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

PROFESSIONAL  
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Department of State

**Commonwealth of Pennsylvania,  
Bureau of Corporations and Charitable  
Organizations,**

**File No. 18-98-08168**

**v.**

**Pittsburgh Outreach Program and Spiritual  
Devotional Outreach Recovery Program and  
Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell,**

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**FINAL ADJUDICATION AND ORDER**

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**Kathy Boockvar  
Acting Secretary of the Commonwealth**

**401 North Street, Room 302  
Harrisburg, PA 17120**

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## HISTORY

This case comes before the Acting Secretary of the Commonwealth (the "Acting Secretary") on an appeal filed by the Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell ("Mr. Burrell") from a February 6, 2019 Cease and Desist Order of the Acting Secretary (the "Cease and Desist Order"), finding that Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Mr. Burrell were not registered with the Department of State (the "Department"), Bureau of Charitable Organizations (the "Bureau") and that they had failed to respond to the Department's/Bureau's request for documentation in accordance with the Pennsylvania Solicitation of Funds for Charitable Purposes Act, Act of December 19, 1990, P.L. 1200, No. 202 (the "Act"), *as amended*, 10 P.S. §§162.1 *et. seq.* The Acting Secretary's Order further directed the Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Mr. Burrell to cease and desist from soliciting contributions or performing as professional solicitors in Pennsylvania until such time as they have provided the Department/Bureau with previously requested information, duly registered with the Department/Bureau, or provided information that they are excluded or exempt for registration as determined by the Department/Bureau.

By letter dated February 11, 2019, Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Mr. Burrell appealed from the Acting Secretary's Cease and Desist Order. The appeal letter identified 180 Spring Avenue, 2, Bellevue, Pennsylvania 15202 as Appellants' mailing address. A Notice of Hearing was served March 15, 2019 at the address Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Mr. Burrell provided to the Department/Bureau through their letter of appeal. The Notice scheduled the hearing on the appeals for May 9, 2019 to be held at 2601 North Third Street, One Penn Center,

Harrisburg, PA at 1:30 p.m.

On May 8, 2019, Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Mr. Burrell requested a continuance of the hearing. By Order issued that same date, the hearing was continued, and the Pittsburgh Outreach Program and the Spiritual Devotional Outreach Recovery Program were directed to retain legal counsel by July 7, 2019 pursuant to 1 Pa.Code §31.21-31.23. The May 8, 2019 Order advised the Pittsburgh Outreach Program and the Spiritual Devotional Outreach Recovery Program that the failure by legal counsel to enter an appearance on their behalf by July 7, 2019 would be considered to be a withdrawal of their appeals and that their appeals would be dismissed with prejudice. By Order dated July 9, 2019, the Pittsburgh Outreach Program's and the Spiritual Devotional Outreach Recovery Program's appeals were dismissed based upon legal counsel not having entered an appearance on their behalf.

By Notice of Rescheduled Hearing filed on July 10, 2019, served upon Mr. Burrell at 180 Spring Avenue, 2, Bellevue, Pennsylvania 15202, the formal administrative hearing for Mr. Burrell was scheduled for September 30, 2019. The hearing occurred at the appointed place and time. Michael J. Gennett, Esquire represented the Department/Bureau. Mr. Burrell did not appear for the hearing. At the hearing, the Department/Bureau moved to dismiss the appeal based upon Mr. Burrell's failure to appear for the hearing and offer evidence in support of his appeal.

## FINDINGS OF FACT

1. A charitable organization, unless exempt, is required to file a registration statement with the Department/Bureau. See, 10 P.S. §162.5(a).
2. The Acting Secretary of the Commonwealth issued a Cease and Desist Order to Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell on February 6, 2019. The Cease and Desist Order was properly served upon Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell. (Official Notice-Bureau records).<sup>1</sup>
3. The Cease and Desist Order was based upon the Acting Secretary's findings that Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell were not registered with the Department of State, Bureau of Charitable Organizations and that they had failed to respond to the Bureau's request for documentation in accordance with the Pennsylvania Solicitation of Funds for Charitable Purposes Act, Act of December 19, 1990, P.L. 1200, No. 202 (the "Act"), *as amended*, 10 P.S. §§162.1 *et. seq.* (Official Notice- Bureau records).
4. The Acting Secretary's February 6, 2019 Cease and Desist Order took effect immediately upon its issuance and filing. (Official Notice- Bureau records).

