

COPY

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

Commonwealth of Pennsylvania,
Bureau of Corporations and
Charitable Organizations

v.

Windber Fire Company No. 1,
Respondent

:
:
:
:
:
:
:
:
:
:

File No. 18-98-10689

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 Windber Fire Company No. 1, (“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 1620 Somerset Avenue, Windber, PA 15963.

RECEIVED
SEP 10 2019
OFFICE OF CHIEF COUNSEL

4. Respondent is in process of becoming registered as a charitable organization with the Department of State, Bureau of Corporations and Charitable Organizations (Bureau) and has been issued certificate of registration no.: 113707.

5. A Cease and Desist Order was issued by the Secretary of the Commonwealth on or about July 17, 2019.

6. On or about August 12, 2019, Respondent engaged in a fundraising activity in violation of the Cease and Desist Order.

AGREED VIOLATIONS

7. 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 by soliciting contributions from 2015 through August of 2019 without an approved registration.

b. Violating Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.13(e) by failing to maintain control over fundraising activities, in that, a charitable organization must establish and exercise control over fundraising activities conducted for its benefit, including approval of all written contracts and agreements. and must assure that fundraising activities are conducted without coercion. Specifically, Respondent used the services of the professional solicitor HP Direct Mail Marketing Services/Wally Hines Photography without an approved contract on file during 2015, 2016, 2017 and 2018.

c. Violating Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.13(f) by entering into any contract or agreement with or employ any professional fundraising counsel or professional solicitor unless that professional fundraising counsel or

professional solicitor is registered with the department. Specifically, Respondent entered into a fundraising agreement with a professional solicitor, HP Direct Mail Marketing Services/Wally Hines Photography, that was not registered during 2015, 2016, 2017 and 2018.

d. Violating Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.17(a)(1), by operating in violation of an order issued by the Secretary of the Commonwealth.

PROPOSED ORDER

8. 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 by soliciting contributions from 2015 through August of 2019 without an approved registration.

b. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.13(e) by failing to maintain control over fundraising activities, in that, a charitable organization must establish and exercise control over fundraising activities conducted for its benefit, including approval of all written contracts and agreements. and must assure that fundraising activities are conducted without coercion. Specifically, Respondent used the services of the professional solicitor HP Direct Mail Marketing Services/Wally Hines Photography without an approved contract on file during 2015, 2016, 2017 and 2018.

c. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.13(f) by entering into any contract or agreement with or employ any professional fundraising counsel or professional solicitor unless that professional fundraising counsel or professional solicitor is registered with the department. Specifically, Respondent

entered into a fundraising agreement with a professional solicitor, HP Direct Mail Marketing Services/Wally Hines Photography, that was not registered during 2015, 2016, 2017.

d. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.17(a)(1), by operating in violation of an order issued by the Secretary of the Commonwealth.

ADMINISTRATIVE PENALTIES

9. An **ADMINISTRATIVE FINE of Eleven Thousand Dollars (\$11,000.00)** is levied upon Respondent. Respondent shall tender the full sum of **Eleven Thousand Dollars (\$11,000.00)**, with this executed Consent Agreement. Payment shall be by certified check, cashier's check, attorney's check, or U.S. Postal money order. 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. 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

10. 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

11. 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

12. 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

13. 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


14. 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

15. 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

16. 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
Prosecuting Attorney
Department of State
Commonwealth of Pennsylvania


Windber Fire Company No. 1
Respondent

By: Anson M. Bloom
Print
Title: President
Print

DATE: 10 SEP 2019

DATE: 30 August 2019



IN THE MATTER OF

Windber Fire Company No. 1

File No.: 18-98-10689

ORDER

AND NOW, this 17th day of September 2019, the foregoing Consent Agreement is hereby approved, and the terms set forth herein are hereby adopted and incorporated herein as the Order of the Acting Secretary of the Commonwealth, now issued in resolution of this matter.

THIS ORDER shall take effect immediately.

BY ORDER:

A handwritten signature in cursive script that reads "Kathy Boockvar".

Kathy Boockvar
Acting Secretary of the Commonwealth

For the Commonwealth:

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

Respondent:

Windber Fire Company No. 1
1620 Somerset Avenue
Windber, PA 15963