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

PROTHONOTARY

Commonwealth of Pennsylvania,	:	
Bureau of Charitable Organizations	:	
	:	**Docket No. 0010-98-04**
	:	**File No. 2004-98-04572**
vs.	:	
	:	
	:	
Tele-Data Services, Inc.,	:	
Respondent	:	

FINAL ADJUDICATION AND ORDER

Pedro A. Cortés
Secretary of the Commonwealth

302 North Office Building
Harrisburg, PA 17120
(717) 787-6458

HISTORY

This case comes before the Secretary of the Commonwealth (Secretary) to determine whether Tele-Data Services, Inc. (Respondent) is subject to discipline under the Solicitation of Funds for Charitable Purposes Act (Act), the Act of December 19, 1990, P.L. 1200, No. 202 §§ 1-23 as amended, 10 P.S. §§ 162.1-162.24.

On September 3, 2004, the Commonwealth filed an Order to Show Cause (OSC) setting forth allegations that Respondent violated multiple sections of the Act. Specifically, Respondent was charged with four counts of violating Sections 162.15(a)(1), 162.9(e), 162.12 and 162.16(f). These four counts primarily address performing professional solicitor services without an approved contract and not producing records for inspection to the Bureau of Charitable Organizations upon demand.

The prosecuting attorney served the OSC upon the Respondent by mailing one copy via certified mail and one copy by first class mail, postage prepaid. While the copy mailed by certified mail was returned because it had apparently been incorrectly addressed, the copy mailed via first class mail, postage prepaid was not returned. The returned copy was resent via certified mail to the address identified in the Certificate of Service to the Respondent and directed the Respondent to file an answer thereto within thirty days of its date or no later than October 3, 2004. The Respondent was given thirty additional days from the date Respondent received the OSC. Respondent received the OSC on October 25, 2004 as evidenced by Postal Form 3811 and thus, Respondent had until November 24, 2004 to file an Answer to the OSC. The Respondent failed to file an Answer.

On November 30, 2004, the Respondent had not filed an Answer to the OSC and the prosecuting attorney filed a Motion to Enter Default and Deem Facts Admitted (MDFA). This

Adjudication and Order is being issued pursuant to the Order granted by the Secretary on December 2, 2004, in which the Secretary deemed the facts admitted and the Respondent in default. The Order noted that an Adjudication and Order, including disciplinary sanctions and penalties, would be forthcoming if the Respondent's answer was not received on or before December 17, 2004.

FINDINGS OF FACT

1. The Respondent is a professional solicitor whose last known address is 6201 East 43rd Street, Tulsa, OK 74135. (OSC ¶¶ 2,3)
2. For all relevant and material times, Respondent was a registered professional solicitor known as Tele-Data Services, Inc., registration number 18062, but failed to renew its registration. (OSC ¶ 2)
3. Respondent performed solicitor services for International Christian Media ("ICM"), which is a charitable organization registered with the Bureau, Registration No. 19381. (OSC ¶¶ 5,6)
4. Respondent performed the solicitor services for ICM pursuant to a written contract between Respondent and ICM effective January 31, 2002 through January 31, 2003. (OSC ¶6)
5. On September 3, 2004, the Commonwealth filed an OSC setting forth allegations that the Respondent violated multiple sections of the Act. (MDFA ¶1) These four violations primarily address conducting professional solicitor services absent an approved contract by the Bureau (Sections 162.9(e) and 162.15(a)(1)) and not producing records for inspection to the Bureau upon demand or an Investigative Subpoena (Sections 162.12 and 162.16(f))
6. Pursuant to the Certificates of Service attached to the OSC, the Commonwealth served the OSC upon the Respondent by mailing one copy via certified mail and one copy first

class mail, postage prepaid, to the Respondent at the following address: 6201 East 43rd Street, Tulsa, OK 74135. (MDFA ¶¶¶ 2, 4, 5)

7. The Respondent received the OSC as evidenced by Postal Form 3811, Article #7000 0600 0024 1876 4775, on October 25, 2004. (MDFA ¶6)
8. The OSC directed the Respondent to file an Answer within thirty (30) days of its date. (MDFA ¶ 7)
9. Thirty (30) days from the date of the OSC expired on October 3, 2004. The Respondent was given thirty (30) additional days from the date the Respondent received the certified copy on October 25, 2004. The time to respond expired on November 24, 2004. (MDFA ¶ 8)
10. As of the date of the MDFA was filed on December 2, 2004, the Respondent had not filed an Answer to the OSC. (MDFA ¶ 9)
11. The Adjudication and Order is filed pursuant to the Order granted by the Secretary on December 2, 2004, in which the Secretary deemed the facts admitted and the Respondent in default.

