

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

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Department of State

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

vs.

Project Vote Smart,
Respondent

:
:
: Docket No. 0005-98-01
:
: File No. 01-98-01419
:
:
:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Bureau of Charitable Organizations ("Bureau") and Project Vote Smart ("Respondent") stipulate as follows in settlement of the above-captioned case:

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. At all relevant and material times, Respondent did not hold a registration to solicit charitable contributions within the Commonwealth of Pennsylvania.
3. The Respondent admits that the following facts are true:
 - a. Respondent's last known business address, as on file with the Department of State, is One Common Ground, Philipsburg, MT 59858.
 - b. At all relevant and material times, Respondent solicited charitable contributions in the Commonwealth of Pennsylvania.

c. On or about October 24, 1999, the Bureau received evidence that Respondent solicited charitable contributions in Pennsylvania.

d. On or about January 19, 2000, the Bureau sent Respondent a letter informing it of its registration requirements.

e. Because the Bureau did not receive a response to the January 19, 2000 letter, on or about February 25, 2000, it sent a follow-up letter requesting that Respondent contact the Bureau within seven days or a Cease and Desist Order would be issued.

f. On or about July 10, 2000, the Bureau sent Respondent a letter via certified mail, Article Number 7099 3400 0002 2095 3797, which included a copy of the solicitation that Respondent sent Commonwealth residents and requested that Respondent submit a list of all contributions received from Commonwealth residents.

g. Because the Bureau did not receive a response to the July 10, 2000 letter, on or about August 14, 2000, it sent a follow-up letter via certified mail, Article Number 7900 3400 0002 2095 5074, requesting that Respondent contact the Bureau by August 23, 2000 or a Cease and Desist Order would be issued.

h. Because Respondent did not respond to the Bureau's correspondence, on or about December 19, 2000, the Deputy Secretary issued a Cease and Desist Order against Respondent, via certified mail, Article Number 7000 0600 0024 5115 6018, directing it to cease and desist soliciting in Pennsylvania until such time as it became duly registered or provided the Bureau with evidence of exemption or exclusion from the requirements of the Act.

i. On or about December 26, 2000, Respondent received the letter, according to the stamp on Postal Service Form 3811 ("green card").

j. On or about February 6, 2001, the Secretary issued an Investigative Subpoena against Respondent, via certified mail, Article Number 7000 0600 0024 5115 5059, directing it to produce documents related to its solicitation of contributions in Pennsylvania.

k. On or about February 12, 2001, Respondent received the letter, according to the stamp on the green card.

l. Respondent has never responded to the Investigative Subpoena.

m. Despite the Cease and Desist Order, Respondent continued to solicit charitable contributions within the Commonwealth of Pennsylvania.

4. Respondent agrees that its actions, described above, violated the Act at 10 P.S. §162.15(a)(1) by soliciting charitable contributions without registering with the Bureau.

5. Respondent agrees that its actions, described above, violated the Act at 10 P.S. §162.15(a)(1) by soliciting charitable contributions after a Cease and Desist Order has been issued against it.

6. Respondent agrees that its actions, described above, violated the Act at 10 P.S. §162.17 by failing to comply with an investigative subpoena issued under 10 P.S. §162.16.

7. The participants 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 soliciting charitable contributions without registering with the Bureau.

b. Respondent violated the Act at 10 P.S. §162.15(a)(1) by soliciting charitable contributions after a Cease and Desist Order has been issued against Respondent.

c. Respondent violated the Act at 10 P.S. §162.17 by failing to comply with an investigative subpoena issued under 10 P.S. §162.16.

d. Respondent shall submit a completed registration statement along with any required supporting documentation to the Bureau within thirty (30) days of the date of the Secretary's Order adopting this Consent Agreement. Upon receipt of the administrative fine and completed registration statements, the Bureau will approve Respondent's registration to solicit charitable contributions in Pennsylvania.

e. Respondent shall maintain its registration with the Bureau and insure that its registration is current prior to the commencement of any charitable solicitations and otherwise comply with the requirements of the Act.

f. Respondent shall not represent directly or indirectly that by this Consent Agreement the Attorney General or Bureau of Charitable Organizations has sanctioned, condoned or approved any part or aspect of Respondent's activities. Respondent is jointly and severally liable to the Commonwealth of Pennsylvania, Bureau of Charitable Organizations, for payment of the total sum of \$2,000 upon the signing of this Consent Agreement, in the manner described below.

g. Respondent is permanently enjoined from directly or indirectly participating in any activities within the Commonwealth of Pennsylvania in violation of the Act.

h. Respondent shall pay an **ADMINISTRATIVE FINE** of two thousand dollars (\$2,000) by cashier's check, certified check, U.S. Postal money order or attorney's check, made payable to "Commonwealth of Pennsylvania." Respondent shall return the full administrative fine with the signed Consent Agreement.

