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INTRODUCTION

Every year Californians provide generous support to a wide array of charities, either directly or through commercial fundraisers who are hired by charities to solicit donations on their behalf. This supplemental report on commercial fundraising activities covers the donation of used personal property to charities, the resale of property by for-profit thrift stores, and the donation and resale of vehicles for the benefit of charity. In issuing this report, Attorney General Bill Lockyer seeks to provide information that may be used to critically evaluate charitable solicitation of used personal property.

By law, commercial fundraisers are required to register and file annual financial disclosure reports with the Attorney General's Registry of Charitable Trusts. The data here covers activities for 2004 that were reported by commercial fundraisers in 2005.

Commercial fundraisers for charitable purposes are required to register with the Attorney General and post a $25,000 bond prior to solicitation in California. As of January 1, 2005, there must be a written contract between charities and the fundraisers they hire to solicit donations on their behalf. The contract must include statutorily mandated terms, which clearly state the fee arrangement, the scope of solicitation activities, and responsibilities of the parties to the contract, including the requirement that charities actively supervise activities conducted on their behalf.

Not withstanding these safeguards, donors and potential donors are encouraged to resist high-pressure tactics, and to ask for written information about the charity for which a solicitation is being made, including the nonprofit's name, address and telephone number, and how their donation will be distributed. For additional information, see the Attorney General's Guide to Charitable Solicitation on the Attorney General's Internet website at: **http://ag.ca.gov/charities/**.

Historical figures show that a campaign conducted by a commercial fundraiser returns, on average, less than 50 percent of the contributions to the charity. The rest is retained by the commercial fundraiser as a fundraising fee. This summary reflects the results of solicitation by commercial fundraisers in 2004, as stated in reports they are required to file with the Attorney General.

On the attached Vehicle Donation Activities chart, the "Average Percent to Charity" shown for this and past years was obtained by taking the percentage of contributions returned to charity for each solicitation campaign, adding the individual percentages together, and dividing by the number of campaigns, thus obtaining the "percent to charity" for the average campaign. A second table shows overall revenue raised and overall revenue to charity. Calculation of the percentage of charitable contributions going to charity using these overall figures is skewed by a few individual campaigns with revenue figures that are very high in comparison to most campaigns. Because these overall figures do not yield a "percent to charity" that is reflective of the average campaign, they have not been used in calculating the "Average Percent to Charity".

THRIFT STORES

Thrift stores, which handle what is known under state law as "salvageable personal property," may be operated directly by a charity or by for-profit vendors. Thrift stores operated by for-profit vendors are considered to be commercial fundraisers if they receive a management fee or commission from the charity or purchase a majority of their goods from charities or social welfare organizations at negotiated prices. (Government Code Section 12599.) These for-profit thrift stores must register and file annual financial reports with the Attorney General's Registry of Charitable Trusts.

For-profit thrift store revenue and expenditure reports are available for public review on the Attorney General's website (http://ag.ca.gov/charities/), at the Attorney General's Registry of Charitable Trusts in Sacramento, or at the reporting charity's principal office.

Charities that operate their own thrift stores incur overhead and other expenses associated with the operation of a retail store. After thrift store expenses are paid, the charities use their earnings for such things as management expenses and charitable program services. On the other hand, charities that solicit used items and sell them to for-profit vendors do not incur the expenses of operating retail stores. Charities that sell used goods to for-profit vendors may or may not earn more money than do charities that operate their own thrift stores. There are advantages and disadvantages to both types of operations.

This report contains specific information about charities that sell used items to for-profit vendors. There are two types of arrangements: vendors that receive management fees or commissions from the charities, and vendors that purchase the goods from the charities at negotiated prices. Each is reported separately. The data is taken directly from reports filed by commercial fundraisers and has not been verified independently by the Attorney General's Office.

For-profit thrift store operators that purchased goods from charities reported total revenue of approximately **$71.15** million for the reporting period 2004. The average percent that was paid to charitable organizations was **16.41%** . These figures represent a decrease in total revenue from 2003 of approximately **$3** million (**-4%**) and an increase in the percent paid to charitable organizations of **2.49%**.

For the same period, for-profit thrift store operators that were paid a fee or commission by charities reported total revenue of over **$2.9** million. Of that, the average percent that was paid to charitable organizations was **8.61%**. These figures represent an increase in total revenue from 2003 of **$400,000** (**16%**) and a decrease of **14.67%** in the average percent paid to charitable organizations.

VEHICLE DONATION PROGRAMS

In California, the solicitation of vehicle donations to charity has increased during recent years. These solicitations result primarily in the donation of automobiles, and are administered both by charities in-house and by commercial fundraisers who contract with charities to solicit on their behalf.

