

In the Matter of
Bemidji Youth Hockey Association, Inc.

**STIPULATION REGARDING
REGISTRATION WITH THE
MINNESOTA ATTORNEY
GENERAL'S OFFICE**

Bemidji Youth Hockey Association, Inc., through its board of directors, enters into this Stipulation Regarding Registration With The Minnesota Attorney General's Office.

BACKGROUND

1. Lori Swanson is the Attorney General of the State of Minnesota. The Attorney General has the authority to investigate violations of charitable solicitation statutes, enforce registration requirements for charities and obtain monetary and equitable relief for violations of applicable laws. *See* Minn. Stat. §§ 8.31 and 309.50, *et seq.* (2006).

2. Bemidji Youth Hockey Association, Inc. ("BYHA") is a Minnesota nonprofit corporation. The Internal Revenue Service has granted BYHA tax-exempt status as a 501(c)(3) organization. BYHA's mailing address is P.O. Box 1141 Bemidji, Minnesota 56619.

ATTORNEY GENERAL'S ALLEGATIONS

3. BYHA is a charitable organization as defined by Minn. Stat. § 309.50, subd. 4 (2006).

4. Minnesota Statutes section 309.52, subd. 1 (2006) provides that no charitable organization, unless exempted by Minn. Stat. § 309.515, shall solicit contributions from persons in the State of Minnesota unless, prior to any solicitation, there shall be on file with the Attorney General's Office a registration statement.

5. Minnesota Statutes section 309.53 (2006) provides that a charitable organization must file an annual report form with the Attorney General's Office to maintain its registration. The annual report form is available at the Attorney General's website at

www.ag.state.mn.us/charities/charitableforms.asp. The annual report form is due the 15th day of the seventh month following the close of the organization's fiscal year, with a four month extension available upon application for cause shown. *Id.* at subd. 1. The annual report form must include all requirements provided in Minn. Stat. § 309.53, subd. 3 (2006). If a charitable organization fails to file its annual report, it is no longer registered. Minn. Stat. § 309.52, subd. 7 (2006). Thereafter, the organization may not solicit contributions from persons in the State of Minnesota until properly registered. *See* Minn. Stat. § 309.52, subd. 1 (2006).

6. Minnesota Statutes section 309.53, subd. 3 (2006) provides that if a charitable organization's total revenue for the 12 months of operation covered by the annual report form exceeds \$350,000, the charitable organization must file with its annual report an "audited financial statement prepared in accordance with generally accepted accounting principles that has been examined by an independent certified public accountant for the purpose of expressing an opinion."

7. BYHA initially registered with the Attorney General's Office through its Charities Division in 1999. In June of 2003, BYHA filed its April 30, 2002 year-end annual report, which was deficient for failure to submit an audit prepared in accordance with generally accepted accounting principles ("GAAP audit") as required under Minnesota law. By correspondence dated July 14, 2003, the Attorney General's Office informed BYHA that its annual report was deficient and informed BYHA that its registration was not continued. BYHA attempted to submit a cash-basis audit to fulfill the audit requirement for registration, but the audit submitted was not a complete GAAP audit and therefore did not comply with Minnesota law and was not accepted by the Attorney General's Office to fulfill BYHA's registration requirement. Because BYHA never submitted a GAAP audit for its 2002 annual report, it remained not registered to solicit in Minnesota. On December 3, 2007, BYHA submitted its 2006 annual report. The

Attorney General's Office was unable to register BYHA because BYHA never submitted a complete 2002 annual report and, therefore, had a deficiency that was never corrected. In addition, at that time, BYHA's deficiencies also included failure to submit annual reports for fiscal years 2002, 2003, 2004, 2005 and 2006. The Attorney General's Office began discussions with BYHA regarding its registration status and informed BYHA of the items needed to become registered and in full compliance with Minnesota's filing requirements. On May 12, 2008, BYHA submitted annual reports for fiscal years 2003, 2004, 2005 and 2006. Of those annual reports, 2003, 2004 and 2006 were complete. Fiscal year 2005 was not complete. Further, BYHA did not submit an audit for 2002 to correct its deficiency for that fiscal year. The Attorney General's Office continued discussions with BYHA regarding items needed to be registered. BYHA represents that due to the time that had elapsed, it is unable to provide a GAAP audit for 2002 and 2005. BYHA states that it will provide the Attorney General's Office with all required registration materials, including GAAP audits if over \$350,000 in revenue, for all future years.

8. For every fiscal year that BYHA's total revenue for the 12 months of operation covered by its annual report form exceeded \$350,000, BYHA was required to provide the Attorney General's Office an audited financial statement, prepared in accordance with generally accepted accounting principles, that has been examined by an independent certified public accountant for the purpose of expressing an opinion. Minn. Stat. § 309.53. BYHA failed to provide the Attorney General's Office with the required audited financial statement for its fiscal years ending 2002 and 2005.

