

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
SECRETARY OF THE COMMONWEALTH

COPY  
MAY 13 11 30 AM '99

Bureau of Charitable  
Organizations,

v.

Nicholas A. Cillo  
d/b/a Valley Entertainment,  
Respondent

Docket No. 0001-98-98  
Tracking No. 99-98-00701

DATE DISTRIBUTED 5/11/99  
PROSECUTION \_\_\_\_\_  
COUNSEL \_\_\_\_\_  
HRG EXAM \_\_\_\_\_

---

ADJUDICATION AND ORDER

---

Kim Pizzingrilli  
Secretary of the Commonwealth

302 North Office Building  
Harrisburg, PA 17120  
(717) 787-7630

JFA

## HISTORY

This case comes before the Secretary of the Commonwealth (Secretary) on an Order to Show Cause (OSC) charging that Nicholas A. Cillo, d/b/a Valley Entertainment, Respondent, violated the provisions of the Solicitation of Funds for Charitable Purposes Act (Act), Act of December 19, 1990, P.L. 1200, *as amended*, 10 P.S. §§ 162.1--162.24.

On February 9, 1999, the prosecuting attorney for the Department of State's Bureau of Charitable Organizations (Bureau), issued an OSC charging that Respondent, a registered, professional solicitor, entered into a contract with Clinton County Law Enforcement Association (CCLEA) and solicited funds on its behalf while CCLEA was not registered and pursuant to a contract which not approved by the Bureau, in violation of sections 5 and 9 of the Act, 63 P.S. §§ 162.5 and 162.9. On May 6, 1997, the Bureau imposed a \$1,000 administrative fine on Respondent. On January 15, 1999, the secretary of the Commonwealth issued a cease and desist order against Respondent.

On March 4, 1999, Respondent filed an answer to the OSC admitting and demanding proof of the Commonwealth's allegations.

A formal administrative hearing was held on April 19, 1999. Respondent was present at the hearing and proceeded *pro se*. Carole L. Clark, Esquire prosecuted the case.

## FINDINGS OF FACT

1. Respondent was registered as a professional solicitor in the Commonwealth of Pennsylvania from December 16, 1994, certificate number 12937, until the registration lapsed on December 19, 1997. (Bureau records)

2. Respondent's last address on file with the Department is: Valley Entertainment, Nick Cillo, 2600 Lincoln Drive, Montoursville, PA 17754. (Bureau records)

3. On February 26, 1996, Respondent entered into a contract with CCLEA to perform professional solicitor services in connection with a fund-raising show featuring the Bellamy Brothers to be held on May 18, 1996. (Exhibit C-6)

4. Respondent subsequently submitted the contract to the Bureau for approval. (NT 10)

5. Paragraph 13 of the contract provides that the funds raised from the promotion will be used for the Clinton County Police Camp Cadet Program, the McGruff Fingerprinting Program and other community-oriented programs. (Exhibit C-6)

6. On February 28, 1996, Respondent was notified that the contract was not approved by the Bureau because CCLEA was not a registered charitable organization and the contract did not clearly state a termination date. (Exhibit C-4)

7. On May 18, 1996, in accordance with paragraph 1 of the February 26, 1996 contract, the Bellamy Brothers performed the fund-raising concert. (NT 21, 46, and 47)

8. Subsequently, the Bureau contacted CCLEA in an attempt to get them to register.

(NT 22)

9. Respondent was notified by the Bureau by the letter dated May 6, 1997 that he could settle the alleged violations of the act by paying the 1,000 dollar administrative fine.

(Exhibit C-5)

10. CCLEA registered on May 9, 1997, certificate no. 14777. (Bureau records)

11. On January 15, 1999, the Secretary of the Commonwealth ordered that Respondent cease and desist from soliciting contributions in Pennsylvania until he has properly registered, paid all outstanding fines and filed all solicitation contracts which had not been previously approved. (Exhibit C-3)

12. The some of the funds realized under the contract for the Bellamy Brothers concert were used by CCLEA for community programs outside of CCLEA. (NT 25)

## CONCLUSIONS OF LAW

1. The Secretary of the Commonwealth (Secretary) has jurisdiction in this matter.  
(Findings of Fact Nos. 1 and 3)
2. Respondent has received notice of the charges and has been given an opportunity to be heard in this matter.
3. Respondent has violated sections 5 and 9 of the Act, 10 P.S. §§162.5 and 162.9, in that Respondent solicited funds under a contract that was not approved by the Bureau and for an organization not registered under the Act.
4. The Secretary may refuse to register, revoke or suspend Respondent's registration as a professional solicitor and she may issue an order directing Respondent to cease and desist specified fundraising activities and impose an administrative fine not to exceed \$1,000. Section 17 of the Act, 10 P.S. §162.17(a)(1) and (b)(2) and (3).

## DISCUSSION

The Department's attorney charges specifically in the OSC that Respondent solicited funds for CCLEA without an approved contract and prior to CCLEA becoming registered as a charitable organization in violation of sections 5 and 9 of the Act. Those sections provide, pertinently:

**Section 5. Registration of charitable organizations: financial reports; fees; failure to file**

(a) **Registration and approval required.**— . . . No charitable organization shall solicit contributions or have contributions solicited in its behalf before approval of its registration statement by the department.

