

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

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DEPARTMENT OF STATE

Commonwealth of Pennsylvania,
Bureau of Corporations and
Charitable Organizations

vs.

Jewish Heritage Program.
Respondent

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Docket No. 0013-98-17

File No. 15-98-01813

CONSENT AGREEMENT AND ORDER

PARTIES

The Commonwealth of Pennsylvania, Department of State, Bureau of Corporations and Charitable Organizations (“Bureau”) and **Jewish Heritage Programs** (“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 (“the Act”), Act of December 19, 1990, P.L. 1200, No. 202, *as amended*, 10 P.S. §§ 162.1-162.24.

REGISTRATION STATUS

2. Respondent does not deny the truth of the following averments regarding registration as a charitable organization with the Bureau:

a. Respondent is a 501(c)(3) charitable corporation located at 4037 Pine Street, Philadelphia, PA 19104.

- b. Respondent has generally filed annual registration materials with the Bureau for each fiscal year ending September 30, since at least 2002.
- c. The Bureau assigned the Respondent registration number 27426.
- d. As a result of deficiencies in registration materials submitted by the Respondent, the Bureau did not approve all annual registrations submitted.
- e. Respondent submitted to the Bureau the annual registration information for fiscal year ending September 30, 2010, and was approved as registered by the Bureau.
- f. The annual registration information for fiscal year ending September 30, 2011, was due to be filed with the Bureau by August 11, 2012, accordingly, Respondent was registered with the Bureau through August 11, 2012.
- g. As set forth in the factual allegations below, annual registrations for fiscal years ending September 30, 2011, September 30, 2012 and September 30, 2013, were not timely filed with the Bureau.
- h. The annual registration information for fiscal year ending September 30, 2014, was filed with the Bureau on August 18, 2015, and was approved when filed.
- i. The annual registration information for fiscal year ending September 30, 2015, is due to be file with the Bureau on or before August 15, 2016.
- j. Respondent is currently registered with the Bureau as a charitable organization and, accordingly, is permitted to solicit contributions in the Commonwealth through August 15, 2016.
- k. The mailing address for the Respondent is: 4037 Pine Street, Philadelphia, PA 19104.

FACTUAL ALLEGATIONS

3. The Respondent admits that the following allegations are true:

a. Respondent was registered with the Bureau for fiscal year ending September 30, 2010.

b. In order for Respondent to maintain its registration as a charitable organization in the Commonwealth, the registration information for fiscal year ending September 30, 2011, was required to be filed with the Board by August 11, 2012.

c. The registration information for fiscal year ending September 30, 2011, was not filed with the Bureau until September 5, 2013, almost thirteen (13) months after it was due.

d. In order for Respondent to be properly registered as a charitable organization in the Commonwealth, registration information for fiscal year ending September 30, 2012, was required to be filed with the Board by August 11, 2013.

e. Registration information for fiscal year ending September 30, 2012, was not filed with the Bureau until November 24, 2014, over fifteen (15) months after it was due.

f. In order for Respondent to be properly registered as a charitable organization in the Commonwealth, registration information for fiscal year ending September 30, 2013, was required to be filed with the Board by August 11, 2014.

g. Registration information for fiscal year ending September 30, 2013, was not filed with the Bureau until February 23, 2015, over six (6) months after it was due.

h. The Respondent was not properly registered with the Bureau from the time that the registration for fiscal year ending September 30, 2011, was not timely registered on or before August 11, 2012, until the Bureau approved the registration of the Respondent for fiscal year ending September 30, 2013, on February 23, 2015, a period of over thirty (30) months.

i. During the period that Respondent was not properly registered with the Bureau, Respondent continued to solicit charitable contributions in the Commonwealth.

AGREED VIOLATIONS

4. The parties agree that by continuing to solicit charitable donations during the 30 month period that it was not properly registered with the Bureau, Respondent committed multiple violations of Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1) by failing to file or refile registration statements within the time period required by Section 5(a) of the Act, 10 P.S. § 162.5(a), and by continuing to solicit contributions before Bureau approval of the registration statement.

TERMS OF BOARD ORDER

5. To address the violations of the Act agreed to by the parties, and to resolve this matter on a compromise basis, the Commonwealth and the Respondent, intending to be legally bound, agree to the issuance by the Secretary of the following Order in settlement of this matter:

a. The Secretary finds that the Respondent violated Section 15(a)(1) of the Act, 10 P.S. § 162.15(a)(1), on multiple and repeated occasions by by soliciting charitable contributions in the Commonwealth during periods when it was not properly registered with the Bureau as required by Section 5(a) of the Act, 10 P.S. § 162.5(a).

ADMINISTRATIVE FINE

b. An **ADMINISTRATIVE FINE** in the amount of **THREE-THOUSAND-DOLLARS (\$3,000.00)** is hereby levied upon Respondent.

- (1) Respondent shall tender the full sum of the **ADMINISTRATIVE FINE** with the return of this executed Consent Agreement;
- (2) Payment of the **ADMINISTRATIVE FINE** shall be by certified check, cashier's check, attorney's check, or money order issued by a usual, customary, and reputable issuer (e.g. U.S. Postal Money Order, Western Union Money Order, etc.).
- (3) The instrument of payment shall be payable to the 'Commonwealth of Pennsylvania,' and shall be valid for a period of at least one-hundred-eighty (180) days.
- (4) Respondent agrees that payment shall only be made by one of the methods indicated above and shall not be made by uncertified personal or corporate check.

