

# ***WHERE HAVE ALL THE DOLLARS GONE?***

## ***A Report on Paid Fundraising in Vermont***

**1993-1997**



**Office of the Vermont Attorney General**

**William H. Sorrell, Attorney General**

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## **HIGHLIGHTS OF THE REPORT**

This report covers charitable fundraising campaigns conducted in Vermont by paid fundraisers during the years 1993 through 1997. It is based on information filed with the Office of the Attorney General. The report does not cover charitable campaigns in which a paid fundraiser was not involved. Among the findings:

- Pre-campaign notices were filed with the Office of Attorney General in connection with 542 charitable fundraising campaigns to be completed between January 1, 1993, and December 31, 1997, by 50 different paid fundraisers acting on behalf of 229 charities.
- For 448 of these campaigns, end-of-campaign financial reports were filed through September 30, 1998. Of that number, 128 were conducted on behalf of charities based in Vermont and 320 on behalf of charities based outside Vermont. Of the in-state charities' campaigns, 108 involved an event (such as a show), the sale of magazine advertising, or both.
- In the course of the same 448 campaigns, Vermonters contributed \$3.8 million to in-state charities, and an amount estimated at over \$800,000 to out-of-state charities, for a total of \$4.6 million.
- Of the total contributions made to in-state charities, 71.4 percent went to the fundraisers and 28.6 percent to the charities. The fundraisers' share ranged from 76.2 percent in "event" and "advertising" campaigns down to 57.4 percent in other campaigns.

- Of the total contributions made to out-of-state charities, 66.8 percent went to the fundraisers and 33.2 percent to the charities. The percentage of contributions paid to all fundraisers was 70.6 percent; charities received the remaining 29.4 percent. Of the 448 campaigns analyzed in this report, 37.1 percent involved payment to the fundraiser of between 61 and 80 percent of the donations, and 29.5 percent of the campaigns involved payment to the fundraiser of over 80 percent of the donations.

- While federal Constitutional law prohibits states from setting limits on fundraiser fees or even requiring fundraisers to disclose how much they will receive to prospective donors, a state may lawfully mandate that this information be filed with a governmental agency and may require fundraisers to tell prospective donors how to access this information. In Vermont, fundraisers must register with the Office of Attorney General and state the minimum percentage of contributions that will go to the charity; at the end of each campaign, they must also report on the actual fundraiser-charity "split." Consumers can make more informed decisions about where to direct their charitable dollars by asking for this information.

- Vermont's Charitable Solicitations Law can be better enforced by requiring by rule that fundraisers disclose to the State more specific information about the charitable campaigns they run; by ensuring by rule that consumers receive more prominent notice of the availability of information from the State on the minimum percentage of contributions that will go to the charity and on the actual fundraiser-charity "split" in completed campaigns; and by monitoring more closely the claims that fundraisers and charities make concerning how Vermonters' donations will be used.

## I. INTRODUCTION

Charitable fundraising, including the solicitation of donations through the use of paid fundraisers, is big business in the United States. In 1997, \$143.46 billion was contributed to charitable organizations by individuals, corporations, bequests, and foundations.<sup>1</sup> Over \$109 billion of this amount was donated by individuals.<sup>2</sup> Although data is hard to come by, professional fundraisers hired by charities are an integral part of charitable solicitation. Of the role of the paid fundraiser, one observer has written,

Experienced fund-raisers have developed expertise in the planning and conduct of fund-raising strategies and techniques that are lacking in inexperienced non-professionals. Depending on the size and objectives of the institution, the professional fund-raising capability may be met by one manager, [or by] a staff with specific expertise in diverse fund-raising techniques (research, writing, direct mail, planned giving, capital campaign, etc.) ...<sup>3</sup>

Paid fundraisers are regulated by most states.<sup>4</sup> In 1990, Vermont enacted its own Charitable Solicitations Law, requiring fundraisers<sup>5</sup> to register with the State, to furnish pre- and post-campaign information, and to post a bond. The law was passed in response to concerns that some fundraisers were misleading their charitable sponsors and donors and pocketing the lion's share of the contributions received. In brief, it requires fundraisers to register with the Office of Attorney General, provide information to the State both before and after fundraising campaigns, and post a bond; it also imposes liability on fundraisers and charities for violations of the law, including deceptive conduct.

