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

Department of State

Commonwealth of Pennsylvania, :
Bureau of Charitable Organizations, :

vs. :

National Charities Benefit Foundation, Inc., :
Respondent :

Docket No. 0013 -98-09
File No. 09-98-05494

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and National Charities Benefit Foundation, Inc. ("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.

2. Respondent, National Charities Benefit Foundation, Inc., was registered with the Bureau previously but Respondent's registration lapsed on May 14, 2004; Respondent is not currently registered with the Bureau as a charitable organization.

3. At all relevant and material times, Respondent has solicited charitable contributions in Pennsylvania.

STIPULATED FACTS

4. Respondent admits that the following allegations are true:
 - a. Respondent's last known business address is 191 Anaconda Drive, Pennsylvania Furnace, PA 16865.
 - b. Respondent has filed Articles of Incorporation with the Pennsylvania Corporations Bureau as a non-profit corporation.
 - c. Respondent solicits, and accepts, donations of gift-in-kind items including, but not limited to, automobiles, boats, computers, and real estate, with the majority of the donations being automobiles.
 - d. Automobiles received by Respondent are sold at the National Auto Centre, a for-profit auto dealership related to Respondent.
 - e. On August 2, 2006, Bureau personnel interviewed Sam Mannino, the President of Respondent, at Respondent's offices; during the interview, Sam Mannino stated:
 1. Respondent filed an IRS Form 990 for the year ending December 31, 2003, but Respondent's revenue is under \$25,000 annually, and therefore Respondent is not required to file IRS Form 990;
 2. Respondent does not have audited or reviewed financial statements;
 3. The paperwork for the donated and sold vehicles is kept at National Auto Centre, not at Respondent's offices;
 4. Donated vehicles are either sold or junked; and
 5. 75 percent of the proceeds from the sale of a donated vehicle, less expenses, are given to the charity of the donor's choice.

f. On or about August 17, 2006, the Bureau received materials submitted by Respondent in partial response to a subpoena issued August 2, 2006.

g. On November 14, 2006, Bureau personnel retrieved documents requested in the original subpoena but not supplied, as well as additionally requested documents, from Respondent's counsel.

h. A final subpoena was sent to Respondent on January 25, 2007 requesting information regarding the value assigned to each vehicle on the date it was donated; the gross receipts from the sale of each vehicle, the cost of goods sold for each vehicle, and the total amount received by Respondent for each vehicle.

i. In response to the January 25, 2007 subpoena, Respondent submitted letters to the Bureau stating that it does not assign any specific values to donated vehicles when they are received, "other than an estimate of value as either (i) greater than \$500, or (ii) less than \$500 (i.e. "junk");" and further stated that "NAC does not maintain a detailed list of each and every cost associated with each vehicle."

j. The failure to accurately assign a value to a vehicle at the time of receipt rendered Respondent unable to accurately determine whether it would be required to file an IRS Form 990 or whether they would be required to register with the Bureau.

k. Due to Respondent's failure to keep accurate records regarding the cost of goods sold for any donated vehicle, any percentage of proceeds donated would also be inaccurate and/or misleading.

l. Respondent was unable to determine the source of 21 deposits made into its bank account reserved for distribution to charities and evidenced on the documents Respondent supplied to the Bureau, and Respondent could therefore not provide accurate information to the Bureau as required under the Act.

m. On September 31, 2006, Phillip K. and Jane Griffith (Griffiths) donated a 1995 Ford Windstar Mini-Van to Respondent.

n. PennDOT records indicate that Respondent sold the vehicle donated by the Griffiths on January 26, 2007.

o. On September 24, 2007, the Griffiths contacted the charity they specified to receive the proceeds on the sale of the donated vehicle, the named charity indicated that no proceeds from the sale of the vehicle had been received from Respondent.

p. Based upon documents received from Respondent, Respondent had gross proceeds on the sales of donated vehicles of \$46,419.10 during fiscal year 2004, well in excess of the \$25,000 registration requirement threshold.

q. Respondent did not register with the Bureau as a charitable organization for fiscal year ending December 31, 2004.

r. All vehicles donated to Respondent are either picked up by, or dropped off at National Auto Centre.

