

ECOPY

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

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

The Declaration Foundation, Inc.,
Respondent

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Docket No. 0011 -98-06
File No. 06-98-04601

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Department of State

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations (“Bureau”) and
The Declaration Foundation 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 (“the Act”), Act of December 19, 1990, P.L. 1200, No. 202, *as amended*, 10 P.S. §§162.1-162.24.
2. From August 22, 2001 through May 11, 2002, Respondent was registered to solicit charitable contributions within the Commonwealth of Pennsylvania, registration number 20733.
3. From May 12, 2002, until November 14, 2003, Respondent was not registered with the Bureau.
4. Respondent again became registered on November 14, 2003, which registration expired on May 11, 2004, and was not renewed thereafter.

STIPULATED FACTS

5. Respondent admits that the following allegations are true:
 - a. Respondent's last known business address on file with the Bureau is 809 Virginia Avenue, Washington, DC 20003.
 - b. Respondent was registered with the Bureau as a charitable organization on August 22, 2001 through May 11, 2002, for fiscal year ending June 30, 2000.
 - c. On May 29, 2002, the Bureau received Respondent's registration materials for fiscal year ending June 30, 2001.
 - d. On June 12, 2002, Respondent's registration was denied because it failed to submit audited financial statements.
 - e. On October 24, 2002, the Bureau received Respondent's audited financial statements for fiscal year ending June 30, 2001.
 - f. On October 30, 2002, Respondent's registration was denied because it owed late filing fees, which were never paid.
 - g. On April 28, 2003, the Secretary issued a Cease and Desist Order against Respondent for failing to register with the Bureau.
 - h. On or about May 15, 2003, Respondent submitted its registration materials for fiscal year ending June 30, 2002.
 - i. On November 4, 2003, Respondent's registration was statutorily deemed approved.
 - j. On May 11, 2004, Respondent's registration expired.

MATERIAL FALSE STATEMENTS – 2001 BCO-10

k. Respondent filed with the Bureau, the Bureau's Form BCO-10 for fiscal year ending June 30, 2001 ("2001 BCO-10").

Question #19

l. For question #19 on its 2001 BCO-10, Respondent reported that it does not share revenue or formal governance with any other nonprofit.

m. During fiscal year ending June 30, 2001, Respondent shared formal governance and/or revenue with The Declaration Alliance by and through common officers.

n. During fiscal year ending June 30, 2001, Respondent shared formal governance and/or revenue with The Declaration Alliance Political Action Committee by and through common officers.

Question #24

o. For question #24 on its 2001 BCO-10, Respondent reported "no" to the question whether any officer, director, etc. is related to any officer, agent or employee of any professional fundraising counsel or solicitor under contract with the organization.

p. For question #24 on its 2001 BCO-10, Respondent answered "no" to the question whether any officers, directors, etc. are related to any supplier or vender providing goods or services.

q. On its 2001 BCO-10, Respondent identified Mary Parker Lewis as Executive Director and Richard Ferrier as President.

r. At the time Respondent filed its 2001 BCO-10, Mary Parker Lewis was the President and Chief Executive Officer of Politechs, Inc.

s. Respondent paid Politechs, Inc. five thousand dollars (\$5,000.00) in consulting fees during fiscal year ending June 30, 2001.

t. Respondent paid Richard Ferrier thirty-nine thousand dollars (\$39,000.00) in consulting fees during fiscal year ending June 30, 2001.

Question #25

u. For question #25 on its 2001 BCO-10, Respondent denied that its registration had ever been denied or suspended.

v. On July 20, 1999, the Secretary issued a Cease and Desist Order against Respondent.

w. In addition, in response to question #25 on its 2001 BCO-10, Respondent failed to indicate that it entered into an agreement with any state governmental agency.

x. Respondent entered into a Consent Agreement with the Commonwealth of Pennsylvania that took effect on September 4, 2001.