CONCLUSIONS OF LAW

1. The Bureau has jurisdiction in this matter. (Finding of Fact no. 2)
2. Respondent received notice of the charges against it and has been given the opportunity to be heard in this proceeding in accordance with Administrative Agency Law, 2 Pa.C.S. § 504. (Findings of Fact nos. 5-10)
3. Respondent violated Sections 162.15(a)(1), 162.9(e), 162.12 and 162.16(f) because it: 1) conducted professional solicitor services absent an approved contract; 2) failed to submit the Solicitation Campaign/Event Financial Report within ninety (90) days after the solicitation campaign was complete; 3) failed to renew its registration as a professional solicitor when it expired; and 4) failed to produce records for inspection to the Bureau upon demand or upon an Investigative Subpoena. (Finding of Fact no. 10)

DISCUSSION

This case is brought before the Secretary of the Commonwealth pursuant to Sections 162.15(a)(1), 162.9(e), 162.12 and 162.16(f) which provide in pertinent part as follows:

§ 162.15(a)(1) 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.

§ 162.9(e) Registration of professional solicitors; contract and disclosure requirements; bonds; records; books

(e) Contract filing.--No less than ten working days prior to the commencement of each solicitation campaign, event or services, a professional solicitor shall file with the department a copy of the contract described in subsection (f) and a written solicitation notice. No solicitation or services pursuant to the contract shall begin before the department has approved the contract pursuant to subsection (g). The solicitation notice shall be accompanied by a fee of $25 and shall be signed and sworn to by the authorized contracting officer for the professional solicitor. If more than one event or campaign is conducted under a contract, then a solicitation notice addendum must be filed no less than ten working days prior to the commencement of each additional event or campaign. No additional fee is required to file the addendum. The solicitation notice and addendum shall contain all of the following information:

(1) A description of the solicitation event or campaign.

(2) Each location and telephone number from which the solicitation is to be conducted.

(3) The legal name and resident address of each person responsible for directing and supervising the conduct of the campaign and each person who is to solicit during such campaign.

(4) A statement as to whether the professional solicitor will at any time have custody or control of contributions.

(5) The account number and location of each bank account where receipts from the campaign are to be deposited.

(6) A full and fair description of the charitable program for which the solicitation campaign is being carried out.

(7) The date the solicitation campaign or event will begin or be held within this Commonwealth and the termination date for each campaign or event.

(8) Any other information required by the regulations of the department.

§ 162.12. Records to be kept by charitable organizations, professional fundraising counsels and professional solicitors; inspection; retention

Every charitable organization, professional fundraising counsel and professional solicitor 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. However, names, addresses and identities of contributors and amounts contributed by them shall not be considered a matter of public record and, therefore, shall not generally be made available for public inspection, shall not be used for a purpose inconsistent with this act and shall be removed from the records in the custody of the department at such time that such information is no longer necessary for the enforcement of this act. 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.

§ 162.16(f) Investigation; subpoenas; injunctions; court orders

(f) Compliance.--Any person upon whom a notice is served pursuant to this section shall comply with the terms thereof unless otherwise provided by an order of court. Any person who fails to appear or, with intent to avoid, evade or prevent compliance, in whole or in part, with any civil investigation under this act, removes from any place, conceals, withholds or destroys, mutilates, alters or by any other means falsifies any documentary material in the possession, custody or control of any person subject to any notice, or knowingly conceals any relevant information, shall be assessed a civil penalty of not more than $5,000. The Attorney General or the district attorney may petition for an order of court for enforcement of this section. Additionally, the secretary may take appropriate action to petition for an order of court for the enforcement of this section in accordance with the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act. Any disobedience of any final order entered under this section by any court shall be punished as contempt thereof.

