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Department of State

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

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

v.

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File No. 18-98-003905

**American Society for Metabolic and
Bariatric Surgery Foundation, Inc., A/K/A,
ASMBS Foundation, A/K/A, Walk for Obesity
Respondent**

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Corporations and Charitable Organizations ("Bureau"), by and through its undersigned prosecuting attorney, Michael J. Gennett and American Society for Metabolic and Bariatric Surgery Foundation, Inc., A/K/A, ASMBS Foundation, A/K/A, Walk for Obesity, ("Respondent"), stipulate as follows in settlement of the above-captioned matter:

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 *et. seq.*
2. At all relevant and material times, Respondent acted as a charitable organization as defined by the Act.

STIPULATED FACTS

3. Respondent's last known address on file with the Bureau is 14260 W. Newberry Road, Box #418, Newberry, FL 32669.

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4. Respondent operated as an unregistered charitable organization in Pennsylvania for fiscal years ending 2012, 2013, 2014 and 2016.

5. Respondent is now registered as a charitable organization with the Department of State, Bureau of Corporations and Charitable Organizations (Bureau) and holds certificate of registration no.: 31719.

6. Respondent was not exempt from registration under 10 P.S. § 162.6(a)(8) since Respondent received contributions in excess of \$25,000.00 per annum.

AGREED VIOLATIONS

7. Respondent admits and agrees that by engaging in the aforementioned conduct, Respondent committed violations of the Act as follows:

a. Violating Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.5(a), by soliciting contributions without the approved registration filed with the Bureau.

PROPOSED ORDER

8. The participants, intending to be legally bound, consent to issuance of the following Order in settlement of this matter:

a. Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), by and through 10 P.S. § 162.5(a), by soliciting contributions without the approved registration filed with the Bureau.

ADMINISTRATIVE PENALTIES

9. An ADMINISTRATIVE FINE of Four Thousand Dollars (\$4,000.00) is levied upon Respondent. Respondent shall tender the full sum of Four Thousand Dollars (\$4,000.00), with this executed Consent Agreement. Payment shall be by certified check, cashier's check,

attorney's check, or U.S. Postal money order. The instrument of payment shall be made payable to the "Commonwealth of Pennsylvania," and shall be valid for a period of at least one hundred eighty (180) days. Respondent agrees that payment will be made by one of the methods indicated in subparagraph (a) above and that payment by uncertified personal check, corporate check or cash will not be accepted.

CASE SETTLED AND DISCONTINUED

10. 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 the requirements of this Order. However, nothing in this Consent Agreement and 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 and Order.

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 the 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 or governmental 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. 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.



Michael J. Gennett
Prosecuting Attorney
Department of State
Commonwealth of Pennsylvania

/s/ 

American Society for Metabolic and
Bariatric Surgery Foundation, Inc.,
A/K/A, ASMBS Foundation,
A/K/A, Walk for Obesity
Respondent

By: MICHAEL VOTTA
Print

Title: EXECUTIVE DIRECTOR
Print

DATE: 26 FEB 2020

DATE: 2/13/2020



**IN THE MATTER OF
American Society for Metabolic and
Bariatric Surgery Foundation, Inc., A/K/A,
ASMBS Foundation, A/K/A, Walk for Obesity
File No.: 19-98-003905**

ORDER

AND NOW, this 28th day of February 2020, the foregoing Consent Agreement is hereby approved, and the terms set forth herein are hereby adopted and incorporated herein as the Order of the Secretary of the Commonwealth, now issued in resolution of this matter.

THIS ORDER shall take effect immediately.

BY ORDER:

Handwritten signature of Kathy Boockvar in black ink.

**Kathy Boockvar
Secretary of the Commonwealth**

For the Commonwealth:

Michael J. Gennett
Prosecuting Attorney
306 North Office Building
401 North Street
Harrisburg, PA 17120

Respondent:

American Society for Metabolic and
Bariatric Surgery Foundation, Inc.
14260 W. Newberry Road, Suite 418
Newberry, FL 32669