

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

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

v.

Christy Sheidy and Rick Sheidy t/d/b/a
Another Chance 4 Horses,
Respondents

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Docket No. 0004-98-14

File No. 13-98-10637

FINAL ADJUDICATION AND ORDER

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Department of State

Carol Aichele
Secretary of the Commonwealth

302 North Office Building
Harrisburg, PA 17120

HISTORY

This matter comes 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* (the “Act”), 10 P.S. §§162.1-162.24. On May 22, 2014, the Department of State (the “Department”), Bureau of Charitable Organizations (the “Bureau”) filed a four-count Order to Show Cause (“OTSC”) charging Respondents with several violations of the Act.

Specifically, Count One of the OTSC alleges that Respondents were requested to provide the Bureau certain documents and information pursuant to its periodic review of the activities of the charitable organization “Another Chance 4 Horses” (the “Organization”). The OTSC asserts that Respondents produced incomplete information in response to the requests and failed to respond to the Bureau’s subsequent requests for clarification and additional information. The Bureau, therefore, alleges that Respondents violated the Act at 10 P.S. § 162.12 by failing to make financial records available for inspection upon demand of the Department which, in turn, constituted a violation of the Act at 10 P.S. § 162.15(a)(1).

Count Two of the OTSC alleges that Respondents’ certificate of registration as a charitable organization expired on or about November 10, 2012. The OTSC asserts that Respondents continued to solicit charitable contributions in the Commonwealth after the expiration of the registration of Another Chance 4 Horses, in violation of 10 P.S. § 162.15(a)(1).

Count Three of the OTSC alleges that the Secretary issued an Order on August 26, 2013, directing Respondents to cease and desist from soliciting contributions in the Commonwealth until such time as Another Chance 4 Horses provided the Bureau with all previously requested information and until the organization became duly registered with the Bureau or had provided information confirming that it is exempt or excluded from registration under the Act. The OTSC further alleges that Respondents continued to solicit charitable contributions following the

issuance of the August 26, 2013 Order in violation of 10 P.S. § 162.15(a)(1).

Count Four of the OTSC alleges that Respondent, Rick Sheidy, served as President of Another Chance 4 Horses and that Respondent, Christy Sheidy, served as Secretary of the Organization. The OTSC further asserts that Rick Sheidy and Christy Sheidy obtained funds from the bank account(s) of Another Chance for Horses for their own personal use in violation of their fiduciary duties and in violation of the Act at 10 P.S. § 162.13 by failing to apply contributions in a manner substantially consistent with the Organization's charitable purpose.

Respondents filed an Answer to the OTSC on June 23, 2014, through which they essentially denied the allegations set forth within the Order to Show Cause based, in great part, upon the assertion that the Federal Internal Revenue Service had confiscated their financial records. Respondents were notified that a formal administrative hearing on this matter was scheduled for September 12, 2014 by way of a Notice of Hearing issued on June 24, 2014 and sent to Respondents at their last known address, 166 Station Road, Bernville, PA 19506. A formal administrative hearing was held on September 12, 2014, as scheduled. T'rese M. Eyancho, Esquire represented the Commonwealth. Respondents did not appear at the hearing. At the Hearing, the hearing Examiner granted the Commonwealth's oral motion to amend the caption of the case to *Commonwealth of Pennsylvania, Bureau of Charitable Organizations v. Christy Sheidy and Rick Sheidy, t/d/b/a Another Chance 4 Horses*, Docket No. 0004-98-14, File No. 13-98-10637. The Commonwealth waived the filing of a post-hearing brief. The record closed September 26, 2014, with the filing of notes of testimony ("N.T.").

FINDINGS OF FACT

1. This case comes before the Secretary of the Commonwealth 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, *et. seq.*

2. Respondents' last known address is 166 Station Road, Bernville, Pennsylvania 19506. (Official Notice-Bureau Records).¹

3. Respondents' certificate to operate as a charity expired on or about November 10, 2012, for failing to submit to the Bureau the appropriate documentation for fiscal year ending December 31, 2011. (Official Notice-Bureau Records; Exhibit C-2; N.T. 19).

