

SECRETARY OF STATE  
CHARITIES DIVISION  
STATE OF GEORGIA

OCT 03 2014

DOCKET NUMBER 2014-CH4

IN THE MATTER OF:

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USTA Serves Incorporated

Registration No.: CH08875

Applicant.

**ORDER FOR CONDITIONAL REGISTRATION**

Pursuant to O.C.G.A. § 43-17-11, the Georgia Secretary of State has conducted an investigation into the activities of USTA Serves Incorporated (hereinafter known as “Applicant”) to determine whether any of its activities violated the Georgia Charitable Solicitations Act of 1988, as amended, O.C.G.A. §43-17-1 *et seq.* (hereinafter the “Act”). The Secretary of State (hereinafter “Secretary”) and Applicant desire to reach a final settlement of the matters arising from the Secretary’s investigation, and, accordingly, have agreed to the terms set forth in this Order. As a result of the investigation, the Secretary makes the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT**

**1.**

Applicant maintains its principal place of business at 70 W. Red Oak Lane, White Plains, NY 10604. Applicant received a registration to operate as a charitable organization in the State of Georgia on February 21, 2011. Said registration lapsed on February 21, 2013.

**2.**

On or about May 22, 2013, Applicant submitted an application to reinstate its registration as a charitable organization.

3.

Question 16 of Application required Applicant to disclose whether “any local, state or federal government agency:

- (b) ever found the applicant or executive officer to have been involved in a violation of a fundraising law?
- (e) ever denied, suspended or revoked the applicant’s or an executive officer’s registration or license, prevented it from association with a fundraising organization, or otherwise disciplined it by restricting its activities?

4.

Applicant answered in the affirmative for both questions and disclosed the following:

- (1) May 1, 2013, Settlement Agreement in Florida and \$100 administrative fine for soliciting with a lapsed registration. Applicant was reinstated in Florida as of May 15, 2013, and is current as of the date of this Order;
- (2) Registration suspended in South Carolina on August 30, 2012, for failure to pay administrative fines imposed for soliciting during lapsed registration. Fines have been paid and the license was reinstated on October 9, 2012, and is current as of the date of this Order; and
- (3) Denial Notice issued by Utah on June 1, 2012, for failure to respond to deficiency notice requesting late fees and information concerning solicitation activity after registration lapsed. Late fees were paid and the requested information was submitted, resulting in reinstatement of registration on December 4, 2012, and is current as of the date of this Order.

5.

In response to a request by the State of Georgia for the amount of contributions received by Applicant between February 21, 2013 and April 28, 2013, Applicant advised that it received minimal donations in the amount of \$1,177, many of which were likely in response to solicitations that occurred prior to the expiration of Applicant's registration on February 21, 2013.

6.

Applicant's lapse in its registration as referenced in paragraphs 4 and 5 was an inadvertent oversight as a result of a transition in leadership during which Applicant was not initially aware that the lapse had occurred. Upon Applicant's learning of the lapse, all solicitation activity immediately ceased until such time as Applicant's registration status was restored, which occurred in a matter of months. In addition, Applicant did not directly solicit contributions during the lapsed period; rather, contributions received in connection with membership renewals with a separate organization whose members are given the opportunity to make a donation to Applicant at the time of renewal.

7.

Applicant admits to the above-styled findings of fact and waives any further of findings of fact not already contained in this Order.

**II. CONCLUSIONS OF LAW**

8.

Under O.C.G.A. § 43-17-7(a), "[t]he Secretary of State, by order, may deny, suspend, or revoke a registration, limit the fundraising activities that an applicant or registered person may perform in this state, bar an applicant or registered person from association with a paid solicitor

or charitable organization, or bar a person who is a partner, officer, director, or employee of, or a member of a limited liability company which is, an applicant or registered person from employment with a paid solicitor or charitable organization if the Secretary of State finds that the order is in the public interest and that the applicant, registered person, or such other person:

- (4) Is the subject of an adjudication or determination, after notice and opportunity for hearing, within the last five years by a state or federal agency or a court of competent jurisdiction that the person has violated the charitable organizations regulatory act or the unfair and deceptive acts and practices law of any state, but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts occurred in this state;"

**9.**

The sanctions referred to in paragraph 4 above constitute grounds for disciplinary action by the Secretary pursuant to O.C.G.A. § 43-17-7(a).

**10.**

O.C.G.A. § 43-17-5(a) states, "It shall be unlawful for any person:

- (1) Wherever located to solicit or accept charitable contributions from any person located in this state...unless the charitable organization on whose behalf such contributions are being solicited or accepted is subject to an effective registration statement under this chapter..."

**11.**

Pursuant to O.C.G.A. § 43-17-7(a), the Secretary has the authority to discipline Applicant for failing to comply with O.C.G.A. § 43-17-5(a)(1) by soliciting in the State of Georgia during a period of lapsed registration.

### **III. ORDER**

#### **12.**

The Secretary has agreed to approve Applicant's application for reinstatement of its license to operate as a charitable organization, pursuant to the following conditions:

- a)** Applicant shall report to the Secretary, in writing, any complaint received or Order issued by a state or federal board, state or federal agency, or state or federal court involving any violations of state or federal laws and rules related to charitable solicitations or unfair and deceptive practices. Said documentation shall be submitted to the Secretary within ten days of such occurrence.
- b)** Applicant agrees to comply with applicable state and federal charitable solicitation laws and rules.

The conditions described in this paragraph shall remain in effect for a period of twelve (12) months from the effective date of this Order for Conditional Registration.

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13.

The entry of this Order is deemed to be in the public interest and shall not be deemed to constitute findings or conclusions relating to other persons or transactions and shall not be deemed to be a waiver or estoppel on the part of the Secretary from proceeding in individual actions against any person who may have violated the Act or on the basis of any transactions not known to the Secretary at the time this Order was issued.

SO ORDERED this 3<sup>rd</sup> day of Oct., 2014.

**BRIAN KEMP  
SECRETARY OF STATE  
STATE OF GEORGIA**

BY:

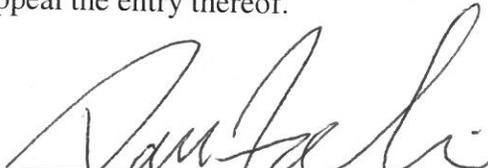
*Shawnzia A. Thomas*

**SHAWNZIA A. THOMAS  
Director of Registration  
Charities Division**

**CONSENT AND WAIVER OF HEARING**

Applicant hereby agrees to the entry of the foregoing Order for Conditional Registration and the terms and conditions set forth herein.

Applicant does hereby waive all rights to a hearing regarding this matter and any right to appeal the entry thereof.

  
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**Dan Faber, Executive Officer  
USTA Serves Incorporated**

9/22/14  
Date