One of the benefits to this system of regulation is that it permits the compilation of information that affords a glimpse of the activities of for-profit fundraisers hired by

charities. Typically, prospective donors—ordinary citizens and business people who receive a request for a contribution over the telephone or through the mail—do not know whether it is the charity, or a commercial fundraiser hired by the charity, that is making the solicitation. And they do not know how much of each donated dollar will go to the charity and how much to the fundraiser.

In June 1993, the Office of Attorney General issued a White Paper summarizing the information provided by paid fundraisers for the first 30 months (July 1, 1990, through December 31, 1992) that the Charitable Solicitations Law was in effect. During that period, estimated contributions by Vermonters to all charities using paid fundraisers totaled \$788,035. However, much of the money did not go to the charities: \$572,386, or 72.6 percent of total contributions, went to the fundraisers.<sup>6</sup>

The time has come to update the available data on campaigns conducted by paid fundraisers in Vermont. The information is important to the public—to charities, which can benefit by knowing how other non-profit entities raise money; to fundraisers, which compete for contracts to raise money for charities; and, most importantly, to prospective contributors, who must choose where to give their charitable dollars.

## **II. THE CHARITABLE SOLICITATIONS LAW**

Vermont's Charitable Solicitations Law is found in subchapter 2, chapter 63 of title 9 of the Vermont Statutes Annotated (9 V.S.A. §§2471-2479). The law was a legislative response to allegations that paid fundraisers, soliciting for charitable organizations, had engaged in such practices as falsely identifying themselves as police officers, requesting contributions for charities which had not authorized their names to be used, overstating the percentage of donations that would be turned over to the

charitable sponsor, and retaining up to 90 percent of the donations made.<sup>7</sup> Supporters of legislation to address these problems included some of Vermont's best known health charities, hospitals, public safety organizations, both major political parties, and institutions of higher learning, as well as the National Society of Fundraising Executives and the Vermont Attorney General.

The law, as enacted, applies to paid fundraisers only—to people or companies that are paid to solicit contributions in the name of a charity.<sup>8</sup> Volunteers are exempt, as are employees and directors of charities and most fundraising consultants.<sup>9</sup> Before soliciting for donations in Vermont, a paid fundraiser must have a written contract with its charitable sponsor, signed by the charity and disclosing in detail how contributions will be divided between charity and fundraiser.<sup>10</sup> The fundraiser is also required to file a \$20,000 bond<sup>11</sup> and a "notice of solicitation" with the Office of Attorney General.<sup>12</sup> The notice must set out, among other things, background information on the fundraiser and the charity, the nature and timing of the fundraising campaign, and a copy of the contract between the fundraiser and the charity.<sup>13</sup>

During the fundraising campaign, deceptive solicitations by paid fundraisers are prohibited, as are solicitations that have not been previously authorized in writing by the charity.<sup>14</sup> In addition, all contributions received by the fundraiser must be deposited in a bank account in the charity's name from which withdrawals can be made only with the express consent of the charity.<sup>15</sup>

At the end of the campaign, the fundraiser is required to provide a closing statement to the charity<sup>16</sup> and a financial report to the State.<sup>17</sup> The financial report must

set out, among other things, an itemization of how the gross receipts of the fundraising campaign were distributed, and the respective percentages of gross receipts retained by the fundraiser and the charity.<sup>18</sup>

### **III. PAID FUNDRAISER ACTIVITY IN VERMONT**

#### **A. Extent of Activity**

Between January 1, 1993, and December 31, 1997, there were 542 fundraising campaigns that were completed (or noticed to be completed<sup>19</sup>) in the State of Vermont by 50 paid fundraisers acting on behalf of a total of 229 charities.<sup>20</sup> The sponsoring charities and their fundraisers are listed in Appendices 1 and 2. By September 30, 1998, end-of-campaign financial reports indicating that donations had been made were received for 448 of these campaigns; in most of the remaining 94 planned campaigns the fundraiser went out of business or no funds were collected during the campaign.<sup>21</sup> The findings set out below are based upon the information contained in these reports.<sup>22</sup>

Because some fundraisers conducted more than one campaign, only 50 different fundraisers filed notices. Indeed, five of them handled 35 percent of all of the campaigns: InfoCision Management Corporation of Akron, Ohio (55 campaigns for 29 charities); Reese Brothers, Inc., of Pittsburgh, Pennsylvania (37 campaigns for 15 charities); Facter Direct LTD, of Los Angeles, California (33 campaigns for 24 charities); TransAmerica Marketing Services, Inc., of Vienna, Virginia (33 campaigns for 22 charities); and Walter Childs of Middleboro, Massachusetts (32 campaigns for 2 charities).