MATERIAL FALSE STATEMENTS – 2001 IRS FORM 990

y. Respondent filed with the Bureau a copy of its IRS Form 990 for fiscal year ending June 30, 2001 (“2001 Form 990”), which was signed by Executive Director Mary Parker Lewis.

Part VI, Line 80a

z. On Part VI, Line 80a, of its IRS Form 990 for the fiscal year that ended June 30, 2001, Respondent reported that it is not related to any other exempt organization.

aa. During fiscal year ending June 30, 2001, Respondent shared formal governance and/or revenue with The Declaration Alliance by and through common officers.

bb. Moreover, Respondent reported on its financial statements that it is related to the Declaration Alliance.

cc. During fiscal year ending June 30, 2001, Respondent shared formal governance and/or revenue with The Declaration Alliance Political Action Committee by and through common officers.

Schedule A, Part II, Line 2c

dd. On Schedule A, Part II, Line 2c, of its 2001 Form 990, Respondent reported “no” to the question whether the organization engaged in the furnishing of goods or services with any of its officers or directors or with any taxable organization with which such person is affiliated as an officer or director.

ee. During the fiscal year that ended June 30, 2001, Respondent paid Politechs, Inc. five thousand dollars (\$5,000.00) and Richard Ferrier thirty-nine thousand dollars (\$39,000.00) in consulting fees.

MATERIAL FALSE STATEMENTS – 2002 BCO-10

ff. Respondent filed with the Bureau, the Bureau’s Form BCO-10 for fiscal year ending June 30, 2002 (“2002 BCO-10”).

Question #19

gg. For question #19, on its 2002 BCO-10, Respondent reported that it does not share revenue or formal governance with any other nonprofit.

hh. During fiscal year ending June 30, 2002, Respondent shared formal governance and/or revenue with The Declaration Alliance by and through common officers.

Question #24

ii. For question #24 on its 2002 BCO-10, Respondent reported “no” to the question whether any officer, director, etc. is related to any officer, agent or employee of any professional fundraising counsel or solicitor under contract with the organization.

jj. For question #24, on its 2002 BCO-10, Respondent answered “no” to the question whether any officers, directors, etc. are related to any supplier or vender providing goods or services.

kk. On its 2002 BCO-10, Respondent identified Mary Parker Lewis as Executive Director, CEO and Assistant Treasurer and Richard Ferrier as President.

ll. At the time Respondent filed its 2002 BCO-10, Mary Parker Lewis was the President and Chief Executive Officer of Politechs, Inc.

mm. Respondent paid consulting fees to both Politechs, Inc. in the amount of three thousand dollars (\$3,000.00) and Richard Ferrier in the amount of twenty-four thousand dollars (\$24,000).

nn. In addition, as of June 30, 2002, Richard Ferrier was owed three thousand dollars (\$3,000.00) in consulting fees.

Question #25

oo. For question #25 on its 2002 BCO-10, Respondent denied that its registration had ever been denied or suspended.

pp. The Secretary issued Cease and Desist Orders against Respondent on July 20, 1999 and April 28, 2003.

qq. In addition, in response to question #25 on its 2002 BCO-10, Respondent failed to indicate that it entered into an agreement with any state governmental agency.

rr. Respondent entered into a Consent Agreement with the Commonwealth of Pennsylvania that took effect on September 4, 2001.

MATERIAL FALSE STATEMENTS – 2002 FORM 990

ss. Respondent filed with the Bureau a copy of its IRS Form 990 for fiscal year ending June 30, 2002 (“2002 Form 990”), which was signed by Respondent’s Treasurer, William Constantine.

Part VI, Line 80a

tt. On Part VI, Line 80a, of its 2002 Form 990, Respondent reported that it is not related to any other exempt organization.

uu. During fiscal year ending June 30, 2002, Respondent shared formal governance and/or revenue with The Declaration Alliance by and through common officers.

vv. Moreover, Respondent reported on its financial statements that it is related to the Declaration Alliance.

ww. During fiscal year ending June 30, 2002, Respondent shared formal governance and/or revenue with The Declaration Alliance Political Action Committee by and through common officers.