\* \* \*

**Section 9. Registration of professional solicitors; contract and disclosure requirements; bonds; records; books**

\* \* \*

(e) **Contract filing.**—No less than ten working days prior to the commencement of each solicitation campaign, event or services, a professional solicitor shall file with department a copy of the contract described in subsection (f) and a written solicitation notice. No solicitation or services pursuant to the contract shall begin before the department has approved the contract . . .

\* \* \*

(f) **Written contract.**—There shall be a written contract between a professional solicitor and a charitable organization for each solicitation campaign . . .

(g) **Department review of contract.**—The department shall examine each contract and solicitation notice filed by a professional solicitor and shall determine whether the contract and notice contained the required information. If the department determines that the requirements are not satisfied, the department must notify the professional solicitor within ten working days of its receipt of the contract and notice; otherwise the contract and notice are deemed to be approved. Within seven days after receipt of a notification that requirements are not satisfied, the professional solicitor may request the hearing. The hearing must be held within seven days of receipt of the request, and a determination must be written within three working days of the hearing.

\* \* \*

There is little dispute about the facts surrounding the 1996 events which form the basis of the charges. On February 26, 1996, Respondent and CCLEA entered into a contract providing for Respondent to solicit funds for CCLEA through a Bellamy Brothers concert on May 18, 1996. The contract was submitted for approval to the Bureau and was rejected by letter also dated February 26, 1999. The contract was disapproved because CCLEA was not registered as a charitable organization and the contract did not state a termination date. The notice to Respondent cautioned him that he must refrain from providing services to CCLEA.

Respondent did not submit any other contracts to the Bureau for approval. Nonetheless, the concert was held as scheduled. While Respondent asserts that there was no proof presented that he solicited funds for CCLEA, he readily admits that he promoted the Bellamy Brothers concert and that it was held. He maintains that a second contract for the show was entered into between he and CCLEA. Apparently, that contract would not have contained the provision in paragraph 13 of the contract submitted to the Bureau, which provides that CCLEA is going to use its money for community-oriented programs. It is that provision that requires CCLEA to be registered as a charitable organization and requires Respondent to submit their contract for approval. *See* the definition of "Charitable Organization" in section 3 of the Act, 10 P.S. §162.3.

Respondent did not produce a copy of the second contract he asserts existed. Detective Charles E. Shoemaker, detective with the Lock Haven Police Department and past president of CCLEA, denied entering a second contract with Respondent. Following the concert proceeds

were paid to CCLEA by Respondent. Part of that money was used for outside community programs. Respondent told a Bureau investigator that there was not more than one contract. Respondent's assertion of the existence of a second contract is not credible.

A contract was never approved for the Bellamy Brothers concert nor was CCLEA registered at the time it was. Both are requirements of sections 5 and 9 of the Act and subject Respondent to discipline.

Section 17 of the Act provides for the revocation or suspension of the registration of a professional solicitor who has violated any provision of the Act. Additionally, Respondent can be ordered to cease and desist from specified fundraising activities and issued an administrative fine not to exceed \$1,000.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
SECRETARY OF THE COMMONWEALTH

Bureau of Charitable  
Organizations,

v.

Nicholas A. Cillo  
d/b/a Valley Entertainment,  
Respondent

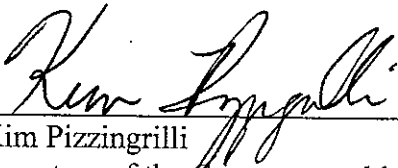
Docket No. 0001-98-98  
Tracking No. 99-98-00701

**ORDER**

AND NOW, this 5<sup>th</sup> day of May, 1999, upon consideration of the foregoing findings of fact, conclusions of law and discussion, the order of January 15, 1999 ordering Respondent, Nicholas A. Cillo, d/b/a Valley Entertainment, to cease and desist from soliciting contributions in Pennsylvania for any charitable organization until such time as Respondent is properly registered with the Bureau, has paid a \$1,000 administrative fine and has filed all contracts with any charitable organization soliciting in Pennsylvania not previously approved is affirmed.

The administrative fine shall be paid by certified check, money order or attorney's draft payable to the "Commonwealth of Pennsylvania" and mailed to "Bureau of Charitable Organizations, P.O. Box 8723, Harrisburg, PA 17105."

Appeal may be taken to the Commonwealth Court pursuant to 2 Pa. C.S. § 702 and 10 P.S. § 162.17(c) within 30 days of date of mailing of this Adjudication and Order shown below.

  
\_\_\_\_\_  
Kim Pizzigrilli  
Secretary of the Commonwealth

Respondent Pro Se: Nicholas A. Cillo  
d/b/a Valley Entertainment  
2600 Lincoln Drive  
Montoursville, PA 17754

Prosecuting Attorney: Carole L. Clarke, Esquire  
Bureau of Charitable Organizations  
P.O. Box 2649  
Harrisburg, PA 17105-2649

Date of mailing: 5-10-99