FILING OF REGISTRATION DOCUMENTS

c. Respondent agrees not to solicit charitable contributions in the Commonwealth of Pennsylvania in the future without being properly registered with the Bureau in accordance with Section 162.5 of the Act, 10 P.S. § 162.5.

d. Respondent acknowledges that failure to register with the Bureau when required to do so, may result in an administrative fine of \$1,000.00, and an additional penalty of \$100.00 for each day the violations continue.

e. Respondent acknowledges that failing to register with the Bureau when required to do so may result in a subsequent registration being automatically suspended until the fine is paid or until the normal expiration date of the registration in accordance with Section 162.17 of the Act, 10 P.S. § 162.17.

f. Respondent acknowledges that no subsequent registration shall be renewed until the fine is paid.

g. Respondent shall not enter into any contract or agreement or employ any professional fundraising counsel or professional solicitor unless that professional fundraising counsel or professional solicitor is registered with the Bureau in accordance with the Act.

CASE SETTLED AND DISCONTINUED

h. This case shall be deemed settled and discontinued upon the Secretary issuing an Order approving and adopting this Consent Agreement and upon the successful completion by the Respondent of the requirements of this Order.

i. 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.

ADMISSIBILITY OF CONSENT AGREEMENT IN FUTURE PROCEEDINGS

6. Respondent agrees that if Respondent is charged with a violation of the Act in the future, this Consent Agreement and Order shall be admitted into evidence without objection in any Hearing that may occur regarding the matter.

ACKNOWLEDGMENT OF NOTICE AND WAIVER OF HEARING

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

8. 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 Commonwealth; to present legal arguments by means of a brief; and to take an appeal from any final adverse decision.

ACKNOWLEDGMENT OF RIGHT TO ATTORNEY

9. Respondent acknowledges that it is aware that it has the right to consult with, and 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.

10. To the extent that Respondent is not represented by legal counsel, Respondent has knowingly elected to proceed in this matter without the assistance of legal counsel.

WAIVER OF CLAIM OF COMMINGLING AND OTHER CONSTITUTIONAL CLAIMS

11. Respondent expressly waives any constitutional rights and issues, such as commingling of prosecutorial and adjudicative functions by the Secretary or his counsel, which may arise or have arisen during the negotiation, preparation and/or presentation of this Consent Agreement. This paragraph is binding on the participants even if the Secretary does not approve this Consent Agreement.

NO MODIFICATION OF ORDER

12. Respondent agrees, as a condition of entering into this Consent Agreement, not to seek modification at a later date of the Stipulated Order adopting and implementing this Consent Agreement without first obtaining the express written concurrence of the Prosecution Division.

AGREEMENT NOT BINDING ON OTHER PARTIES

13. This Consent Agreement is between the Bureau and Respondent only. It does not bind any other governmental or administrative entity of the Commonwealth of Pennsylvania, including any other bureau within the Department of State.

14. 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 and adopting this Consent Agreement.

EFFECT OF SECRETARY'S REJECTION OF CONSENT AGREEMENT

15. 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.

AGREEMENT DOES NOT PREVENT REFERRAL TO OTHER AGENCIES

16. 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

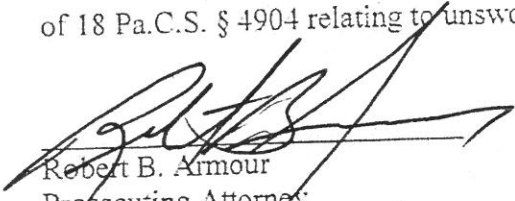
agency or governmental unit having jurisdiction over the activities of Respondent or any officer, director, agent, employee or independent contractor of the Respondent.

ENTIRE AGREEMENT

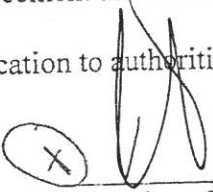
17. This agreement contains the whole agreement between the participants; provided however, that the captions printed in the various provisions of this agreement are for ease of reading only and are not to be interpreted as forming any part of this agreement. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever concerning this agreement.


VERIFICATION OF FACTS AND STATEMENTS

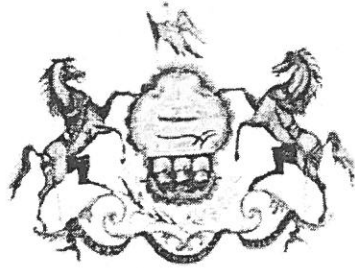
18. Respondent verifies that the facts and statements set forth in this Consent Agreement are true and correct to the best of Respondent's knowledge, information and belief. Respondent understands that statements in this Consent Agreement are made subject to the criminal penalties of 18 Pa.C.S. § 4904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


Robert B. Armour
Prosecuting Attorney
Department of State

DATED: 10/24/16


Menachem Schmidt
on behalf of Jewish Heritage Programs.
Respondent

DATED:  10/15/16



JEWISH HERITAGE PROGRAMS

DOCKET NO. 0013-98-17
FILE NO. 15-98-01813

ORDER

AND NOW, this 15th day of February 2017 the foregoing Consent Agreement is approved and the terms set forth in paragraph 5 are hereby adopted and incorporated herein as the Order of the Secretary of the Commonwealth issued in resolution of this matter.

THIS ORDER shall take effect immediately.

BY ORDER

Pedro A. Cortés

Pedro A. Cortés
Secretary of the Commonwealth

For the Commonwealth:

Robert B. Armour, Esquire
2601 North Third Street
P. O. Box 2649
Harrisburg, PA 17105-2649

For Respondent:

Menachem Schmidt
Jewish Heritage Programs
4037 Pine Street
Philadelphia, PA 19104

Date of mailing: February 17, 2017