4. Prior to November 10, 2012, Another Chance 4 Horses was properly registered as a charitable Organization with the Pennsylvania Department of State, Bureau of Corporations and Charitable Organizations, and held certificate number 32200 issued by the Bureau. (Official Notice-Bureau Records; Exhibit C-2; N.T. 12).

¹ Official notice of such matters as might be judicially noticed by courts is permissible under the General Rules of Administrative Practice and Procedure, 1 Pa. Code §31.1 *et. seq.*, at §35.173, which provides, in pertinent part, as follows:

§35.173. Official notice of facts.

Official notice may be taken by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or any matters as to which the agency by reason of its functions is an expert. . . .

1 Pa. Code §35.173.

Official notice is also permitted under case law. *See, for example, Falasco v. Commonwealth of Pennsylvania Board of Probation and Parole*, 521 A. 2d 991 (Pa. Cmwlth. 1987), in which the Commonwealth Court explained:

“Official notice” is the administrative counterpart of judicial notice and is the most significant exception to the exclusiveness of the record principle. The doctrine allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency’s field and those facts contained in reports and records in the agency’s files, in addition to those facts which are obvious and notorious to the average person. Thus, official notice is a broader doctrine than is judicial notice and recognizes the special competence of the administrative agency in its particular field and also recognizes that the agency is a storehouse of information on that field consisting of reports, case files, statistics and other data relevant to its work.

521 A. 2d at 994 n. 6.

5. On or about January 11, 2012, Special Investigator, Drew A. Koser ("Special Investigator Koser"), sent Respondents a letter on behalf of the Bureau informing them that the Bureau was conducting a periodic review of Another Chance 4 Horses. The letter also requested that Respondents provide the Bureau with the various types of documents set forth in the correspondence related to the period January 1, 2009 through December 31, 2011. (Exhibit C-1; N.T. 14-16).

6. The January 11, 2012 correspondence was mailed to Respondents' last known address via regular and certified mail. (N.T. 45).

7. Respondents failed to provide any information for 2010 and 2011 responsive to the January 11, 2012 request. (N.T. 16).

8. Respondents produced some documents in response to the January 11, 2012 request, consisting of 2009 bank statements, withdrawals from a PayPal account, some yearly Board of Directors' minutes from 2009, and the Organization's bylaws and articles of incorporation. (N.T. 17).

9. Special Investigator Koser obtained documents from Respondents' bank, Respondents' PayPal account and from the Organization's bank through the issuance of subpoenas. (N.T. 18).

10. A comparison of the documents obtained by Special Investigator Koser through the subpoenas, and the documents produced by Respondents revealed that Respondents did not provide Special Investigator Koser with documents and information responsive to the January 11, 2012 correspondence, including documents disclosing contributions donated to Another Chance 4 Horses; information pertaining to debit card usage from Respondents' PayPal account; and the Organization's 2010 and 2011 cancelled checks and deposit details. (N.T. 18).

11. By Order dated August 26, 2013, the Secretary ordered Respondents to cease and

desist from soliciting contributions in the Commonwealth until such time as Respondents/Another Chance 4 Horses provided the Bureau with all previously requested information and until the Organization became duly registered with the Bureau, or had provided information confirming that the organization is exempt or excluded from registration under the Act. (Official Notice-Bureau Records; Exhibit C-3; N.T. 19).

12. Respondents were served with the August 26, 2013 Cease and Desist Order by regular and certified mail sent to Respondents' last known address with the Bureau. Although service by certified mail was returned to the Bureau, the copy sent by regular mail was not returned to the Bureau as not having been delivered. (N.T. 20).

13. Respondents continued to solicit contributions in the Commonwealth after having been served with the Secretary's Cease and Desist Order and after the registration for Another Chance 4 Horses had expired. (Exhibit C-4; N.T. 21-25).

14. Respondents submitted IRS Form 990 to the Bureau on behalf of Another Chance 4 Horses for calendar year 2010 as part of Respondents' application and certificate renewal materials. The Form 990 was signed by Respondent, Christy Sheidy. (Exhibit C-5; N.T. 25-27).