### **1. In-State Charities**

A total of 156 campaigns were run by paid fundraisers on behalf of charities based in the State of Vermont. Of the 128 campaigns for which financial reports were filed through September 30, 1998, 70, benefiting 19 charities, involved the production of a show (for example, a children's variety show), with a designated portion of the proceeds going to the charity. The total received in these campaigns was \$705,253<sup>23</sup>; the average campaign yielded \$10,075 for the fundraiser and the charity.

Nine other campaigns benefiting 5 in-state charities involved the sale of advertising in a magazine. Examples of these are the sale of advertising in The Vermont Trooper Magazine on behalf the Vermont State Police Union, and the sale of advertising in Informer magazine on behalf of the Vermont Police Association. This type campaign grossed \$1,234,193 for 4 police associations and 1 firefighters' group, averaging \$137,133 per campaign.

Another 29 campaigns benefiting 21 in-state charities involved both the production of a show and the sale of advertising in a magazine. These grossed \$893,688, all for police or firefighter organizations, or an average of \$30,817 per campaign.

The remaining 20 campaigns on behalf of 12 in-state charities grossed \$970,206, or \$48,510 per campaign.

In all, for campaigns ending during the period 1993 through 1997, Vermonters contributed a total of \$3,803,340 to in-state charities using paid fundraisers.

## **2. Out-of-State Charities**

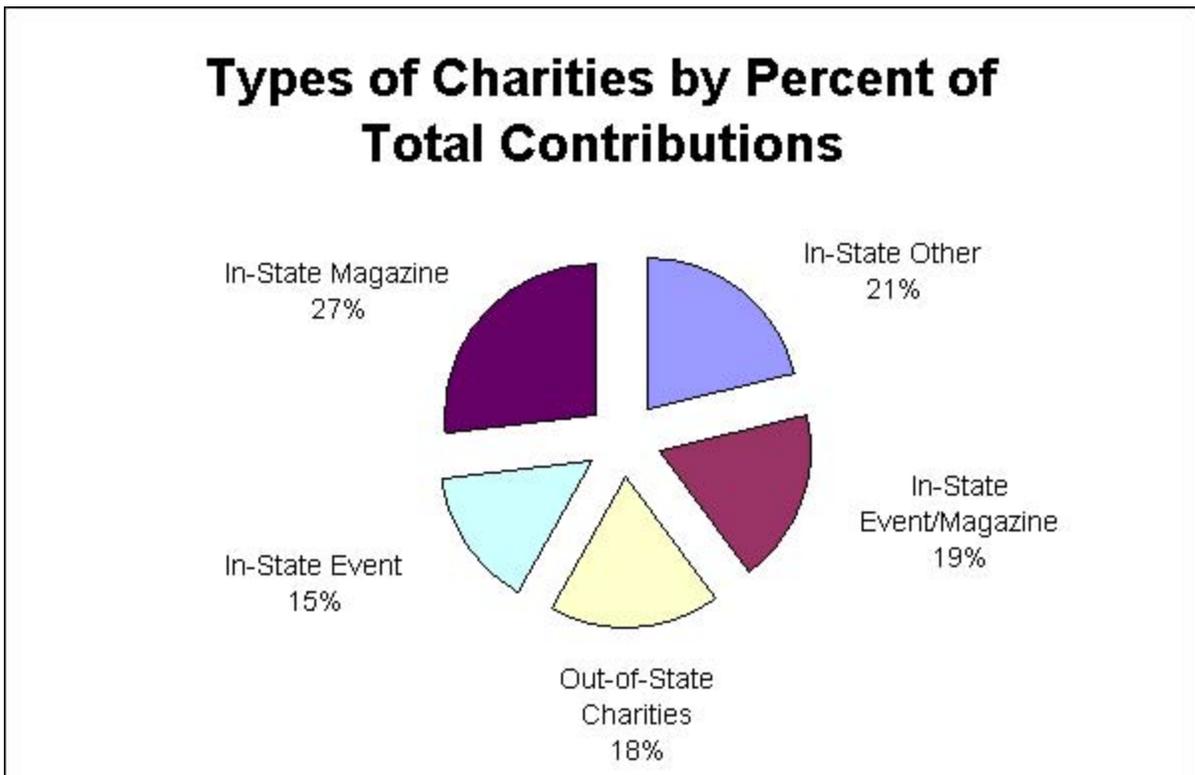
A total of 386 fundraising campaigns involved charities based outside the State of Vermont, of which 320 resulted in a financial report filed on or before September 30, 1998. The fundraisers for these charities typically solicited contributions from many states at once. For this report, fundraisers were asked to identify whether the contributions data contained in their financial reports reflected funds collected in Vermont as opposed to funds collected nationally.