According to the financial statements filed by the commercial fundraisers who solicit vehicle donations and were registered with the Attorney General's Registry of Charitable Trusts in 2004, such donations resulted in approximately **$44.15** million in gross proceeds. The average percent that was distributed to the charities was **48.17%**. The remaining funds were retained by the fundraisers for payment of expenses and fees. These figures represent a decrease in gross proceeds of approximately **$1 million** and an increase in the average percent to charity of **2.98%**, compared to the figures for calendar year 2003.

The vehicle donation process usually begins when a donor responds to an advertising campaign. In the initial phone conversation, the donor will be asked questions about the vehicle. Usually the vehicle is accepted, unless the cost of towing exceeds the value of the vehicle.

Donors are responsible for notifying the Department of Motor Vehicles of the transfer of registration. Failure to transfer registration has subjected many donors to subsequent penalties and expenses for donated vehicles, most often through accrued parking violations.

After the vehicle is picked up from the donor, the fundraiser either arranges for resale of the vehicle to the public or sells it to a parts wholesaler, depending on the condition of the vehicle. A significant problem for purchasers of donated vehicles is the reliability of the resellers in warranting the condition of the vehicles. The majority of vehicles donated to charity are not in good condition. Unscrupulous resellers have sold vehicles that break down soon after they are driven out of the sellers' lots.

The IRS has imposed new regulations, effective January 1, 2005, which affect the amount a donor can deduct for the value of a donated vehicle. When a taxpayer donates a vehicle for which the claimed value is $500 or more, the amount of the deduction will depend on how the charity plans to use the vehicle. The charity is required to provide an acknowledgment to the donor, which is attached to the donor's income tax return. If the auto is sold by the nonprofit, then the deduction is limited to the amount of gross proceeds the organization received from the sale, and the acknowledgment, which must include specific information regarding the sale, must be provided within 30 days of the sale. If the charity plans to use the car for "significant intervening use", or intends to materially improve the car, the donor can generally claim the fair market value of the donated vehicle. Acknowledgment for this category of donation must be received within 30 days of receipt of contribution. The new law also provides penalties for fraudulent acknowledgments provided to taxpayers. Detailed information regarding the new law is available at www.irs.gov.

Receipts for donated vehicles are also required under California law. Either the nonprofit organization, or a commercial fundraiser on its behalf, must provide a donor of a motor vehicle, aircraft or vessel with a receipt for the donation, within 90 days from date of donation (Business & Professions Code section 22930). The receipt must describe the donated property in terms of its model, age, condition, and level of use (including, but not limited to, the mileage, in the case of a vehicle), and whether a visual inspection by the nonprofit organization or commercial fundraiser, or a representative thereof, indicated that there were any readily apparent defects that would significantly reduce the value of the property. If the donated property is sold prior to the issuance of the receipt, the receipt must also include all of the following information: (1) the date the property was sold; (2) if the property was sold to a dismantler, the amount paid to the nonprofit organization or commercial fundraiser for the property; and (3) if the property was altered subsequent to the donation and the alteration affected the value of the property, a statement that the property was altered and whether the alteration increased or decreased the value of the property.

CONCLUSION

The purpose of this report is not to discourage donations of personal property, but to provide sufficient information to allow donors to make informed decisions about giving. In the case of vehicle donations, this report highlights, for both donors and purchasers of donated vehicles, the practical information and cautions necessary to allow them to make such donations without incurring unforseen liability.

SPECIFIC FINDINGS

Table #1 **Thrift Store Operations - Goods Purchased from Charity.**
Lists each charitable organization that solicited donations of used clothing and merchandise ("salvageable personal property") and sold the property to a for-profit thrift store. The for-profit thrift store operator is also listed. Each charitable organization is ranked by the percentage of money that actually went to the charity, beginning with the highest percentage and ending with the lowest.

Table #2 **Thrift Store Operations - Management Fee/Commission**
Lists each charitable organization that solicited donations of used clothing and merchandise and paid a management fee or commission to a for-profit thrift store operator. The for-profit thrift store operator is also listed. Each charitable organization is ranked by the percentage of total revenue that actually went to the charity, beginning with the highest percentage and ending with the lowest.

Table #3 **Vehicle Donation Operations**
Lists each charitable organization that solicited vehicles and paid a management fee or commission to a for-profit reseller. Each charitable organization is ranked by the percentage of total revenue that actually went to the charity, beginning with the highest percentage and ending with the lowest.

Table #4 **Vehicle Donation Operations - Incomplete Reports**
Lists commercial fundraisers that operate vehicle donation programs that registered in 2003 and submitted financial reports that are not acceptable for filing. Financial reports must be signed by the commercial fundraiser and also by two officers of the charity. In most cases the financial reports listed in this table are unacceptable because they have not been signed by the officers of the charities.

Note: Some charities may be listed more than once. Each listing shows a separate for-profit thrift store or vehicle reseller operation.