15. Respondents are identified as Officers and Directors of Another Chance 4 Horses on Respondents' IRS Form 990. Specifically, the Form identifies Respondent, Rick Sheidy, as the President of the Organization, and identifies Respondent, Christy Sheidy, as the Secretary of the Organization. (Exhibit C-5; N.T. 27).

16. The IRS Form 990 indicates that Respondents did not receive any compensation from Another Chance 4 Horses. (Exhibit C-5; N.T. 28).

17. The IRS Form 990 indicates that Last Chance 4 Horses did not own any land, buildings, equipment or other assets. (Exhibit C-5; N.T. 29).

18. Cancelled checks from the bank account of Another Chance 4 Horses obtained by

Special Investigator Koser through a subpoena show that Respondent, Rick Sheidy, received payment in the aggregate amount of \$21,700.00, and that Respondent, Christy Sheidy, received a payment in the amount of \$750.00 from the account of Another Chance 4 Horses in 2010. (Exhibit C-6; N.T. 30-33).

19. The memoranda portions of many of the checks indicate that payment was made for "hauling" and/or "transport fees." (Exhibit C-6; N.T. 30-33).

20. Respondents were authorized to sign checks on behalf of Another Chance 4 Horses. (N.T. 32).

21. During an interview with Investigator Koser on August 23, 2010, Respondent, Christy Sheidy, admitted to having paid property taxes for her home from the account of Another Chance 4 Horses by writing checks to the Berks County Tax Claim Bureau and to the Tax Collector. (Exhibit C-10; N.T. 32-36).

22. During an interview with Investigator Koser on August 23, 2010, Respondent, Christy Sheidy, admitted to having made home mortgage payments from the account of Another Chance 4 Horses. (Exhibit C-7; Exhibit C-8; N.T. 36-38).

23. During an interview with Investigator Koser on August 23, 2010, Respondent, Christy Sheidy, admitted to having made payments for a time-share apartment in Orlando, Florida from the account of Another Chance 4 Horses. (Exhibit C-8; N.T. 39-41).

24. During her August 23, 2010 interview with Investigator Koser, Respondent Christy Sheidy asserted that Another Chance 4 Horses had purchased the Florida time-share apartment as a means by which to raise funds through raffles or by renting the unit. However, Respondent stated that no such efforts were made, and that she and her family had used the unit on at least two occasions. (Exhibit C-8; N.T. 40-41).

25. During her August 23, 2010 interview with Investigator Koser, Respondent,

Christy Sheidy, initially denied that she and her husband had received payments from Another Chance 4 Horses; that Respondents had paid property taxes and made mortgage payments from the account of Another Chance 4 Horses; or that they stayed at the Florida time-share apartment for personal use. However, she conceded to having made and received such payments when confronted with documentary evidence during the interview. (N.T. 29-41).

26. On or about July 17, 2009, Respondents deposited an aggregate amount of \$560.00 into their personal bank account, consisting of seven (7) checks made payable to Another Chance 4 Horses. (Exhibit C-9; N.T. 42-43).

27. On or about July 20, 2009, Respondents deposited an aggregate amount of \$497.00 into their personal bank account, consisting of two checks made payable to Another Chance 4 Horses. (Exhibit C-9; N.T. 42-43).

28. Respondents were served with all pleadings, orders and notices filed of record in this matter. (Official Notice-Bureau Records).

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter. (Section 4 of the Act, 10 P.S. § 162.4)
2. Respondents have received notice of the charges and an opportunity to be heard in this proceeding in accordance with Administrative Agency Law, 2 Pa.C.S. § 504. (Finding of Fact No. 28)
3. Respondents are subject to disciplinary action under section 15(a)(1) of the Act, 10 P.S. §162.15(a)(1), by failing to provide information requested by the Bureau in violation of 10 P.S. § 162.12. (Findings of Fact Nos. 5-10).
4. Respondents are subject to disciplinary action under section 15(a)(1) of the Act, 10 P.S. §162.15(a)(1), by soliciting contributions in the absence of an approved registration in violation of 10 P.S. § 162.5(a).
5. Respondents are subject to disciplinary action under section 15(a)(1) of the Act, 10 P.S. §162.15(a)(1), by soliciting contributions in violation of the Secretary's August 26, 2013 Order. (Finding of Fact No. 13).
6. Respondents are subject to disciplinary action under section 15(a)(1) of the Act, 10 P.S. §162.15(a)(1), by failing to apply contributions in a manner substantially consistent with the charitable purpose of Another Chance 4 Horses as fiduciaries of the Organization, in violation of 10 P.S. § 162.13 and 10 P.S. § 162.21. (Findings of Fact, Nos. 14-27).