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<sup>1</sup>Official notice of such matters as might be judicially noticed by courts is permissible under the General Rules of Administrative Practice and Procedure, 1 Pa.Code §35.173, which provides, in pertinent part, as follows:

§35.173. Official notice of facts.

Official notice may be taken by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. . . .

<sup>1</sup> Pa.Code §35.173. See also, *Falasco v. Commonwealth of Pennsylvania, Board of Probation and Parole*, 521 A. 2d 991, 994 n. 6 (Pa. Cmwlth. 1987).

5. By letter dated February 11, 2019, the Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell appealed from the Acting Secretary's Cease and Desist Order. (Official Notice- Bureau records).

6. Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell are not registered as charitable organizations with the Department/Bureau. (Official Notice- Bureau records).

7. At no time did Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program or Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell provide the Department/Bureau with documentation requested by the Department/Bureau or evidence that they were either excluded or exempt from the Act's requirements. (Official Notice- Bureau records).

8. A Notice of Hearing was served upon Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell on March 15, 2019 at 180 Spring Avenue, 2, Bellevue, Pennsylvania 15202. The Notice scheduled the hearing for May 9, 2019 to be held at 2601 North Third Street, One Penn Center, Harrisburg, PA at 1:30 p.m. (Official Notice- Bureau records).

9. By letter filed on May 8, 2019, Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell requested a continuance of the hearing. (Official Notice- Bureau records).

10. The May 9, 2019 hearing was continued by Order dated May 8, 2019. The Order directed Pittsburgh Outreach Program and Spiritual Devotional Outreach Recovery Program to retain legal counsel by July 7, 2019 pursuant to 1 Pa.Code §31.21-31.23. (Official Notice- Bureau records).

11. The May 8, 2019 Order advised Pittsburgh Outreach Program and Spiritual Devotional Outreach Recovery Program that the failure by legal counsel to enter an appearance on their behalf by July 7, 2019 would be considered to be a withdrawal of their appeal and that their appeals would be dismissed with prejudice. (Official Notice- Bureau records).

12. By Order dated July 9, 2019, the appeals of Pittsburgh Outreach Program and Spiritual Devotional Outreach Recovery Program were dismissed based upon legal counsel not having entered an appearance on their behalf. (Official Notice- Bureau records).

13. A Notice of Rescheduled Hearing was served upon Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell on July 10, 2019 at 180 Spring Avenue, 2, Bellevue, Pennsylvania 15202. The Notice scheduled the hearing for September 30, 2019 to be held at 2601 North Third Street, One Penn Center, Harrisburg, PA at 1:30 p.m. (Official Notice- Bureau records).

14. Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell did not appear for the September 30, 2019 hearing. (Notes of Testimony, 1-8).

#### CONCLUSIONS OF LAW

1. The Acting Secretary has jurisdiction in this matter. 10 P.S. §162.4.
2. Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell were served with all notices, pleadings, and orders filed of record in this matter in accordance with Administrative Agency Law, 2 Pa.C.S. §504. (Findings of Fact, Nos. 8-13).
3. The Acting Secretary of the Commonwealth's February 6, 2019 Cease and Desist Order to Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell was properly entered under the Act at 10 P.S.

§162.17 because, as of that date, they were not registered with the Department of State, Bureau of Charitable Organizations and they had failed to respond to the Department's/Bureau's request for information in accordance with the Solicitation of Funds for Charitable Purposes Act. (Finding of Fact, Nos. 6-7).

4. The Acting Secretary of the Commonwealth's February 6, 2019 Cease and Desist Order remains in effect pursuant to the Hearing Examiner's May 8, 2019 Order and based upon the failure by Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell to pursue his appeal at the formal administrative hearing held on September 30, 2019. (Finding of Fact, Nos. 12, 14).

### DISCUSSION

This case involves appeals by the Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell from a Cease and Desist Order issued by the Acting Secretary on February 6, 2019, resulting from their failure to register with the Department/Bureau and provide information requested of them by the Department/Bureau. The Cease and Desist Order was effective immediately upon its issuance and filing. By Order dated May 8, 2019, Pittsburgh Outreach Program and Spiritual Devotional Outreach Recovery Program were directed to retain legal counsel by July 7, 2019 pursuant to 1 Pa.Code §31.21-31.23. The May 8, 2019 Order advised the Pittsburgh Outreach Program and Spiritual Devotional Outreach Recovery Program that their failure to retain legal counsel by July 7, 2019 would be considered to be a withdrawal of their appeals and that their appeals would be dismissed with prejudice.