Of the 320 financial reports received for campaigns benefiting 171 out-of-state charities, 59 reflect a total of \$505,256 collected only in Vermont. The remaining 261 financial reports reflect a total of \$146,589,143 collected in Vermont and other states. While these sources do not permit a precise reckoning of how many dollars Vermonters contributed in response to multi-state campaigns, a reasonable estimate can be made. Assuming that Vermont residents give to charity in proportion to their numbers (the State's population is .222 percent of the U.S. population),<sup>24</sup> Vermonters donated approximately \$325,428 to these out-of-state charities whose financial reports reflect giving in several states.

As a result, for campaigns ending during the period 1993 through 1997, it is estimated that Vermonters contributed \$830,684 to out-of-state charities using paid fundraisers.<sup>25</sup> The average campaign yielded \$2,596 for the fundraiser and the charity.

### **3. Total of Contributions**

Overall, Vermonters' contributions to in-state and out-of-state charities using paid fundraisers in 1993-97 was an estimated \$4,634,024, or an average of \$10,344 per campaign for the fundraiser and the charity. The chart that follows summarizes the relative importance of the different types of campaigns, by dollars contributed.



### **B. Allocation of Contributions Between Charities and Fundraisers**

One of the most significant categories of information to be gleaned from fundraisers' filings concerns the question of where the contributions go: what percentage is paid to the fundraiser, and what percentage to the charity? This breakdown is required by law to be included in the fundraiser's financial report, and it is set out in the next sections of this report based on (1) in-state charities, (2) out-of-state charities, and (3) all charities, followed by a separate analysis of the breakdown in terms of number of campaigns, rather than dollars contributed.

**1. In-State Charities**

Of the \$3,803,340 that Vermonters contributed to in-state charities using paid fundraisers in 1993-97, \$1,087,972, or 28.6, percent went to the charity and \$2,715,368, or 71.4 percent, went to the fundraiser.

However, the charity-fundraiser "split" varied, depending upon the nature of the campaign— that is, whether the campaign was for a charity that (1) ran a show or similar event, (2) sold magazine advertising, (3) both ran an event and sold advertising ("combined"), or (4) did neither. The following table reflects this variation:

***Allocation of Contributions to In-State Charities by Type of Campaign***

Total	Total Contributed	Amount/% to Charity		Amount/% to Fundraiser	
(1) Event	\$ 705,253	\$ 133,876	19.0%	\$ 571,377	81.0%
(2) Magazine	\$1,234,193	\$ 326,427	26.4%	\$ 907,766	73.6%
(3) Combined	\$ 893,688	\$ 214,772	24.0%	\$ 678,916	76.0%
(1) + (2) + (3)	\$2,833,134	\$ 675,075	23.8%	\$2,158,059	76.2%
(4) Other	\$ 970,206	\$ 412,897	42.6%	\$ 557,309	57.4%
Total	\$3,803,340	\$1,087,972	28.6%	\$2,715,368	71.4%

It is worth noting that the two charitable organizations that generated the highest level of contributions were the Vermont Police Association and the Vermont State Police Union. The total of seven campaigns conducted by these two groups accounted for \$1,443,593, or 31.2 percent of all charitable contributions covered by this report; the average amount raised in each campaign was \$206,228. Between 73.0 and 73.1 percent of the donations to the Vermont Police Association went to its fundraiser; for the Vermont State Police Union, the figure ranged from 73.4 to 81.2 percent.