DISCUSSION

This matter comes before the Secretary of the Commonwealth pursuant to the Solicitation of Funds for Charitable Purposes Act, Act of December 19, 1990, P.L. 1200, No. 202, *as amended* (the "Act"), 10 P.S. §§162.1-162.24. On May 22, 2014, the Department of State, Bureau of Charitable Organizations filed a four-count Order to Show Cause charging Respondents with several violations of the Act.

The Bureau's evidence consisted of testimony from Drew Koser, a Special Investigator with Bureau, and the admission into evidence of ten exhibits consisting of the following:

- (1) January 11, 2012 periodic review record request (Exhibit C-1)
- (2) September 9, 2014 Certificate and Attestation as to Another Chance 4 Horses certificate expiration (Exhibit C-2)
- (3) Secretary's August 26, 2013 Cease and Desist Order (Exhibit C-3)
- (4) Another Chance 4 Horses website solicitations (Exhibit C-4)
- (5) Another Chance 4 Horses 2010 IRS Form 990 (Exhibit C-5)
- (6) Checks written from Another Chance 4 Horses account made payable to Respondents (Exhibit C-6)
- (7) Another Chance 4 Horses bank statements annotating Another Chance 4 Horses account activity from June 2, 2010 through June 9, 2010 (Exhibit C-7)
- (8) Another Chance 4 Horses bank statements annotating account activity from June 15, 2010 through June 15, 2010 through December 20, 2010 (Exhibit C-8)
- (9) Bank statements and deposit detail for Respondents, Rick and Christy Sheidy from June 27, 2009 through July 27, 2009 (Exhibit C-9)
- (10) Checks made out to Another Chance 4 Horses and deposit tickets of Respondents, Rick and Christy Sheidy (Exhibit C-10).²

Respondents did not appear at the hearing and thus did not offer any evidence. Any exhibits attached to the Answer were not admitted, as Respondents were not present to give testimony and seek admission of those exhibits into the record, as well as be cross-examined on the allegations contained therein.

² By Order dated September 12, 2014, Exhibits C-6 through C-10 were sealed due to confidential information contained therein.

VIOATIONS

The degree of proof required to establish a case before an administrative tribunal is a preponderance of the evidence. A litigant must satisfy its burden of proof with evidence that is substantial and legally credible, not with mere “suspicion” or by only a “scintilla” of evidence. *Lansberry v. Pennsylvania Public Utility Commission*, 578 A. 2d 600 (Pa. Cmwlth. 1990). A litigant’s burden of proof before administrative tribunals is satisfied by establishing a preponderance of evidence which is substantial and legally credible. *Id.* at 601-602.

Count One

The issue to be addressed under Count One of the OTSC is whether Respondents failed to make financial records available for inspection upon demand of the Department of State in violation of the Act at 10 P.S. §§ 162.12 and 162.15(a)(1). Section 162.12 of the Solicitation of Funds for Charitable Purposes Act provides in pertinent part:

§162.12. Records to be kept by charitable organizations, professional fundraising counsels and professional solicitors; inspection; retention
Every charitable organization...subject to the provisions of this act shall, in accordance with the rules and regulations prescribed by the department, keep true fiscal records as to its activities in this Commonwealth as may be covered under this act, in such form as will enable them accurately to provide the information required under this act. Such records shall be made available for inspection upon demand by the department or the Office of Attorney General... Such records shall be maintained for a period of at least three years after the end of the period of registration to which they relate.³

10 P.S. § 162.12.

Section 162.17 of the Solicitation of Funds for Charitable Purposes Act provides in pertinent part:

§162.17. Administrative enforcement and penalties

(a) General rule. —The secretary may refuse to register or revoke or suspend the registration of any charitable Organization, professional fundraising counsel or professional solicitor whenever he finds that a charitable Organization,

³ The “department” refers to the Department of State of the Commonwealth. See 10 P.S. § 162.3.

professional fundraising counsel or professional solicitor, or an agent, servant or employee thereof:

(1) Has violated or is operating in violation of any of the provisions of this act, the regulations of the department, or an order issued by the secretary.