The General Rules of Administrative Practice and Procedure are not mere suggestions, and compliance with them is necessary for the orderly administration of state government. See, e.g., *Greensburg Nursing and Convalescent Center v. Department of Public Welfare*, 633 A.2d

249 (Pa. Cmwlth. 1993). It is well recognized that administrative agencies have the inherent power to control their own docket through the dismissal of appeals where parties have failed to comply with an order. *Snyder Memorial Health Care v. Department of Public Welfare*, 898 A.2d 1227, 1230 (Pa. Cmwlth. 2006). Here, Pittsburgh Outreach Program and Spiritual Devotional Outreach Recovery Program failed to comply with the Hearing Examiner's Order of May 8, 2019 which required legal counsel to enter an appearance on their behalf pursuant to 1 Pa.Code §31.21-31.23. Accordingly, their appeals were deemed to be withdrawn by Order dated July 9, 2019 as a result of their failure to comply with the Hearing Examiner's Order or 1 Pa.Code §31.21-31.23 by retaining legal counsel. A hearing on the appeal of Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell was subsequently held on September 30, 2019.

### **Due Process**

"It is well established that the requirements of due process of law apply to administrative proceedings." *First National Bank of Pike County v. Dept. of Banking*, 300 A.2d 823, 824 (Pa. Cmwlth. 1973). Due process is afforded to a party when the party is informed of the nature of the allegations with reasonable certainty, is provided timely notice and opportunity to answer the charges and defend against the accusations, and when proceedings are conducted in a fair and impartial manner. *Clark v. Department of Public Welfare*, 427 A.2d 712 (Pa. Cmwlth. 1981); *Celane v. Insurance Commissioner*, 415 A.2d 130 (Pa. Cmwlth. 1980); *Gaudenzia, Inc. v. Zoning Bd. of Adjustment of City of Philadelphia*, 287 A.2d 698 (Pa. Cmwlth. 1972). See, also *Gutman v. State Dental Council and Examining Board*, 463 A.2d 114 (Pa. Cmwlth. 1983). Due process does not confer an absolute right to be heard, but only that a party be provided an opportunity to be heard. *Goetz v. Dept. of Environmental Resources*, 613 A.2d 65, 67 (Pa. Cmwlth. 1992), *app. den.*, 533 Pa. 663, 625 A.2d 1196 (1993).



In this case, the Department of State Prothonotary served the Hearing Examiner's May 8, 2019 Order and July 10, 2019 Notice of Rescheduled Hearing upon Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Mr. Burrell at the address provided to the Department/Bureau and the Prothonotary through the parties' February 13, 2019 appeal letter and May 8, 2019 request for continuance. As to Mr. Burrell, the Notice of Rescheduled Hearing scheduled the hearing for September 30, 2019, to be held at 2601 North Third Street, One Penn Center, Harrisburg, PA at 1:30 p.m. The General Rules of Administrative Practice and Procedure at 1 Pa.Code §33.31 authorize service by mail. In light of the foregoing procedural history, the Acting Secretary finds that the Hearing Examiner's May 8, 2019 Order was properly served upon Pittsburgh Outreach Program and Spiritual Devotional Outreach Recovery Program and that notice of the September 30, 2019 hearing was properly served upon Mr. Burrell.

### **Dismissal of Appeal**

An administrative agency or authority such as the Acting Secretary which has been granted investigatory powers has initial jurisdiction to determine the applicability of the authorizing statute. See, 10 P.S. §§162.4 and 162.16 (a); *Pennsylvania Human Relations Commission v. Landsdowne Swim Club*, 526 A.2d 758, 762 (Pa. 1987). The Act at 10 P.S. §162.5(a), provides in pertinent part as follows:

**§ 162.5. Registration of charitable organizations; financial reports; fees; failure to file**

(a) **Registration and approval required.**--A charitable organization, unless exempted from registration requirements pursuant to section 6,<sup>1</sup> shall file a registration statement with the department. This statement must be refiled annually and postmarked by the fifteenth day of the fifth month following the close of its fiscal year in which the charitable organization was engaged in solicitation activities. The department shall review the statement pursuant to

subsection (r). No charitable organization shall solicit contributions or have contributions solicited in its behalf before approval of its registration statement by the department.

