



STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
35 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0035

JOHN ELIAS BALDACCI  
GOVERNOR

ANNE L. HEAD  
COMMISSIONER

REPORT ON CHARITABLE SOLICITATION ACTIVITY IN 2007

November 26, 2008

Currently, there are 2,461 Charitable Organizations, 57 Professional Solicitors, 167 Professional Fundraising Counsel and 122 Commercial Co-venturers licensed in the State of Maine, as well as 241 Exempt Organizations. The number of licensees overall has increased by approximately 38% over the past five years (from 2,203 in 2004 to 3,048 at present). Charitable Organizations are the charities themselves; Professional Solicitors conduct the actual fundraising on behalf of the charities, for financial compensation; Professional Fundraising Counsel advise charities regarding the conduct of their operations (e.g., consultation, feasibility studies, training); Commercial Co-venturers donate to charities a portion of their profits from the sale of a product, by agreement with the charities; and Exempt Organizations – while having a charitable intent – are subject to a lesser degree of regulation, due to their small size, source of contributions, method of solicitation or institutional purpose.

Pursuant to the requirements of the Charitable Solicitation Act (9 MRSA §5001 *et seq.*), Charitable Organizations, Professional Solicitors, Professional Fundraising Counsel and Commercial Co-venturers are required to file, no later than September 30<sup>th</sup> of each year, Annual Fundraising Activity Reports (“AFARs”). The submission of separate AFARs for concurrent time-frames enables comparisons to be made between the figures reported by each party to the contract and, where significant disagreements appear, for suspected misrepresentations to be investigated. This report covers the reporting period which began January 1, 2007 and concluded December 31, 2007.

The content of these “AFARs” is condensed in the enclosed “Charity Annual Report” and “Contractor Annual Report” exhibits. The “Charity Annual Report” contains information reported by Charitable Organizations, and the “Contractor Annual Report” comprises information reported by the three other categories of licensees. (Exempt Charitable Organizations are not required to make this filing.)

The reports indicate the following:

- There is a wide range, and often a large percentage, of contributions which accrued to the benefit of Professional Solicitors. No statistical mode emerges from the data, nor does any pattern suggesting a correlation between the percentage retained by the solicitor and either the size of charity or the sum of contributions. In some instances, the “Amount Received by Charity” and “Percent Received by Charity” are expressed as negatives or zeros; this is typically either because: (1) the contractual arrangement provides that

OFFICES LOCATED AT: 122 NORTHERN AVENUE, GARDINER, MAINE  
TTY: 1-888-577-6690

PHONE: (207)624-8511 (VOICE)

Email: [Anne.L.Head@maine.gov](mailto:Anne.L.Head@maine.gov)

FAX: (207)624-8595

contributions will not accrue to the benefit of the Charitable Organization until the expenses incurred by the Professional Solicitor have been covered and/or the agreed-upon level of compensation has been reached, or (2) the Professional Solicitor is being paid “up front” in an arrangement whereby the Charitable Organization will be receiving the contribution on a deferred basis.

- There appear discrepancies in the reports filed by Charitable Organizations and Professional Solicitors which could become the subject of further Departmental inquiry of the filers and possible administrative action. In some instances, however, these discrepancies may be the consequence of the reporting entities’ contrasting treatment of contributions which have been promised, but not yet conveyed. (For example, funds the charity anticipates receiving through a bequest in a will or an ongoing “sustainer program” might be recognized by one party at the time the commitment is made, and by the other only upon receipt.)
- In nearly all instances, the service rendered by Professional Fundraising Counsel to the charity typically is “consultation” regarding how to conduct a fundraising campaign. (“Planning” and “feasibility studies” may be provided, but “consultation” is the broadest of the service categories and may incorporate the others.)
- Contributions made by Commercial Co-venturers to Charitable Organizations ran the gamut from substantial to negligible. Their magnitude would be a function of the popularity of the product being sold in promotion of the charity, its price and the percentage of that price (or alternatively, per-item amount) designated to be donated to the charity.

Increasingly, Professional Solicitors have begun to contractually arrange with Charitable Organizations for compensation to be paid on a “fixed fee” basis, rather than a “percentage of contributions” basis. In order to standardize comparisons among them, the report represents this fee as a percentage of contributions (e.g., a \$1,000 fee would be displayed as 10% of a \$10,000 contribution amount or 5% of a \$20,000 contribution amount), in recognition of the fact that ultimately, fundraisers are paid from funds raised.

It should be noted that, because many entities operate on a national (or even international) basis, and report their countrywide figures to each state of jurisdiction, only a portion of the funds would have been raised and expended within Maine. Moreover, some filers who are not active in Maine in any given year do renew their licenses as a matter of course.<sup>1</sup>

The Internal Revenue Service requires entities designated as non-profit / tax-exempt under Section 501(c)3 of the Internal Revenue Code to file with it an informational return (“Form

---

<sup>1</sup> Prefixes beginning with “N” connote entities which are not licensed in Maine, but with whom licensed entities may have contracted for the rendering of services elsewhere. Where services are being rendered here, we contact these entities regarding compliance, unless they are eligible for exemption from the licensure requirement (e.g., agencies of the federal government, such as the “American Red Cross”). The “Purpose” in the enclosed exhibits is not designated for charities bearing the prefix “NCO” (Non-Licensed Charitable Organization), as no application identifying their purpose would have been filed.)

990”) annually. Maine is among the 40 states which normally require Charitable Organizations to include a copy of the Form 990, along with an audited financial statement, with their applications at the time a new or renewal license is being sought. The IRS recently completed its first major redesign of Form 990 in nearly 30 years, and the information this new format is designed to gather, beginning in 2009 for Tax Year 2008, will enhance significantly its usefulness to regulators by expanding the data in several key areas (e.g., “executive compensation” and “fees paid to fundraisers”).

The Department of Professional and Financial regulation will soon post exhibits related to this report on its website ([www.maine.gov/pfr/professionallicensing/professions/charitable/](http://www.maine.gov/pfr/professionallicensing/professions/charitable/)), in order to inform the decisions of Maine residents regarding their choice of charities.

If you have questions, please call the Office of Licensing and Registration at the Department of Professional and Financial Regulation at (207) 624-8617 or e-mail [elaine.m.thibodeau@Maine.gov](mailto:elaine.m.thibodeau@Maine.gov). You may also consult the Maine Charitable Solicitation Act, 9 MRS § 5001 *et seq.*