(2) Has refused or failed or any of its principal officers has refused or failed, after notice, to produce any records of such Organization or to disclose any information required to be disclosed under this act or the regulations of the department.

The uncontroverted evidence shows that the Bureau, through Special Investigator Drew A. Koser, sent Respondents a letter on January 11, 2012 informing them that the Bureau was conducting a periodic review of Another Chance 4 Horses. The January 11, 2012 correspondence requested that Respondents provide the Bureau with various types of documents and information related to the financial transactions of Another Chance 4 Horses, including but not limited to, the donations it had received, its income, expenses, organizational structure and other information for the period January 1, 2009 through December 31, 2011, as particularly set forth in the correspondence. The letter was sent to Respondents via certified and regular mail at Respondents' last known address and, therefore, is found to have been properly served upon Respondents.⁴

Respondents failed to provide any information responsive to the January 11, 2012 request for 2010 and 2011. However, Respondents produced some documents pertaining to the Organization's 2009 operations consisting of 2009 bank statements, withdrawals from a PayPal account, some yearly Board of Directors' minutes from 2009, and the Organization's bylaws and articles of incorporation. In light of the paucity of documents received directly from Respondents, Investigator Koser issued subpoenas to the Organization's bank, Respondents'

⁴ See, *Kobylski v. Milk Marketing Board*, 516 A.2d 75 (Pa. Cmwlth. 1986)(citing *Yarbrough v. Department of Public Welfare*, 478 A.2d 956 (Pa. Cmwlth. 1984)(notice of administrative action mailed to interested party's last known address constitutes reasonable notice).

bank and to Respondents' PayPal account in order to obtain additional information regarding the Organization's financial activities.

A comparison of the documents obtained by Investigator Koser through the subpoenas, and the documents produced by Respondents reveal that Respondents did not provide Investigator Koser with many of the documents requested through the January 11, 2012 correspondence. Specifically, Respondents failed to produce documents, including but not limited to, those disclosing the contributions donated to Another Chance 4 Horses, documents pertaining to debit card usage from Respondents' PayPal account, and documents pertaining to the Organization's and Respondents' 2010 and 2011 cancelled checks and bank deposits. Based upon Respondents' foregoing omissions, the Bureau has established Respondents' violations of the Act at 10 P.S. § 162.12 and, therefore, at §162.15(a)(1) by a preponderance of the evidence.

Counts Two and Three

At issue through Counts Two and Three of the OTSC is whether Respondents violated the Act at 63 P.S. § 162.15(a)(1) by continuing to solicit contributions on behalf of Another Chance 4 Horses in the absence of an approved registration, and/or by continuing to solicit contributions after having been ordered to cease and desist from such activities by the Secretary on August 26, 2013. 10 P.S. § 162.15 provides, in pertinent part:

§ 162.15. Prohibited Acts.

(a) General rule.—Regardless of a person's intent or the lack of injury, the following acts and practices are prohibited in the planning, conduct or execution of any solicitation or charitable sales promotion:

- (1) Operating in violation of, or failing to comply with, any of the requirements of this act, regulations of the department or an order of the secretary, or soliciting contributions after registration with the department has expired or has been suspended or revoked or soliciting contributions prior to the solicitation notice and contract having been approved by the department.

10 P.S. § 162.15(a)(1).

The requirement for a charitable organization to be registered with the Department prior to solicitation of contributions is found at 10 P.S. § 162.5(a):

§ 162.5. Registration of charitable organizations; financial reports; fees; failure to file

(a) Registration and approval required. – A charitable organization, unless exempted from registration requirements pursuant to section 6, shall file a registration statement with the department. This statement must be refiled annually within 135 days after the close of its fiscal year in which the charitable organization was engaged in solicitation activities. The department shall review the statement pursuant to subsection (r). No charitable organization shall solicit contributions or have contributions solicited in its behalf before approval of its registration statement by the department.