As set forth above, a charitable organization is required to file a registration statement with the Department/Bureau unless the charitable organization is exempt from the Act's registration requirements. The Act at 10 P.S. §162.16 also grants the Acting Secretary the authority to conduct investigations into the activities of possible charitable organizations as follows:

**§162.16. Investigation; subpoenas; injunctions; court orders**

(a) **Permissible investigations.**-The Attorney General, the secretary or the district attorney may make or cause to be made an investigation of any person as deemed necessary. In conducting such an investigation, he may:

(1) Require or permit any person to file a statement in writing, under oath or otherwise, as to all the facts and circumstances concerning the manner to be investigated.

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(4) Require ... the production of any books, accounts, papers, records, documents, audits and files relating to any solicitation or any practice subject to this act or the regulations of the department.

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(7) Examine witnesses and receive evidence during any investigation....

10 P.S. §162.16(a). The Act at 10 P.S. §162.15(a) further provides, in pertinent part, as follows:

**§162.15. Prohibited acts**

(a) **General rule.**- Regardless of a person's intent or the lack of injury, the following acts and practices are prohibited in the planning, conduct or execution of any solicitation or sales promotion:

(1) Operating in violation of, or failing to comply with, any of the requirements of this act, regulations of the department or an order of the secretary...or soliciting contributions prior to the solicitation notice and contract having been approved by the department.

In terms of enforcement, the Act at 10 P.S. §162.17 provides, in pertinent part, as follows:

**§162.17. Administrative enforcement and penalties**

(a) **General rule.**-the secretary may refuse to register or revoke or suspend the registration of any charitable organization, professional fundraising counsel or professional solicitor whenever he finds that a charitable organization, professional fundraising counsel or professional solicitor, or an agent, servant or employee thereof:

- (1) Has violated or is operating in violation of any of the provisions of this act, the regulations of the department, or an order issued by the secretary.
- (2) Has refused or failed or any of its principal officers has refused or failed, after notice, to produce any records of such organization or to disclose any information required to be disclosed under this act or the regulations of the department.

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(b) **Additional actions.**-When the secretary finds that the registration of any person may be refused, suspended or revoked under the terms of subsection (a), the secretary may:

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- (2) Issue an order directing that the person cease and desist specified fundraising activities.
- (3) Impose an administrative fine not to exceed \$1,000 for each act or omission which constitutes a violation of this act and an additional penalty, not to exceed \$100 for each day during which such violation continues....

In this case, the record shows that the Acting Secretary issued a Cease and Desist Order, effective February 6, 2019, after finding that Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell were not registered with the Department of State, Bureau of Charitable Organizations and that they had failed to respond to the Department's/Bureau's request for information in accordance with the Solicitation of Funds for Charitable Purposes Act, Act. The Acting Secretary's Order directed that the parties cease and desist from soliciting contributions or from performing as professional solicitors in Pennsylvania.

until such time as they have provided the Bureau with previously requested information, duly registered with the Department/Bureau, or provided information to the Department/Bureau that they are excluded or exempt for registration as determined by the Department/Bureau. The Acting Secretary's Order remained in full force and effect as of the September 30, 2019 hearing.

In light of the complete absence of any evidence by Mr. Burrell to support the basis for his appeal from the Acting Secretary's Order, this case is relatively straight forward. Because Mr. Burrell failed to attend the hearing, he not only failed to identify or establish the purported grounds for his appeal, he also failed to produce evidence necessary to support any such grounds, should any exist. Mr. Burrell has similarly failed to produce any evidence to rebut the Acting Secretary's finding that he is not registered with the Department/Bureau or, alternatively, that he is exempt from the provisions of 10 P.S. §162.5(a) which required him to register with the Department/Bureau and to refrain from soliciting contributions until the Department/Bureau has approved his registration statement.