## **2. Out-of-State Charities**

Of the estimated \$830,684 that Vermonters contributed to out-of-state charities using paid fundraisers in 1993-97, \$275,501, or 33.2 percent, went to the charity and \$555,183, or 66.8 percent, went to the fundraiser.

## **3. All Charities**

Of the estimated \$4,634,024 that Vermonters contributed to all charities using paid fundraisers in 1993-97, \$1,363,473, or 29.4 percent, went to the charity and \$3,270,551, or 70.6 percent, went to the fundraiser. This percentage is not materially different from the 72.6 percent reflected in the White Paper issued by the Office of Attorney General in June 1993 for campaigns completed between July 1990 and December 1992.

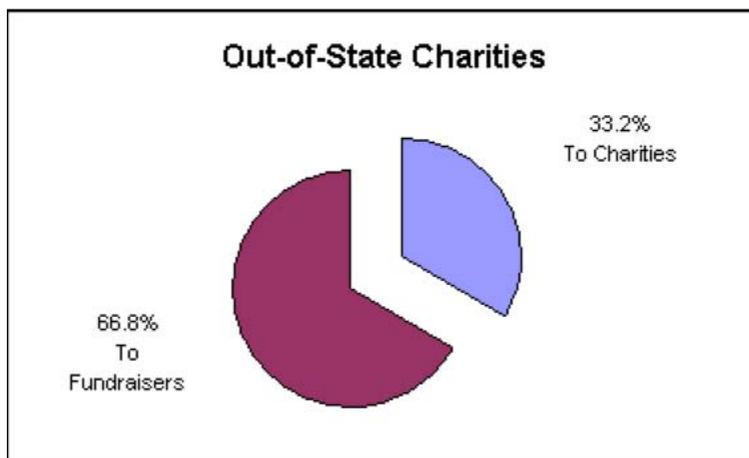
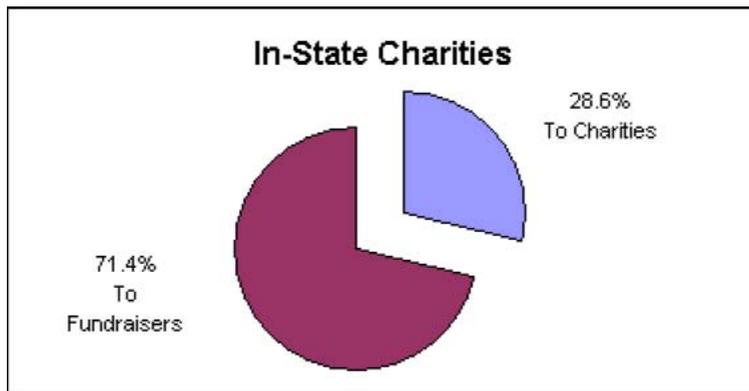
It should be noted that 109 of the 448 campaigns covered in this report involved the production of an entertainment event and/or the sale of advertising in a publication. If these 109 campaigns are omitted from the tallies—on the grounds that they may well have required a higher level of expense to put on the show or publish the magazine—