“Solicitation” is defined by the Act at 10 P.S. § 162.3 as the following:

Solicitation. Any direct or indirect request for a contribution on the representation that such contribution will be used in whole or in part for a charitable purpose, including, but not limited to, any of the following:

- (1) Any written or otherwise recorded or published request that is mailed, sent, delivered, circulated, distributed, posted in a public place or advertised or communicated by press, telegraph, television or any other media...

10 P.S. § 162.3.

Bureau records establish that the Organization’s registration to operate as a charity expired on or about November 10, 2012. The record equally establishes that by Order dated August 26, 2013, the Secretary ordered Respondents to cease and desist from soliciting contributions in the Commonwealth until such time as Respondents/Another Chance 4 Horses provided the Bureau with all previously requested information and until the Organization became duly registered with the Bureau, or had provided information confirming that it is exempt or excluded from registration under the Act. Respondents were properly served with the August 26, 2013 Cease and Desist Order by regular mail sent to Respondents’ last known address with the

Bureau. See, *Kobylski v. Milk Marketing Board*, 516 A.2d 75 (Pa. Cmwlth. 1986), *infra*.

Despite the expiration of the Organization's registration, and the issuance of the Secretary's cease and desist Order, the record demonstrates that Respondents continued to solicit contributions on behalf of Another Chance 4 Horses after August 26, 2013. Specifically, investigator Koser established at the hearing that Respondents continued to solicit contributions on the internet on October 28, 2013, January 23, 2014, and recently as September 5, 2014. Respondents' internet solicitations identify Another Chance 4 Horses as a non-profit 501c(3) corporation; some display a Pennsylvania charitable registration certificate number; identify the Organization's purpose; request monetary contributions and specify methods of payment.

Based upon Investigator Koser's testimony and the supporting documentation of record, the Bureau has established by a preponderance of the evidence that Respondents violated the Act at 10 P.S. § 162.15(a)(1) by continuing to solicit contributions on behalf of Another Chance 4 Horses after the Organization's certificate of registration had expired *and* after being ordered to cease and desist from such activities by the Secretary of the Commonwealth. Therefore, counts two and three are also sustained.

Count Four

At issue through Count Four of the OTSC is whether Respondents violated the Act at 10 P.S. § 162.21 and at 10 P.S. § 162.13 by failing to apply contributions in a manner substantially consistent with the charitable purpose of Another Chance 4 Horses. The Act at 10 P.S. § 162.13(a) provides:

10 P.S. § 162.13. Limitation on activities of charitable organizations; disclosure requirements

(a) Solicitation limitation.—A charitable organization may only solicit contributions for the charitable purpose expressed in solicitation for contributions

or the registration statement of the charitable Organization and may only apply contributions in a manner substantially consistent with that purpose.

10 P.S. § 162.13(a). In turn, 10 P.S. § 162.21 provides:

10 P.S. § 162.21. Charitable Organizations deemed fiduciary

Every person soliciting, collecting or expending contributions for charitable purposes and every officer, director, trustee, and employee of any such person concerned with the solicitation, collection or expenditure of such contribution shall be deemed to be a fiduciary and acting in a fiduciary capacity.

10 P.S. § 162.21.

In this case, the record is replete with examples of Respondents' self-dealings for personal gain at the Organization's expense in violation of their fiduciary duties. Respondents submitted IRS Form 990 to the Bureau on behalf of Another Chance 4 Horses for calendar year 2010 as part of their application and certificate renewal materials. Respondents identified themselves as Officers and Directors of Another Chance 4 Horses within IRS Form 990. Specifically, the Form identifies Respondent, Rick Sheidy, as the President of the Organization, and identifies Respondent, Christy Sheidy, as the Secretary of the Organization. By virtue of being Officers and Directors of the Organization, Respondents are deemed to be fiduciaries of Another Chance 4 Horses pursuant to 10 P.S. § 162.21.