As set forth above, the Acting Secretary is expressly authorized to enforce the Act against Mr. Burrell pursuant to 10 P.S. §162.17, when the Acting Secretary finds that he has violated any provision of the Act. That Section provides, among other things, for the issuance of an order directing that Mr. Burrell cease and desist from engaging in the activities set forth in the Acting Secretary's Order. See, 10 P.S. §162.17(b)(2). The General Rules of Administrative Practice and Procedure, 1 Pa.Code §§31.1 *et. seq.*, provide, in pertinent part, as follows:

**§35.177. Scope and contents of motions.**

After a hearing has commenced in a proceeding, a request may be made by motion for any procedural or interlocutory ruling or relief desired, except as may be otherwise expressly provided in this chapter. . . .

1 Pa. Code §35.177.

**§35.178. Presentation of motions.**

. . . motions made during hearings may be stated orally upon the record, or the presiding officer may require that such oral motions be reduced to writing and filed separately.

1 Pa. Code §35.178.

**§35.180. Action on motions.**

(a) The presiding officer designated to preside at a hearing is authorized to rule. . . upon any motion filed or made after the commencement of the hearing and prior to the submission of his proposed report in the proceedings, except that no motion made. . . during a hearing, a ruling upon which would involve or constitute a final determination of the proceeding, shall be ruled upon by a presiding officer except as a part of his proposed report submitted after the conclusion of the hearing. . . .

§1 Pa.Code §35.180.

Here, after commencement of the hearing and, in accordance with the General Rules of Administrative Practice and Procedure, the Bureau appropriately moved for dismissal of Mr. Burrell's appeal based upon his failure to appear at the hearing and present evidence in support of his appeal. In accordance with 1 Pa.Code §35.180, and as part of this proposed adjudication and order, the following Order shall issue:

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

**Commonwealth of Pennsylvania,  
Bureau of Corporations and Charitable  
Organizations,**

**File No. 18-98-08168**

v.

**Pittsburgh Outreach Program and Spiritual  
Devotional Outreach Recovery Program and  
Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell,  
Respondents**

**ORDER**

AND NOW, this 5<sup>th</sup> day of ~~November~~ 2019, upon consideration of the failure by Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell to appear at the September 30, 2019 hearing in furtherance of his appeal from the Acting Secretary's February 6, 2019 Cease and Desist Order, it is hereby **ORDERED** that the Department's Motion to Dismiss Mr. Burrell's appeal is **GRANTED**, and that his appeal is **DENIED**. It is further **ORDERED** that the February 6, 2019 Cease and Desist Order of the Acting Secretary and the findings set forth therein remain in full force and effect, and that the Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell **CEASE AND DESIST** from soliciting contributions or performing as charitable organizations, and from conducting any services of a professional fundraising counsel or professional solicitor in the Commonwealth of Pennsylvania until such time as they provide the Department of State, Bureau of Corporations and Charitable Organizations with all previously requested information, duly register with the Bureau of Charitable Organizations, or provide information that they are excluded or exempt

from registration as determined by the Department/Bureau.

Additionally, Pittsburgh Outreach Program, Spiritual Devotional Outreach Recovery Program and Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell may be subject to administrative fines of up to \$1,000.00 per violation of the Act, and \$100.00 for each day violations continue, and their failure to comply with this Order shall constitute a violation of an order issued by the Secretary/Acting Secretary, subjecting them to additional penalties under the Act at 10 P.S. §162.17.

An appeal may be taken pursuant to the Act at 10 P.S. §162.17(c), within 30 days of the date of mailing of this Adjudication and Order as indicated below.

**BY ORDER**



**Kathy Boockvar**  
**Acting Secretary of the Commonwealth**

*For the Commonwealth:* Michael J. Gennett, Esquire  
Department of State  
Prosecution Division  
306 North Office Building  
Harrisburg, PA 17120

*Appellants:* Pittsburgh Outreach Program  
Spiritual Devotional Outreach Recovery Program  
Tyrone Burrell a/k/a Tyrone "T-Bird" Burrell  
180 Spring Avenue  
Apt. 2  
Bellevue, PA 15202

*Date of mailing:* 11.6.19

**NOTICE**

The attached Adjudication and Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Secretary of the Commonwealth with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Pennsylvania Department of State  
Office of Chief Counsel  
Legal Counsel, Bureau of Corporations and Charitable Organizations  
401 North Street  
Room 306  
Harrisburg, PA 17120