In Count 1, the Commonwealth alleged that Respondent failed to submit its contract with ICM to the Bureau for review and approval at least ten (10) working days prior to performing services under that contract, and performed professional services for ICM without an approved contract.

In Count 2, the Commonwealth alleged that Respondent failed to submit its contract with Judicial Watch to the Bureau for review and approval at least ten (10) working days prior to performing services under that contract, and performing professional solicitor services for Judicial Watch without an approved contract.

In Counts 3 and 4, the Commonwealth alleged that Respondent did not produce records for inspection to the Bureau upon demand or upon an Investigative Subpoena.

Given that Respondent failed to respond to the Commonwealth's OSC and MDFA, the Secretary was justified in granting the December 2, 2004 Order, in which he deemed the facts admitted and the Respondent in default. Furthermore, the Commonwealth has proven all four counts it brought against the Respondent in the OSC.

The only other question to be determined is the appropriate sanction to be imposed. The obligations that Respondent failed to meet are critical to those of a professional solicitor under the Act and Respondent did not provide any mitigating evidence in this matter.

Accordingly, based on the foregoing findings of facts, conclusions of law and discussion, and in the absence of mitigation, the following order shall issue:

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

Commonwealth of Pennsylvania, Bureau of Charitable Organizations	:	
	:	**Docket No. 0010-98-04**
vs.	:	**File No. 2004-98-04672**
	:	
Tele-Data Services, Inc., Respondent	:	

ORDER

AND NOW, this 9th day of February, 2005, in accordance with the foregoing findings of fact, conclusions of law and discussion and consistent with the Secretary of the Commonwealth's December 2, 2004 order in which he granted the Commonwealth's Motion to Deem Facts Admitted, the Secretary hereby **ORDERS** that Respondent Tele-Data Services, Inc. pay an administrative fine in the amount of **$4,000** or $1,000 per violation. It is further ordered that no registration shall be accepted on behalf of Respondent Tele-Data Services, Inc. until the administrative fine is paid in full.

The administrative fine is payable to the Commonwealth of Pennsylvania by certified check, cashier's check, attorney's check or money order and shall be delivered to Albert H. Masland, Esq., Chief Counsel, Department of State, 302 North Office Building, Harrisburg, PA 17120, by no later than 30 days from the issuance of this Order.

Judicial appeal of this decision may be taken pursuant to 2 Pa.C.S. § 702 within 30 days of the date of mailing shown below.

BY ORDER

Pedro A. Cortés

Pedro A. Cortés
Secretary of the Commonwealth

For the Commonwealth:
Tracy L. McCurdy
Prosecuting Attorney
Department of State
212 North Office Building
Harrisburg, PA 17120

Respondent:
Tele-Data Services, Inc.,
6201 East 43rd Street
Tulsa, OK 74135

Date of Mailing 2/10/05

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

Commonwealth of Pennsylvania, Bureau of Charitable Organizations	:	
	:	**Docket No. 0010-98-04**
vs.	:	**File No. 2004-98-04572**
	:	
Tele-Data Services, Inc., Respondent	:	

CERTIFICATE OF SERVICE

I, Christal Pike-Nase, Esq., certify that I have this 10th day of February 2005, served a true and correct copy of the foregoing Adjudication and Order upon all parties of record in this proceeding in accordance with the requirements of § 33.31 of the General Rules of Administrative Practice and Procedure, 1 Pa. Code § 33.31 (relating to service by the agency).

FIRST CLASS MAIL – POSTAGE PREPAID

Tele-Data Services, Inc.
6201 East 43rd Street
Tulsa, OK 74135

Respondent

Tracy L. McCurdy, Esq.
Prosecuting Attorney
Department of State
212 North Office Building
Harrisburg, PA 17120

Attorney for the Commonwealth

By: Christal Pike-Nase

Christal Pike-Nase, Esquire
Pa. Supreme Court ID#: 79768
Office of General Counsel Assigned to the Department of State

Counsel for Bureau of Charitable Organizations

302 North Office Building
Harrisburg, PA 17120
(717) 787-6802

Mailing Date: 2/10/05