

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

PROTHONOTARY

2009 DEC -4 PM 3: 20

Department of State

Commonwealth of Pennsylvania,  
Bureau of Charitable Organizations,

v.

Nicholas Ponerros,  
Respondent

:  
:  
:  
: Docket No. 0018 -98-09  
: File No. 09-98-06986  
:  
:

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Nicholas Ponerros ("Respondent") stipulate as follows in settlement of the above-captioned case.

**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. §§162.1-162.24.

**STIPULATED FACTS**

2. Respondent admits that the following allegations are true:
  - a. Respondent's last known address is 1353 Stillwater Road, Lancaster, PA 17601.
  - b. Endowment Fund for Orthodox Missions located at 64 Hershey Avenue, Lancaster, PA 17603, operated as a nonprofit organization.
  - c. Endowment Fund for Orthodox Missions is registered with the Bureau as a charitable organization, registration number 5948.

d. At all relevant and material times, Respondent was the treasurer for Endowment Fund for Orthodox Missions.

e. At all relevant and material times, Respondent, as treasurer for Endowment Fund for Orthodox Missions, had the authority to withdraw funds from and issue checks, drawn on Endowment Fund for Orthodox Missions bank account.

f. Pursuant to Section 162.21 of the Act, Respondent is deemed a fiduciary and acting in a fiduciary capacity for Endowment Fund for Orthodox Missions.

g. At all relevant and material times, Endowment Fund for Orthodox Missions maintained a checking account at M&T Bank.

h. On December 17, 2007, Respondent misappropriated funds from the Endowment Fund for Orthodox Missions by withdrawing \$30,000 from the Endowment Fund for Orthodox Missions bank account and depositing those funds into his personal account.

i. The misappropriation of funds identified in this Consent Agreement was for Respondent's personal use and benefit.

j. The funds identified in this Consent Agreement were not applied in a manner consistent with Endowment Fund for Orthodox Missions' purpose.

### **VIOLATIONS**

3. Respondent agrees that by engaging in the foregoing activities Respondent committed multiple violations of the Act as follows:

a. 10 P.S. § 162.15(a)(2), in that when Respondent misappropriated

\$30,000 from the account in the name of Endowment Fund for Orthodox Missions, for his personal use and benefit, he utilized unfair and deceptive acts and engaged in fraudulent conduct which created a likelihood of confusion or of misunderstanding; and

b. 10 P.S. § 162.15(a)(1), by and through § 162.21, in that when Respondent misappropriated \$30,000 from the account in the name of Endowment Fund for Orthodox Missions, for his personal use and benefit, he breached the fiduciary duty he owed to Endowment Fund for Orthodox Missions.

#### **MITIGATION**

4. Respondent states the following in mitigation of the foregoing facts:

a. On January 15, 2008, Respondent fully reimbursed the \$30,000 into the bank account of Endowment Fund for Orthodox Missions.

b. February 5, 2008, Respondent signed a written statement admitting to his misappropriation of funds from Endowment Fund for Orthodox Missions' bank account.

#### **PROPOSED ORDER**

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

a. Respondent violated the Act at 10 P.S. § 162.15(a)(2); and § 162.15(a)(1), by and through § 162.21.

#### **PUBLIC REPRIMAND**

b. A **PUBLIC REPRIMAND** is hereby issued to Respondent.

**COOPERATION WITH LANCASTER COUNTY DISTRICT ATTORNEY**

c. Respondent shall fully cooperate with the Lancaster County District Attorney's Office.

**ADDITIONAL PROVISIONS**

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

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

f. Respondent shall not assume any position which involves the solicitation, collection or expenditure of contributions in any charitable organization. This includes any voluntary or paid position in any such organization.

**CASE SETTLED AND DISCONTINUED**

6. 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 any ordered discipline.

**ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING**

7. 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**

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. 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**

9. 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**

10. 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**

11. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent. 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.

**VERIFICATION OF FACTS AND STATEMENTS**

12. 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.

*Dean F. Picarella*

Dean F. Picarella  
Prosecuting Attorney  
Department of State

*Nicholas Poner*

Nicholas Poner  
Respondent

DATED: 12/01/2009

DATED: 11/30/09



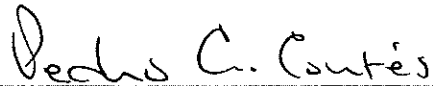


**IN THE MATTER OF  
Nicholas Poneros  
File No. 09-98-06986**

**ORDER**

AND NOW, to wit, on this 4<sup>th</sup> day of December 2009, the terms of paragraph 5 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

  
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Pedro A. Cortés  
Secretary of the Commonwealth