNDS FOR CHARITABLE PURPOSES BY**

Movember, Inc.

FILE NO: 11-98-05501

ORDER

AND NOW, this 1st day of August, 2011, 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. The Order shall take effect immediately.

By:

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

Carol Aichele
Secretary of the Commonwealth