

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

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

v. :

Daniel Wayne McCormick, :
Respondent :

Docket No: 021-98-17

File No: 15-98-02727

PROHIBITORY
 2017 SEP 11 AM 11:43
 Department of State

CONSENT AGREEMENT & ORDER

The Commonwealth of Pennsylvania, Bureau of Corporations and Charitable Organizations (Bureau) and Daniel Wayne McCormick (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. 12000, No. 202, *as amended* (here and after referred to as ‘Act’), 10 P.S. §§ 162.1-162.24.

STIPULATED FACTS

2. The Respondent admits to the following facts:
 - a. The last known mailing address for Respondent is 3089 Anthony Highway, Chambersburg, PA 17202.
 - b. At all relevant and material times, Respondent was an employee of the charitable organization, Better Days Animal League (organization), which is registered with the Bureau, registration number 37687.

c. At all relevant and material times, Respondent was an employee concerned with the solicitation and contributions for the organization.

d. At all relevant and material times, as an employee of the organization, Respondent was a fiduciary and acted in a fiduciary capacity.

e. Respondent misappropriated the organization's funds through the use of the organization's debit card for purchases and withdrawals for Respondent's personal use, needs and benefit.

f. The misappropriated funds were not applied in a manner consistent with the organization's charitable purpose.

AGREED VIOLATIONS

3. Respondent agrees that by engaging in the aforementioned activities Respondent committed the following violations of the Act:

a. Based upon the foregoing Factual Allegations, Respondent violated Section 15 of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Section 21 of the Act, 10 P.S. § 162.21, in that each officer and director of the charitable organization is required to act in a fiduciary capacity in regard to soliciting, collecting and expending contributions and violated by failing to apply contributions in a manner substantially consistent with the charitable organization's purpose as required by the Act at Section 13, 10 P.S. § 162.13.

b. Based upon the foregoing Factual Allegations, Respondent violated Section 15 of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Section 13(a), 10 P.S. § 162.13(a), by failing to apply contributions in a manner substantially consistent with the organizations' charitable

purpose by misappropriating funds from the organization for his personal use, needs or benefit.

PROPOSED ORDER

4. Intending to be legally bound, the participants consent to issuance by the Secretary of the following Order in resolution of this matter:

VIOLATION

- a. Respondent violated Section 15 of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Section 21 of the Act, 10 P.S. § 162.21, in that each officer and director of the charitable organization is required to act in a fiduciary capacity in regard to soliciting, collecting and expending contributions and violated by failing to apply contributions in a manner substantially consistent with the charitable organization's purpose as required by the Act at Section 13, 10 P.S. § 162.13.
- b. Respondent violated Section 15 of the Act, 10 P.S. § 162.15(a)(1), by and through actions that were not in accordance with Section 13(a), 10 P.S. § 162.13(a), by failing to apply contributions in a manner substantially consistent with the organizations' charitable purpose by misappropriating funds from the organization for his personal use, needs or benefit.

PUBLIC REPRIMAND

- b. A **PUBLIC REPRIMAND** is hereby issued upon Respondent.

COOPERATION WITH DISTRICT ATTORNEY

d. Respondent shall fully cooperate with the Franklin County District Attorney's Office in all efforts taken by the office to pursue any actions and to achieve full restitution in this matter.

CEASE & DESIST

e. Respondent shall cease and desist and not represent, either directly or indirectly, that by this Consent Agreement the Bureau of Charitable Organizations has sanctioned, condoned, approved or pardoned any part or aspect of Respondent's activities.

f. Respondent shall not, either directly or indirectly, participate in any activities within the Commonwealth of Pennsylvania in violation of the Act.

g. Respondent shall not assume any position in any charitable organization, whether voluntary or paid, that involves the solicitation, collection or expenditure of contributions.

CASE SETTLED AND DISCONTINUED

h. This case shall be deemed settled and discontinued upon the Secretary issuing an Order that approves this Consent Agreement and adopts and incorporates the terms set forth in this paragraph.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

5. Respondent waives the filing of an Order to Show Cause in this matter.

6. Respondent knowingly and voluntarily waives the right to an administrative hearing in this matter and knowingly and voluntarily waives 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 orally or through submission of a brief, and to take appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

7. Respondent acknowledges that he is aware that he has the right to consult with, and/or be represented by, private legal counsel of Respondent's choosing and at Respondent's expense when reviewing, considering and accepting the terms of this Consent Agreement. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed without the assistance of legal counsel.

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.

9. The Office of General Counsel has approved this Consent Agreement as to form and legality; however, this Consent Agreement shall have no legal effect unless and until the Secretary issues an Order approving this Consent Agreement and adopting and incorporating the terms set forth in paragraph 4, above.

EFFECT OF SECRETARY'S REJECTION

10. Should the Secretary of the Commonwealth decide not to approve this Consent Agreement, presentation to, and consideration of this Consent Agreement and other documents and matters by the Secretary of the Commonwealth 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.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

11. The parties acknowledge that other federal, state and/or local agencies or governmental units may have jurisdiction over the activities of or representations made by Respondent. Nothing in this Consent Agreement and Order 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.

ENTIRE AGREEMENT

12. This agreement contains the whole agreement between the participants; 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.

VERIFICATION OF FACTS AND STATEMENTS

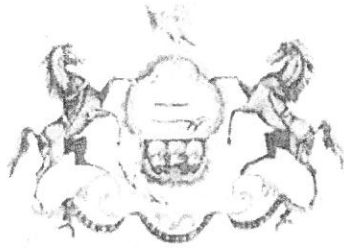
13. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information, and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

T'rese M. Evancho
T'rese M. Evancho
Prosecuting Attorney
Department of State

Date: 7/21/2017

Daniel Wayne McCormick
Daniel Wayne McCormick
Respondent

Date: 4-27-2017



IN THE MATTER OF:

DANIEL WAYNE MCCORMICK

DOCKET NO. 0121 -98-17
FILE NO. 15-98-02727

ORDER

AND NOW, this 7th day of September 2017 the foregoing Consent Agreement is hereby approved and the terms set forth in paragraph 4 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 Pedro A. Cortés in cursive script.

Pedro A. Cortés
Secretary of the Commonwealth

For the Commonwealth:

Trise M. Evancho, Esquire
2601 North Third Street
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

Daniel Wayne McCormick
3089 Anthony Highway
Chambersburg, PA 17202