9. Under Minnesota law, an organization in default under Minn. Stat. § 309.53, "shall not be eligible to file a new registration statement until it shall have filed the required annual report with the attorney general." Minn. Stat. § 309.52, subd. 7 (2006). Thus, if an

organization has failed to file all necessary documents in the past, in order for the organization to become registered to solicit in Minnesota again, it must file those documents.

10. For its fiscal years 2002 and 2005, BYHA failed to submit the required GAAP audit and therefore was not registered with the Attorney General's Office and not authorized to solicit contributions from persons in Minnesota. BYHA has attempted to file an annual report without correcting its past deficiencies.

11. BYHA was not authorized to solicit contributions from persons in the State of Minnesota from March 15, 2003 to the present. BYHA did solicit contributions from persons in the State of Minnesota during that time.

GENERAL PROVISIONS

12. This Stipulation is not an admission by BYHA or its board of directors of any violation of Minnesota law.

13. BYHA, by and through its board of directors, has read this Stipulation, has had the opportunity to be advised by counsel regarding the terms of this Stipulation, understands it, and enters into it voluntarily.

14. BYHA, by and through its board of directors, understands that any violation of this Stipulation, after the date of its execution by BYHA, may subject BYHA to penalties or sanctions under this Stipulation and that the Attorney General may, in the sole discretion of the Attorney General, bring legal proceedings against it for any violation of this Stipulation or any other Minnesota law.

15. This Stipulation resolves only past issues regarding BYHA's registration as a charitable organization with the Attorney General under Minn. Stat. §§ 309.52 - 309.53 (2006). Nothing in this Stipulation shall be construed as a waiver of any private or public rights, causes of action, or remedies of any consumer or other person, public or private agency, including the

Attorney General, against BYHA. BYHA acknowledges that the Attorney General does not waive any rights to bring an action against BYHA for violating any other section of Minn. Stat. ch. 309, including but not limited to Minn. Stat. § 309.55 (2006).

16. BYHA understands that this Stipulation is a public document subject to the Minnesota Data Practices Act and may be placed in BYHA's public registration file.

INJUNCTIVE RELIEF

17. BYHA acknowledges that it has not submitted all of the information required to be submitted under Minn. Stat. §§ 309.52 and 309.53 for its fiscal years 2002 and 2005. BYHA acknowledges that for its fiscal year 2007, and all future years, if over the \$350,000 revenue threshold, it shall provide an audit prepared in accordance with generally accepted accounting principles, that has been examined by an independent certified public accountant for the purpose of expressing an opinion and that without such an audit, it will not be registered to solicit contributions in Minnesota. BYHA acknowledges that for all future years, it shall provide all of the required information and in the timeframes required by such statutes.

18. Pending the execution of this Stipulation and the receipt of any subsequent written acknowledgment from the Attorney General that BYHA is registered as a charitable organization, BYHA and its agents are prohibited from soliciting charitable donations within the State of Minnesota. Any solicitation of charitable donations before BYHA is registered to solicit donations is a violation of this Stipulation.

19. BYHA shall provide a copy of this Stipulation to each current board member and to all future board members for the next ten (10) years.

STAYED CIVIL PENALTIES

20. If, upon application, by motion or action of the Attorney General, a Minnesota District Court finds that BYHA has violated any provision of this Stipulation, BYHA agrees to

pay a civil penalty of up to \$1,000 per violation to the State of Minnesota. The civil penalty shall become immediately due and payable to the Attorney General upon a finding by the Minnesota District Court that BYHA has violated a provision of this Stipulation. The stayed civil penalty shall remain in effect for ten (10) years.

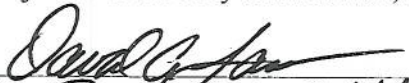
CIVIL PENALTY

21. BYHA agrees to pay the amount of \$250 as a civil penalty to the Attorney General. Payment shall be in the form of a cashier's check payable to the State of Minnesota and shall be delivered to the Charities Division of the Attorney General's Office at 1200 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101 within five (5) days of executing this Stipulation.

Dated: 8/6/08

Dated: 8/12/08

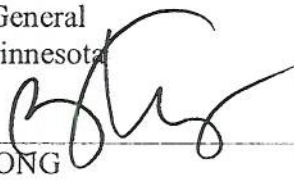
Bemidji Youth Hockey Association, Inc.

By: 
Its: President BYHA

Authorized representative of the Board of Directors of:

Bemidji Youth Hockey Association, Inc.
c/o Hugh Welle
1st National Bank
P.O. Box 670
Bemidji, MN 56619

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