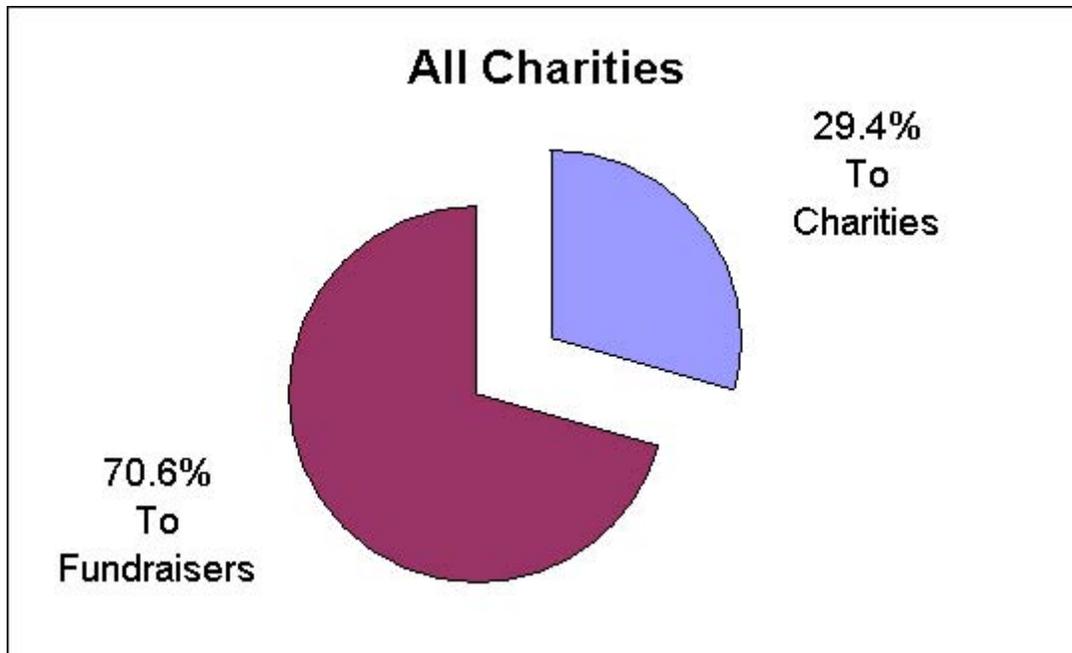
the remaining estimated gross contributions by Vermonters are \$1,791,483; of this figure, \$1,105,619, or 61.7 percent, went to the fundraisers.

The respective percentages of contributions that went to charities and their paid fundraisers are reflected in the pie charts that appear on the next page, broken down by campaigns for in-state charities, out-of-state charities, and all charities.

Complete listings of the percentages of contributions received by charities and their fundraisers are contained in **Appendices 3 and 4**.

### *Allocation of Contributions by Dollar*





#### **4. Breakdown by Number of Campaigns**

Another way of analyzing the available data is to look at the number of campaigns in which particular percentages of contributions went to the charity and to the paid fundraiser. This allows one to test for whether the high average percentages of contributions that went to fundraisers are the result of a few large campaigns that skew otherwise more modest "splits," or whether paid fundraisers received a substantial portion of contributions across most campaigns.

