

COPY

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

Department of State

2011 DEC 21 PM 3:26

PROTHONOTARY

Commonwealth of Pennsylvania,  
Bureau of Charitable Organizations

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Docket No. *052*-98-11

Vs.

File No. 11-98-09697

Operation Care Package, Inc.,  
Respondent

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and the Operation Care Package, 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, 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 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 solicit charitable contributions within the Commonwealth of Pennsylvania.

4. At all relevant and material times, Respondent was not exempt from registration

or excluded from the requirements of the Act.

**STIPULATED FACTS**

5. Respondent admits that the following allegations are true:
  - a. Respondent's last known business address is 611 Wilcox Street, Joliet, IL 60435.
  - b. Respondent solicits charitable contributions in Pennsylvania through direct mail.
  - c. Between on or about January 15, 2010 and June 9, 2011, Respondent sent a solicitation to D.L., a Pennsylvania resident.
  - d. On or about July 5, 2011, the Bureau sent via certified mail, a request for information including but not limited to the total number of Pennsylvania residents that contributed to Respondent's organization since Respondent first solicited in the Commonwealth, as well as the total amount of contributions received from Pennsylvania residents since Respondent first solicited in the Commonwealth.
  - e. Respondent failed to respond to the Bureau's request for information.
  - f. On or about August 10, 2011, Respondent was ordered to Cease and Desist soliciting in the Commonwealth by the Secretary of the Commonwealth.

**AGREED VIOLATIONS**

6. Respondent admits and agrees that by engaging in the foregoing activities:
  - a. Respondent violated the Act at, 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.5, by soliciting charitable contributions in Pennsylvania without being properly registered.

**PROPOSED ORDER**

7. The participants, intending to be legally bound, 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.

**ADMINISTRATIVE FINE**

b. An **ADMINISTRATIVE FINE** of one thousand dollars (\$1,000.00) is levied upon Respondent. Respondent shall tender the full sum of one thousand dollars (\$1,000.00), 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."**

**CEASE AND DESIST**

c. Respondent shall cease and desist from soliciting contributions in Pennsylvania until such time as the Respondent becomes properly registered with the Bureau. Proof of proper registration shall consist of a copy of a current certificate of registration issued by the Bureau.

**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 any ordered discipline.

**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 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**

10. 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. 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,

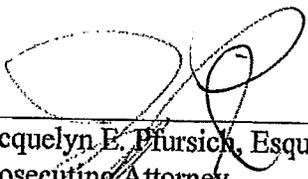
obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

**AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES**

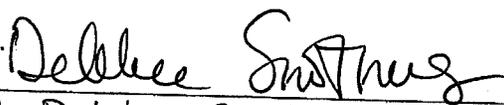
13. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent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

  
\_\_\_\_\_  
Jacquelyn E. Pfursich, Esquire  
Prosecuting Attorney  
Department of State

Operation Care Package, Inc.

  
\_\_\_\_\_  
By: Debbie Smother  
Title: President  
Respondent

DATED:

12/19/11

DATED:



**IN THE MATTER OF THE  
OPERATION CARE PACKAGE, INC.  
FILE NO. 11-98-09697**

**ORDER**

AND NOW, to wit, on this 30<sup>th</sup> day of December 2011, the terms of paragraph 7 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

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

\_\_\_\_\_  
Carol Aichele  
Secretary of the Commonwealth