Respondents were the individuals authorized to sign checks on behalf of Another Chance 4 Horses. Twenty-two (22) cancelled checks drawn from the checking account of Another Chance 4 Horses show that Respondent, Rick Sheidy, received payments in 2010 ranging in amounts from \$100.00 to \$2,450.00, for an aggregate amount of \$21,700.00. Although the memoranda portions of many of the checks indicate that payment was made for "hauling" and/or "transport fees," many of the memoranda sections of the checks are blank, are illegible and/or are apparently unrelated to the Organization. A check drawn from the checking account of Another Chance 4 Horses additionally shows that Respondent, Christy Sheidy, received

payment in the amount of \$750.00 on February 1, 2010. The memorandum section of the check similarly fails to demonstrate that the payment was related to the Organization.

Irrespective of the memoranda annotations on the checks however, IRS Form 990 submitted by Respondents affirmatively represents that neither Respondent received any compensation from Another Chance 4 Horses. In light of Respondents' official and legally binding representations set forth in IRS Form 990, and the absence of any information on checks regarding the purpose of many of the aforementioned payments, the Secretary concludes that Respondents received payments from the account of Another Chance 4 Horses which were not consistent with the charitable purpose of the Organization.

The record also demonstrates that Respondent, Christy Sheidy, admitted to having paid property taxes for her home from the account of Another Chance 4 Horses during an interview with Investigator Koser. Respondent, also admitted to Investigator Koser that Respondents had paid property taxes and made mortgage payments on their home from the account of Another Chance 4 Horses. During the same interview, Respondent similarly admitted to having made payments for a time-share apartment in Orlando, Florida from the account of Another Chance 4 Horses. Respondent informed Investigator Koser that Another Chance 4 Horses had purchased the Florida time-share apartment as a means by which to raise funds through raffles or by renting the unit. However, Respondent stated that no such efforts were ever made, and that she and her family had used the unit on at least two occasions.

The record also shows that Respondents deposited seven checks made payable to Another Chance 4 Horses into the Sheidy's personal bank account on or about July 17, 2009. The aggregate amount of the deposits was \$560.00. On or about July 20, 2009, Respondents also deposited the aggregate amount of \$497.00 into their personal bank account, comprising of two

checks made payable to Another Chance 4 Horses. Based on the foregoing evidence, the Secretary finds that the Bureau has established that Respondents violated the Act at 10 P.S. § 162.13 and 10 P.S. § 162.21, in that the Sheidys, who were officers and fiduciaries of Another Chance 4 Horses, failed to apply contributions in a manner substantially consistent with the charitable purpose of the Organization.

Sanction

When the Secretary finds that a charitable organization or any agent, servant or employee thereof person has violated any of the provisions of the Act, the Secretary is authorized to enforce the Act against such person pursuant to Section 17 of the Act, 10 P.S. § 162.17.⁵ Section 17 provides, among other things, for the issuance of an order refusing to register a charitable organization or directing that the person or organization cease and desist specified fundraising activities. See Section 17(a) and (b)(2) of the Act, 10 P.S. § 162.17(a) and (b)(2).

⁵ § 162.17. Administrative enforcement and penalties

(a) General rule. - The secretary may refuse to register or revoke or suspend the registration of any charitable organization, professional fundraising counsel or professional solicitor whenever he finds that a charitable organization, professional fundraising counsel or professional solicitor, or an agent, servant or employee thereof:

(1) Has violated or is operating in violation of any of the provisions of this act, the regulations of the department, or an order issued by the secretary.

(2) Has refused or failed or any of its principal officers has refused or failed, after notice, to produce any records of such organization or to disclose any information required to be disclosed under this act or the regulations of the department.

(3) Has made a material false statement in an application, statement or report required to be filed under this act.

(b) Additional actions. - When the secretary finds that the registration of any person may be refused, suspended or revoked under the terms of subsection (a), the secretary may:

(1) Revoke a grant of exemption to any of the provisions of this act.

(2) Issue an order directing that the person cease and desist specified fundraising activities.

(3) Impose an administrative fine not to exceed \$1,000 for each act or omission which constitutes a violation of this act and an additional penalty, not to exceed \$100 for each day during which such violation continues. Registration will be automatically suspended upon final affirmation of an administrative fine until the fine is paid or until the normal expiration date of the registration. No registration shall be renewed until the fine is paid.