i. Notification of a violation of the terms or conditions of this Consent Agreement and Order shall result in the imposition of additional penalties as follows:

i. The prosecuting attorney for the Bureau shall file with the Secretary a Petition which indicates that Respondent has violated the terms or conditions of this Consent Agreement and Order.

ii. Upon a probable cause determination that Respondent has violated any of the terms or conditions of this Consent Agreement and Order, the Secretary, or her designee, shall, without holding a formal hearing, issue a Preliminary Order, effective thirty (30) days after its mailing which imposes a sixty (60) day period of suspension on Respondent's registration to solicit charitable contributions.

iii. Respondent shall be notified of the Preliminary Order within three (3) days of its issuance by certified mail and first class mail postage prepaid, sent to the last registered address on file with the Bureau.

iv. Within fifteen (15) days of mailing of the notification of the Preliminary Order, Respondent may answer the Commonwealth's Petition, request that a formal hearing be convened

concerning Respondent's alleged violation of the Consent Agreement, and move that the period of suspension be stayed until the Secretary or her designee issues a final order. Respondent shall file all answers and subsequent filings with the Prothonotary for the Bureau of Charitable Organizations, 124 Pine Street, Suite 200, Harrisburg, PA 17101. Respondent shall serve the prosecuting attorney for the Commonwealth for the Bureau with a copy of the answer and all subsequent filings in this matter.

v. If Respondent moves for a stay of the period of suspension, Respondent shall set forth properly verified facts and/or state concisely the matter of law that the Respondent believes justifies a stay of the period of suspension. The Secretary or her designee shall issue a ruling on the Respondent's motion within fifteen (15) days from the date of the mailing of the notification of the Preliminary Order. If the Secretary or her designee makes no ruling on the Respondent's motion within the fifteen (15) days from mailing of the notification of the Preliminary Order, the Respondent's motion shall be deemed denied.

vi. If a request for a formal hearing is received from Respondent, a formal hearing shall be convened within forty-five (45) days from the date of the filing of Respondent's request for a formal hearing.

vii. The facts and averments in this Consent Agreement and Order shall be deemed admitted and uncontested at this hearing.

viii. If the Secretary, or her designee, after such hearing makes a determination adverse to Respondent, the Secretary, or her designee, will issue a Final Order imposing any disciplinary measures she deems appropriate. The Secretary, or her designee, may, but is not required to, take into account any period of active suspension already served by the Respondent pursuant to the Preliminary Order.

ix. If a request for a formal hearing is not received from Respondent within the prescribed fifteen (15) day period, the Preliminary Order shall become a Final Order.

x. Nothing in this 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; provided, however, the Bureau agrees to not re-open its investigation with regard to any Registration Statements on file with the Secretary as of the date of this Consent Agreement and Order unless the Bureau becomes aware of material facts or omission of material facts which have previously not been disclosed to it and would give it probable cause that other violations existed during such period of time which it failed to uncover in its previous investigation.

j. 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.

8. Respondent acknowledges receipt 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.

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.

10. Should the Deputy Secretary not approve this Consent Agreement, presentation to and consideration of this Consent Agreement and other documents and matters by the Deputy Secretary shall not prejudice the Deputy Secretary from further participation in the adjudication of this matter. This paragraph is binding on the participants even if the Deputy Secretary does not approve this Consent Agreement.

11. This Agreement contains the whole agreement between the participants. There are no other terms, obligations, covenants, representations, statements or conditions, or otherwise, of any kind whatsoever, concerning this Agreement.

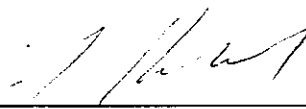
12. The parties acknowledge that other federal, state, and/or local agencies may have jurisdiction over the activities of, or representations made by, Respondent and its officers, directors, agents, employees or independent contractors. Nothing in this Consent Agreement or the Order based upon this Consent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

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.A. §4904 relating to unsworn falsification to authorities.



Andrew B. Kramer
Prosecuting Attorney
Bureau of Charitable Organizations

DATED: 7/23/01



Project Vote Smart,
Respondent

DATED:

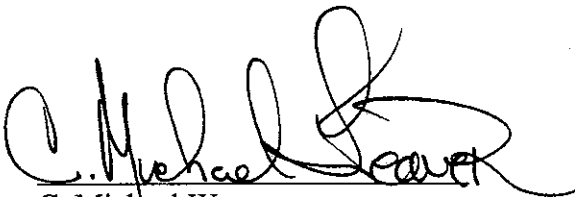


**IN THE MATTER OF THE
COMMONWEALTH OF PENNSYLVANIA
VS. PROJECT VOTE SMART, FILE NO. 01-98-01356**

ORDER

AND NOW, this 7th day of August, 2001, the terms of paragraph 7 of the foregoing Consent Agreement are hereby adopted and incorporated as the Order of the Deputy Secretary of the Commonwealth in resolution of this matter. This Order shall take effect immediately.

BY ORDER


C. Michael Weaver
Deputy Secretary of the Commonwealth