

ORIGINAL

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

Department of State
PROPERTY SECRETARY
2006 JUN -1 PM 4:51

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

American Conservative Union, Inc.,
Respondent

Docket No. 0008 -98-06
File No. 06-98-02205

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and American Conservative Union, Inc., ("Respondent") stipulate as follows in settlement of the above-captioned case:

PROPERTY SECRETARY
2006 JUN 29 AM 10:09
DEPARTMENT OF STATE
BUREAU OF CHARITABLE ORGANIZATIONS

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. Respondent was registered as a charitable organization in the Commonwealth of Pennsylvania from April 5, 2001 to November 11, 2002, registration number 15768, but failed to renew its registration thereafter.

3. At all relevant and material times, American Conservative Union, Inc. did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.

STIPULATED FACTS

4. Respondent's last known business address on file with the Bureau is 1007 Cameron Street, Alexandria, VA 22314.

5. In 2001, Respondent acknowledged soliciting charitable contributions in the Commonwealth without first being registered, paid a \$4,000 administrative fine, and became registered with the Bureau as a charitable organization on April 5, 2001.

6. Respondent's registration as a charitable organization expired on November 11, 2002, and was not renewed thereafter.

7. In 2003, the Bureau again received evidence that Respondent was soliciting charitable contributions from Pennsylvania residents without an approved registration with the Bureau and was printing the disclosure statement indicated in Section 13(c) on its solicitations stating it was registered as a charitable organization in Pennsylvania when it was not.

8. On June 16, 2003 the Secretary issued a Cease and Desist Order against Respondent.

9. In response to the Bureau's Investigative Subpoena dated June 16, 2003, Respondent supplied information that it received contributions from at least 4,544 Pennsylvania residents totaling \$83,779.01 from November 11, 2002 to July 17, 2003, in direct violation of a Cease and Desist Order.

10. In settlement of the violations stated in Paragraphs 7 through 9 above, a Consent Agreement and Order was signed by the Secretary on September 19, 2003, whereby Respondent agreed to pay an a \$15,000 administrative fine and renew its registration as a charitable organization with the Bureau within fifteen (15) days of the date of the Order.

11. Respondent paid the \$15,000 administrative fine on September 22, 2003, but never renewed its registration with the Bureau.

12. In 2005, the Bureau received evidence that Respondent was again soliciting charitable contributions from Pennsylvania residents without an approved registration with the Bureau and in direct violation of both a Consent Agreement and Cease and Desist Order.

13. In response to the Bureau's Investigative Subpoena dated March 25, 2005, Respondent informed the Bureau by letter dated April 14, 2005 that it made a decision not to register as a charitable organization in Pennsylvania, and consequently, not to solicit charitable contributions in Pennsylvania. The letter further stated that Respondent did not solicit contributions from Pennsylvania since September 2003, when it notified its direct mail vendors to delete all Pennsylvania zip codes from mailings.

14. In response to the Bureau forwarding a copy of a solicitation received from Respondent by a Pennsylvania resident, Respondent sent a letter dated June 20, 2005 explaining that it was discovered that Respondent's direct mail firm erroneously mailed solicitations into Pennsylvania despite Respondent's written instructions not to; however, no money was raised from Pennsylvania donors.

15. On June 24, 2005, the Bureau sent Respondent a warning letter stating that it cannot legally solicit contributions in Pennsylvania, that it must establish and exercise control over all fundraising activities, and that future violations will result in appropriate fines and referral for legal action.

16. In January 2006, the Bureau received evidence that Respondent was yet again soliciting charitable contributions from Pennsylvania residents without an approved registration

with the Bureau, in direct violation of both a Consent Agreement and Cease and Desist Order, and in spite of the Bureau's warning letter of June 25, 2005.

17. Furthermore, Respondent printed the disclosure statement indicated in Section 13(c) on its solicitations stating it was registered as a charitable organization in Pennsylvania when it was not.

18. On February 16, 2006 in response to an Investigative Subpoena issued by the Bureau, Respondent indicated that from August 5, 2005, through February 16, 2006, Respondent solicited 158 Pennsylvania residents, and received contributions from 151 Pennsylvania donors totaling \$2,074.00.

AGREED VIOLATIONS

19. The parties agree that by engaging in the foregoing activities, Respondent committed multiple violations of the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.5, by soliciting charitable contributions in Pennsylvania after its registration had expired.

20. The parties agree that by engaging in the foregoing activities, Respondent committed multiple violations of the Act at 10 P.S. §162.17(a)(1), by soliciting in direct violation of both a Consent Agreement and Order and Cease and Desist Order.

21. The parties agree that by engaging in the foregoing activities, Respondent committed multiple violations of the Act at 10 P.S. §162.15(a)(1), by and through 10 P.S. §162.13(e), by failing to exercise control over fundraising activities conducted for its benefit.

22. The parties agree that by engaging in the foregoing activities, Respondent committed multiple violations of the Act at 10 P.S. §162.15(a)(2), by and through 10 P.S. §162.13(c), by printing the disclosure notice on its solicitations stating that it was registered with the Bureau, when in fact, it was not.

PROPOSED ORDER

23. To address concerns raised by the Commonwealth and to resolve this matter on a compromise basis, the Commonwealth and the Respondent, intending to be legally bound, agree 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) and 2, and 162.17(a)(1).

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** of five thousand dollars (\$5,000.00) is levied upon Respondent. Respondent shall tender the full sum of five thousand dollars (\$5,000.00) 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 renew its registration within fifteen (15) days of the date of the Secretary's Order adopting this Consent Agreement. Respondent is prohibited from soliciting contributions in Pennsylvania until such time as the Respondent becomes properly registered with the Bureau.

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

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

25. 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

26. 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

27. 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

28. 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

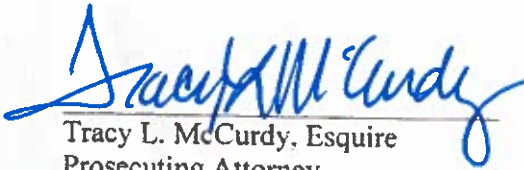
other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.


AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

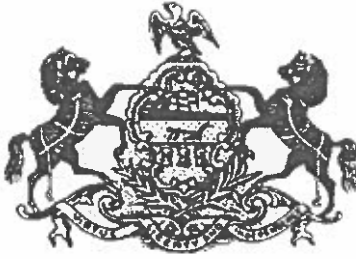
29. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent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

30. 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.


Tracy L. McCurdy, Esquire
Prosecuting Attorney
Department of State
DATED: 7-31-06

AMERICAN CONSERVATIVE UNION, INC.

By: J. William Laudensack
Title: EXECUTIVE VICE PRESIDENT
Respondent
DATED: 7/20/06



IN THE MATTER OF
AMERICAN CONSERVATIVE UNION, INC.
FILE NO. 06-98-02205

ORDER

AND NOW, this 1st day of August, 2006, the terms of Paragraph 23 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

Pedro A. Cortés
Secretary of the Commonwealth