

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

PROTHONOTARY
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Department of State

Commonwealth of Pennsylvania, :
Bureau of Charitable Organizations, :
 :
 : Docket No. 0011-98-00
 :
 vs. : File No. 00-98-03166
 :
 :
 The Declaration Foundation, :
 Respondent :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and The Declaration Foundation ("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. §162.1-162.24.

2. At all relevant and material times, The Declaration Foundation ("Respondent") did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

STIPULATED FACTS

3. The Respondent admits that the following allegations are true:

a. Respondent's last known business address, as on file with the Department of State, is c/o Maurene Werft, Executive Director, 4700 Surray Place, Alexandria, VA 22311.

b. On April 21 and May 12, 1999 the Bureau received evidence that Respondent was soliciting charitable contributions in the Commonwealth of Pennsylvania ("Commonwealth").

c. On July 20, 1999 the Secretary issued a Cease and Desist Order that directed Respondent to cease and desist from soliciting charitable contributions until it registered with the Bureau or provided evidence that it was exempt or excluded from registration.

d. On February 16 and April 10, 2000 the Bureau received additional evidence that Respondent was soliciting charitable contributions in the Commonwealth.

e. On October 21, 1999 an Investigative Subpoena was issued to Respondent. A representative of the Bureau personally served the Investigative Subpoena on October 28, 1999.

f. On February 24, 2000, in response to the Investigative Subpoena, respondent forwarded a report of all contributions received from Commonwealth of Pennsylvania residents to date. Respondent's records reflect that it had received contributions from 877 Commonwealth of Pennsylvania residents for a total of \$27,324.53.

g. Respondent did not fully comply with the Investigative Subpoena in that it did not provide all of the information requested.

ALLEGED VIOLATIONS

4. The Commonwealth alleges that by engaging in the foregoing activities Respondent violated the Act at 10 P.S. §162.15(a)(1) multiple times by soliciting contributions without properly registering with the Bureau, by soliciting contributions after a Cease and Desist Order had been issued, and by failing to fully comply with a subpoena issued by the Secretary.

PROPOSED ORDER

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

a. Based upon the above referenced facts, the Secretary could find that Respondent violated the Act multiple times at 10 P.S. 162.15(a)(1).

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** of **six thousand dollars (\$6,000)** is levied upon Respondent. Respondent shall tender the sum of one thousand dollars (\$1,000) 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."** Upon adoption of this Consent Agreement by the Secretary, Respondent shall pay one thousand dollars (\$1,000) in the first month following the Secretary's approval and two thousand dollars (\$2,000) per month for each of the following two (2) months, with such payments being due

on the first day of the month and being paid by certified check, cashier's check, attorney's check, or U.S. Postal money order made payable to the "Commonwealth of Pennsylvania."

OTHER PENALTIES

c. Within thirty (30) days of the date of the Secretary's Order adopting the terms of this Consent Agreement, Respondent shall submit a complete registration statement for its most recently completed fiscal year, with the correct information contained therein.

d. Upon the Secretary's adoption of this Consent Agreement into an Order, this case shall be deemed settled only with regard to the averments contained herein. Nothing in this 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 unless the Bureau becomes aware of material facts or omissions of material facts which have previously not been disclosed to it and would give it probable cause that other violations existed during such period of time which it failed to uncover in its previous investigation

VIOLATION OF THE SECRETARY'S ORDER

e. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the imposition of additional penalties as follows:

- (1) The prosecuting attorney for the Bureau shall file

with the Secretary a Petition which indicates that Respondent has violated the terms or conditions of this Consent Agreement and Order.

(2) Upon a probable cause determination that Respondent has violated the terms and conditions of this Consent Agreement and Order, the Secretary, or her designee, shall, without holding a formal hearing, issue a Preliminary Order, effective thirty (30) days after its mailing, which imposes a sixty (60) day period of suspension on Respondent's registration to solicit charitable contributions.

(3) Respondent shall be notified of the Preliminary Order within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Bureau, together with a copy to Respondent's attorneys by facsimile or first class mail.

(4) Within fifteen (15) days of mailing of the notification of the Preliminary Order, Respondent may answer the Commonwealth's petition, request that a formal hearing be convened concerning Respondent's alleged violation of the Consent Agreement and Order, and move that the period of suspension be stayed until the Secretary or her designee issues a final order. Respondent shall file all answers and subsequent

filings with the Prothonotary for the Department of State, 124 Pine Street, Suite 200, Harrisburg, PA 17101. Respondent shall serve the prosecuting attorney for the Bureau with a copy of the answer and all subsequent filings in this matter.

(5) If the Respondent moves for a stay of the period of suspension, Respondent shall set forth properly verified facts and/or state concisely the matters of law which the Respondent believes justify a stay of the period of suspension. The Secretary or her designee shall issue a ruling on the Respondent's motion within fifteen (15) days from the date of the mailing of the notification of the Preliminary Order. If the Secretary or her designee makes no ruling on the Respondent's motion within the fifteen (15) days from mailing of the notification of the Preliminary Order, the Respondent's motion shall be deemed denied.

(6) If a request for a formal hearing is received from Respondent, a formal hearing shall be convened within forty-five (45) days from the date of filing of Respondent's request for a formal hearing.

(7) The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing.

(8) If the Secretary or her designee, after such hearing,

makes a determination adverse to Respondent, the Secretary or her designee will issue a Final Order imposing any disciplinary measures she deems appropriate. The Secretary or her designee may, but is not required to, take into account any period of active suspension already served by the Respondent pursuant to the Preliminary Order.

(9) If a request for a formal hearing is not received from Respondent within the prescribed fifteen (15) day period, the Preliminary Order shall become a Final Order.

6. 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

7. Respondent acknowledges receipt 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

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, 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

9. 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

10. 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

11. 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

12. 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.



Philip Zarone
Bureau of Charitable Organizations

DATED:

8/22/01



CHIEF FINANCIAL OFFICER
for **The Declaration Foundation,**
Respondent

DATED:

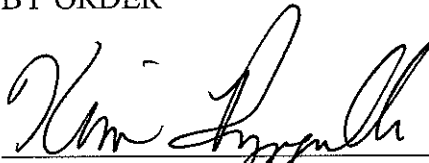


**IN THE MATTER OF THE SOLICITATION OF
FUNDS FOR CHARITABLE PURPOSES BY
THE DECLARATION FOUNDATION,
FILE NO. 00-98-03166**

ORDER

AND NOW, to wit, on this 4th day of September 2001, the terms of paragraph 5 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



Kim Pizzigrilli
Secretary of the Commonwealth