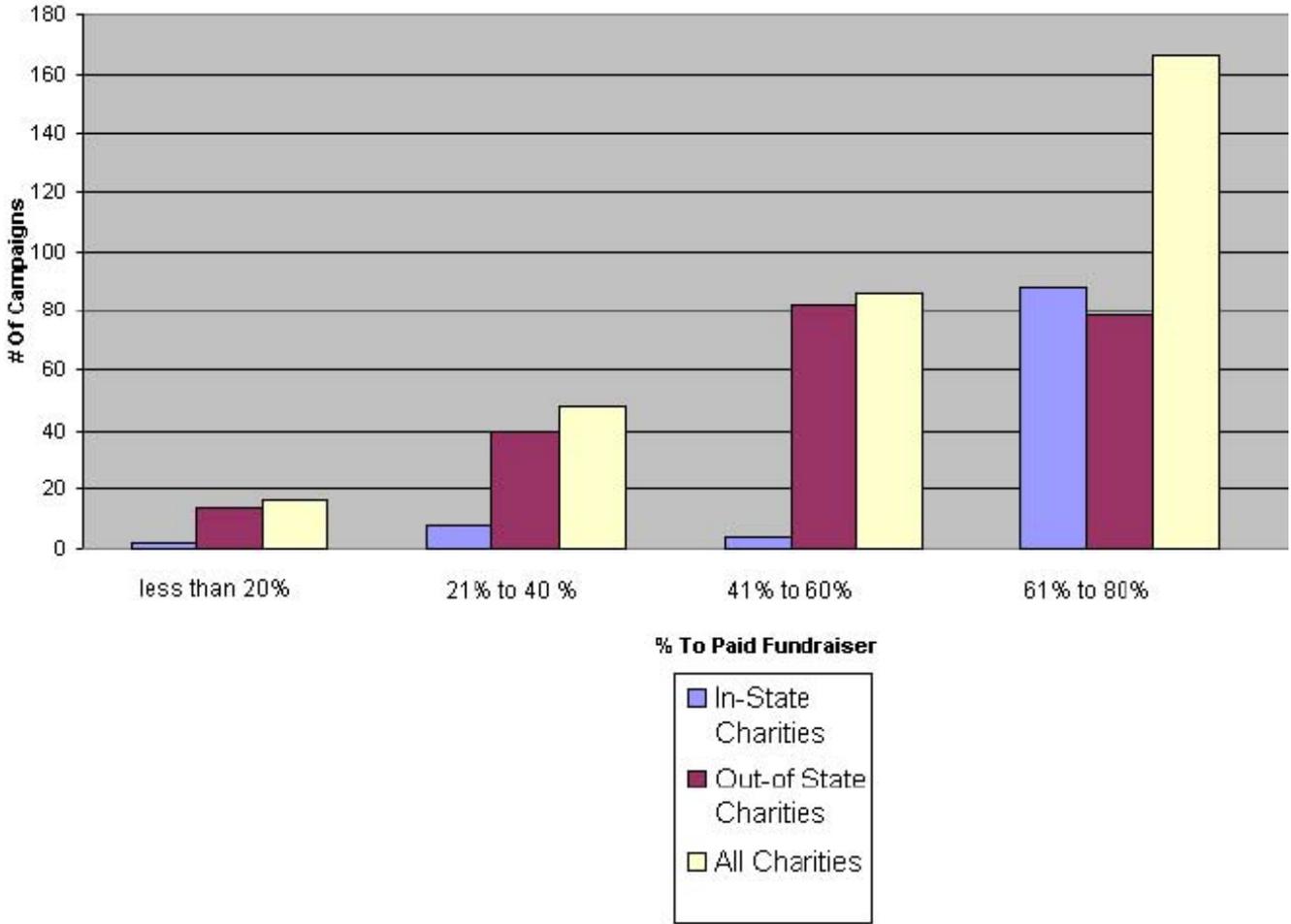
Of the 128 campaigns on behalf of in-state charities for which financial reports were filed, 2 (1.6 percent) involved payment of 20 percent or less of the donations to the fundraiser; 8 (6.2 percent), between 21 and 40 percent; 4 (3.1 percent), between 41 and 60 percent; 88 (68.8 percent), between 61 and 80 percent; and 26 (20.3 percent), over 80 percent.

Of the 320 campaigns on behalf of out-of-state charities for which financial reports were filed, 14 (4.4 percent) involved payment of 20 percent or less of the donations to the fundraiser; 40 (12.5 percent), between 21 and 40 percent; 82 (25.6 percent), between 41 and 60 percent; 78 (24.4 percent), between 61 and 80 percent; and 106 (33.1 percent), over 80 percent.

Finally, of the 448 campaigns on behalf of all charities for which financial reports were filed, 16 (3.6 percent) involved payment of 20 percent or less of the donations to the fundraiser; 48 (10.7 percent), between 21 and 40 percent; 86 (19.2 percent), between 41 and 60 percent; 166 (37.1 percent), between 61 and 80 percent; and 132 (29.5 percent), over 80 percent.

The bar graph on the next page summarizes all of this information.

## ***Allocation of Contributions by Number of Campaigns***



### **5. Charities and Fundraisers with the Highest Percentages**

The ten campaigns, by charity and affiliated fundraiser, that involved the highest percentage of gross contributions to the charity were:

<b><i>Charity</i></b>	<b><i>Fundraiser</i></b>	<b><i>% to Charity</i></b>
Leukemia Society of America	DialAmerica Marketing, Inc.	100.0 26
Leukemia Society of America	DialAmerica Marketing, Inc.	100.0

Mothers Against Drunk Driving	DialAmerica Marketing, Inc.	100.0
Nat'l Alliance of Breast Cancer	DialAmerica Marketing, Inc.	100.0
Nat'l Alliance of Breast Cancer	DialAmerica Marketing, Inc.	100.0
Vermont Special Olympics	DialAmerica Marketing, Inc.	100.0
Vermont Special Olympics	DialAmerica Marketing, Inc.	100.0
Nat'l Ass'n of Chiefs of Police	Response Dynamics, Inc.	93.9
Empower America	Response Dynamics, Inc.	93.0
Council for Int'l Development	Response Dynamics, Inc.	92.7
Famine Relief fund	Response Dynamics, Inc.	91.8

A complete listing of charities in descending order of percentage-to-charity is set out in **Appendix 5**.