Schedule A, Part II, Line 2c

xx. On Schedule A, Part II, Line 2c, of its 2002 Form 990, Respondent reported “no” to the question whether the organization engaged in the furnishing of goods or services with any of its officers or directors or with any taxable organization that such person is affiliated as an officer or director.

yy. During fiscal year ending June 30, 2002, Respondent paid consulting fees to Politechs, Inc. in the amount of five thousand dollars (\$5,000.00) and Richard Ferrier in the amount of twenty-four thousand six hundred dollars (\$24,600.00).

FAILING TO ADMINISTER CONTRIBUTIONS THROUGH AN ACCOUNT IN THE NAME OF RESPONDENT AND UNDER RESPONDENT'S SOLE CONTROL

zz. For question #22 on its 2001 BCO-10, Respondent reported that Lauren Landry, Comptroller for American Caging, Inc., 13003 Southwest Freeway, Suite 180, Stafford, TX 77477-4114, is responsible for custody and/or distribution of funds.

aaa. For question #22 on its 2002 BCO-10, Respondent reported that Lauren Landry, Comptroller for American Caging, Inc., 13003 Southwest Freeway, Suite 180, Stafford, TX 77477-4114, is responsible for custody and/or distribution of funds.

FAILURE TO COMPLY WITH INVESTIGATIVE SUBPOENA

bbb. On November 4, 2003, the Bureau issued an Investigative Subpoena upon Respondent.

ccc. Respondent provided some, but not all, of the requested information.

AGREED VIOLATIONS

6. The parties agree that Respondent committed multiple violations of the Act at 10 P.S. §162.17(a)(3), by making material false statements in applications and documents that are required to be filed under the Act.

7. The parties agree that Respondent violated the Act at 10 P.S. §162.15(a)(1) by and through §162.5(s), by failing to administer all contributions through an account in the name of Declaration Foundation and under Declaration Foundation's sole control.

8. The parties agree that Respondent violated the Act at 10 P.S. §162.17(a)(2), by

failing to provide all information and documentation identified in the Investigative Subpoena issued November 4, 2003.

PROPOSED ORDER

9. To address concerns raised by the Commonwealth and to resolve this matter on a compromise basis, and intending to be legally bound, the Commonwealth and the Respondent agree to the issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 10 P.S. §162.17(a)(2) and (3) and §162.15(a)(1) by and through §162.5(s).

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** of six thousand five hundred dollars (\$6,500.00) is levied upon Respondent. Respondent shall tender the full sum of six thousand five hundred dollars (\$6,500.00) 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."**

FILING OF REGISTRATION DOCUMENTS

c. Respondent shall submit to the Bureau all documents required to register as a charitable organization and await approval by the Bureau before conducting any solicitation activities in the Commonwealth of Pennsylvania.

d. Respondent is prohibited from soliciting contributions in Pennsylvania until such time as the Respondent becomes properly registered with the Bureau.

e. Respondent shall not enter into any contract or agreement or employ any professional fundraising counsel or professional solicitor unless that professional fundraising counsel or professional solicitor is registered with the Bureau.

10. This case shall be deemed settled and discontinued upon the Secretary issuing and Order adopting this Consent Agreement.

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 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

12. 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, 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. The parties agree that Respondent violated the Act at 10 P.S. §162.17(a)(2), by 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.


DECLARATION FOUNDATION, INC.



Tracy L. McCurdy, Esquire
Prosecuting Attorney
Department of State

DATED: 8-18-06

By: 

Title EXEC DIRECTOR / SECRETARY
Respondent


MARY PARKER LEWIS

DATED: 7/31/06




**IN THE MATTER OF
DECLARATION FOUNDATION, INC.
FILE NO. 06-98-04601**

ORDER

AND NOW, this 21st day of August 2006, the terms of Paragraph 9 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



Pedro A. Cortés
Secretary of the Commonwealth