

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

PROTHONOTARY

2002 APR 22 AM 11:14

Department of State

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations,

vs.

Free the Fathers,
Respondent.

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: Docket No.: 0001-98-02
: File No.: 00-98-05059
:
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CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Free the Fathers ("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, 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 845 Oak Street, Chattanooga, TN 37403.

b. On October 1, 1999, the Bureau received evidence that Respondent was soliciting charitable contributions from Pennsylvania residents. The solicitation

material was dated August 10, 1999.

c. On May 19, 2000 the Secretary issued a Cease and Desist Order against Respondent.

d. On June 29, 2000 the Bureau issued an Investigative Subpoena against Respondent.

e. On July 3, 2000 Respondent was served with the Investigative Subpoena.

f. On August 28, 2000 the Bureau received Respondent's answer to the Investigative Subpoena.

g. In response to the subpoena, Respondent indicated that it had received contributions from 1,039 Pennsylvania residents since 1989 totaling at least \$151,295.60.

AGREED VIOLATIONS

4. Respondent agrees that by engaging in the foregoing activities it violated the Act at 10 P.S. § 162.15(a)(1) by failing to register with the Bureau before soliciting charitable contributions in the Commonwealth of Pennsylvania.

PROPOSED ORDER

5. The parties consent to the issuance of the following Order in settlement of this matter:

a. Respondent violated the Act at 10 P.S. § 162.15(a)(1).

b. Respondent shall register with the Bureau prior to the commencement of any charitable solicitations in Pennsylvania, and shall otherwise comply with the requirements of the Act. Upon completion of all registration requirements and upon

becoming duly registered with the Bureau, the Cease and Desist Order issued by the Secretary on May 19, 2000 will be dissolved.

c. Respondent shall not represent directly or indirectly that by this Consent Agreement the Attorney General or Bureau of Charitable Organizations has sanctioned, condoned or approved any part or aspect of Respondent's activities.

d. Respondent is permanently enjoined from directly or indirectly participating in any activities within the Commonwealth of Pennsylvania in violation of the Act.

ADMINISTRATIVE FINE

e. An **ADMINISTRATIVE FINE** of four thousand dollars (\$4,000) is levied upon Respondent. Respondent shall tender the full sum of four thousand dollars (\$4,000) 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."**

VIOLATION OF THE SECRETARY'S ORDER

f. 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 conditions of probation, 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 matter of law which the Respondent believes justifies 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.

(10) If the period of probation is terminated, Respondent shall still comply with all terms and conditions of probation during any active period of suspension, other than those terms and conditions pertaining to the active solicitation of funds for charitable purposes. Continued failure by Respondent to comply with the unaffected terms and conditions of shall result in further disciplinary action against Respondent.

(11) 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; provided, however, the Bureau agrees to not re-open its investigation as of the date of this Consent Agreement and Order unless the Bureau becomes aware of material facts or omission 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.

g. This case shall be deemed settled and discontinued upon the Secretary issuing an Order adopting of this Consent Agreement and the Respondent's successful completion of any ordered discipline.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

6. Respondent acknowledges 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; the right 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

7. 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

8. 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


9. 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.

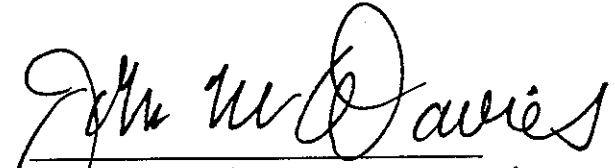
10. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent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

11. 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.A. §4904 relating to unsworn falsification to authorities.


Bridget K. Guilfoyle
Prosecuting Attorney
Bureau of Charitable Organizations

DATED: 04/15/02


for Free the Fathers,
Respondent

4/9/02

DATED:



**IN THE MATTER OF THE SOLICITATION OF
FUNDS FOR CHARITABLE PURPOSES BY
FREE THE FATHERS
FILE NO.: 00-98-05059**

ORDER

AND NOW, to wit, on this 18th day of April 2002, 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

A handwritten signature in black ink, appearing to read "C. Michael Weaver".

C. Michael Weaver
Acting Secretary of the Commonwealth