s. National Auto Centre either junks the vehicles, or prepares the donated vehicles for sale and subsequently conducts the actual sale of the donated vehicle.

t. After junking or selling the vehicle, National Auto Centre deducts costs and sales commissions from the proceeds of the disposition of the vehicle and gives Respondent a check for the net proceeds after deductions.

u. By performing the sales of goods, and deducting compensation from the proceeds of the disposition of the donated vehicles, National Auto Centre acts as a professional solicitor for Respondent.

v. National Auto Centre is not registered as a professional solicitor with the Bureau.

w. Respondent submitted financial statements and supporting documents for fiscal years ending December 31, 2004, 2005 and 2006 in response to subpoenas issued by the Bureau.

x. Upon review of all the documents submitted by Respondent, it was discovered that the documents submitted in support of the financial statements did not match or support the documents they were purported to support.

MITIGATION

5. Respondent offers the following in mitigation, which the Commonwealth neither admits nor denies: Respondent fully cooperated and adequately responded to all requests made by Bureau personnel for supporting documents and, after Respondent discovered that the documents submitted by Respondent did not match or support the financial statements, Respondent revamped its accounting and filing systems and procedures to ensure that such irregularities do not occur in the future.

AGREED VIOLATIONS

- 6. Respondent agrees that by engaging in the foregoing activities;
 - a. Respondent violated the Act at 10 P.S. §162.15(a)(1) by and through violations of 10 P.S. §162.12 in that Respondent solicited charitable contributions in the Commonwealth of Pennsylvania and failed to keep true and accurate fiscal records of those solicitation activities;
 - b. Respondent utilized unfair and deceptive acts and engaged in fraudulent conduct which created a likelihood of confusion or of misunderstanding in violation of 10 P.S. § 162.15(a)(2);
 - c. Respondent violated the Act by soliciting charitable contributions without being registered with the Bureau in violation of 10 P.S. § 162.15(a)(1), by and through § 162.5(a);
 - d. Respondent employed a professional fundraiser that was not registered with the Bureau in violation of 10 P.S. § 162.13(f); and
 - e. Respondent made false statements in an application, statement or report required to be filed under the Act, in violation of 10 P.S. § 162.17(a)(3).

PROPOSED ORDER

- 7. The participants, intending to be legally bound, consent to issuance of the following Order in settlement of this matter:
 - a. Respondent violated the Act at 10 P.S. §162.15(a)(1) by and through violations of 10 P.S. §162.12;

- b. Respondent violated the Act at 10 P.S. § 162.15(a)(2);
- c. Respondent violated the Act at 10 P.S. § 162.15 (a)(1), by and through § 162.5(a);
- d. Respondent violated the Act at 10 P.S. § 162.13(f); and
- e. Respondent violated the Act at 10 P.S. § 162.17(a)(3).

ADMINISTRATIVE FINE

f. An **ADMINISTRATIVE FINE** of two thousand five hundred dollars (\$2,500) is levied upon Respondent. Respondent shall tender the full sum of two thousand five hundred (\$2,500), 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."**

VIOLATION OF THE SECRETARY'S ORDER

7. This case shall be deemed settled and discontinued upon the Secretary issuing an Order adopting this Consent Agreement and the Respondents successful completion of any ordered discipline.

ACKNOWLEDGEMENT OF NOTICE AND WAIVER OF HEARING

8. 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

9. 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

10. 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


11. 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

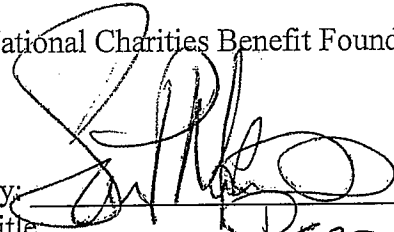
12. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent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

13. 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, Esquire
Prosecuting Attorney
Department of State

National Charities Benefit Foundation, Inc.

By: _____
Title: President
Respondent

DATED: 07-07-09

DATED: June 29, 2009



**IN THE MATTER OF
NATIONAL CHARITIES BENEFIT FOUNDATION, INC.
FILE NO. 09-98-05494**

ORDER

AND NOW, this 10th day of July, 2009, the terms of paragraph 6 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
Secretary of the Commonwealth