The Act also authorizes the imposition of an administrative fine not to exceed \$1,000.00 for each act or omission which constitutes a violation of the Act, and an additional penalty, not to exceed \$100.00 for each day during which such violation continues. Section 17(b)(3) of the Act, 10 P.S. § 162.17(b)(3).

Respondents' actions are particularly serious in that they repeatedly disregarded the provisions of the Act requiring Last Chance 4 Horses to cease making charitable solicitations after the expiration of its registration and, perhaps most egregiously, after being ordered to do so by the Secretary. The registration requirements of the Act, as well as the Act's other provisions, are specifically designed to protect the public from unscrupulous organizations which prey upon the general public under the guise of pursuing charitable endeavors. In this case, Respondents clearly betrayed the trust and confidence of donors who believed they were contributing to the stated purpose of the Organization but, in actuality, were funding Respondents' private interests.

The Commonwealth recommends that Another Chance 4 Horses pay a \$5,000.00 fine, be ordered to cease and desist from acting as a charity in the Commonwealth, and that Another Chance 4 Horses be permanently barred from acting as a charitable organization in the Commonwealth. Based upon the nature and scope of Respondents' conduct, the Secretary believes many of the Commonwealth's recommendations are reasonable. However, a permanent bar to registration with the Bureau is deemed not appropriate. Respondent shall be barred from registration as a charitable organization and thus acting as a charitable organization in the Commonwealth for a period commensurate to that which it solicited contributions after its registration expired. Should Respondents continue to fail to comply with the Act and/or this Order, they may be subject to further action under Section 17(b)(3) of the Act, 10 P.S. § 162.17. Accordingly, the following order shall issue:

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

Commonwealth of Pennsylvania,
Bureau of Charitable Organizations

v.

Christy Sheidy and Rick Sheidy t/d/b/a
Another Chance 4 Horses,
Respondents

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Docket No. 0004-98-14

File No. 13-98-10637

ORDER

AND NOW, this 6 day of January, 2015, upon consideration of the foregoing findings of fact, conclusions of law and discussion, Respondents and **Another Chance 4 Horses** are **ORDERED** to **CEASE AND DESIST** from soliciting contributions in the Commonwealth of Pennsylvania. The Secretary of the Commonwealth further **ORDERS** that an administrative fine in the amount of \$5,000.00 be imposed upon **Another Chance 4 Horses**. It is further ordered that no registration and/or registration renewal shall be accepted on behalf of **Another Chance 4 Horses** for a period of **TWO YEARS** from the effective date of this Order. No registration will be granted without payment in full of the administrative fine and compliance with all registration requirements.

Additionally, Respondents may be subject to administrative fines of up to \$1,000.00 per violation and \$100.00 for each day the violation continues, and failure to comply with this Order shall constitute a violation of an order issued by the Secretary, subjecting Respondents to additional penalties under Section 17 of the Act, 10 P.S. § 162.17.

An appeal may be taken pursuant to Section of the Act 17(c), 10 P.S. § 162.17(c), and 2 Pa. C.S. § 702, within 30 days of the date of mailing of this Adjudication and Order as indicated below.

BY ORDER



Carol Aichele
Secretary of the Commonwealth

For the Commonwealth:

T'rese M. Evancho, Esquire
GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF STATE OFFICE OF CHIEF COUNSEL
PROSECUTION DIVISION
P.O. Box 2649
Harrisburg, PA 17105-2649

For Respondents:

Christy Sheidy and Rick Sheidy
166 Station Road
Bernville, PA 19506

Date of mailing:

January 6, 2015

NOTICE

The attached Adjudication and Order represents the final agency decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a Petition for Review with that Court within 30 days after the entry of the order in accordance with the Pennsylvania Rules of Appellate Procedure. See Chapter 15 of the Pennsylvania Rules of Appellate Procedure entitled "Judicial Review of Governmental Determinations," Pa. R.A.P 1501 – 1561. Please note: An order is entered on the date it is mailed. If you take an appeal to the Commonwealth Court, you must serve the Secretary of the Commonwealth with a copy of your Petition for Review. The agency contact for receiving service of such an appeal is:

Pennsylvania Department of State
Office of Chief Counsel
Legal Counsel, Bureau of Corporations and Charitable Organizations
401 North Street
Room 301
Harrisburg, PA 17120