The ten campaigns by fundraiser and sponsoring charity that involved the highest percentage of gross contributions to the fundraiser—and which grossed an estimated \$10,000 or more in Vermont but did not involve an event or sale of advertising—were:

<i><b>Fundraiser</b></i>	<i><b>Charity</b></i>	<i><b>% to Fundraiser</b></i>
Response Dynamics, Inc.	Empower America	98.9
Reese Brothers, Inc.	Students Against Driving	97.4
GWE Consulting Group USA, Inc.	Mt. Sinai Shrine	96.8
Reese Brothers, Inc.	Vanished Children's Alliance, Inc.	94.6
Grizzard Advertising, Inc.	Vermont Sheriff's Association	94.0
Integral Resources, Inc.	Vermont Special Olympics	91.6
Reese Brothers, Inc.	Angel Planes	90.0
Reese Brothers, Inc.	KidsPeace	88.3
Reese Brothers, Inc.	Multiple Sclerosis Ass'n of America	85.1

A complete listing of fundraisers in descending order of percentage-to-fundraiser is set out in **Appendix 6**. 27

### **C. Compliance with Filing Requirements**

A paid fundraiser is required to register with the Office of Attorney General for each separate campaign to be conducted on behalf of a charitable sponsor. The requisite notice must be accompanied by a copy of the contract between the fundraiser and charitable sponsor, and proof of a \$20,000 bond.

Late submission of financial reports constitutes the most common noncompliance error made by paid fundraisers. Many paid fundraisers do not handle the donations they solicit because those are sent directly to the charity, which in turn pays the fundraiser. In such cases, the fundraiser must depend on the charity to provide the needed financial information for a timely report, and to sign the report before it is submitted to the State. On the other hand, 17 end-of-campaign filings due no later than March 31, 1998, still had not been filed as of the time this report was published.<sup>28</sup> Failure to file timely financial reports is one of the allegations contained in a lawsuit recently filed by the Office of Attorney General against Civic Development Group, L.L.C., a New Jersey-based fundraiser.<sup>29</sup>

The second most common error is submission of a contract which fails to include the required statement advising the charitable sponsor that it is legally entitled to an end-of-campaign financial report from the fundraiser, that it can cancel the contract or recover damages in certain circumstances, and that it may obtain more information on these rights from the Office of Attorney General.<sup>30</sup> This error is typically corrected by having the paid fundraiser submit a contract addendum containing the required statement.

#### **D. Litigation and Investigations Involving Paid Fundraisers**

In 1996, the Office of Attorney General obtained its first settlement against two paid fundraisers under the Charitable Solicitations Law and the Consumer Fraud Act of which that statute is a part. The fundraisers were American Trade and Convention Publications, Inc. ("American Trade") of Greenfield, Wisconsin, and its agent, All-Pro Telemarketing Associates Corporation ("All-Pro") of Fairlawn, New Jersey. The Attorney General alleged that American Trade and All-Pro had failed to register with the State before beginning a fundraising campaign on behalf of the Vietnam Veterans of America ("VVA") in the fall of 1995. The Attorney General also alleged that the fundraisers failed to monitor the telemarketing firm they hired in Albany, New York, to call Vermonters for donations; in turn, some of the telemarketers falsely stated that they were calling from an address in Vermont, and that the prospective contributor had contributed to the VVA before. (The fundraisers' use of a post office box address in Middlebury, Vermont, on the return envelopes sent to Vermonters who pledged to make a contribution may have reinforced the impression that the campaign was local, rather than national.)

American Trade and All-Pro agreed to comply with Vermont law in the future, to offer a full refund to any donor who requested one, and to pay \$25,000 to the State as costs to settle the matter.<sup>31</sup>

More recently, the Attorney General's Office sued Civic Development Group, L.L.C. (a paid fundraiser), Children's Charity Fund, Inc. (a sponsoring charity), and three executive officers. The case is still pending. Among the allegations are that prospective donors were told that the charity would provide medical equipment to disabled children throughout Vermont, when only half of one percent (.5%) of the money raised in the

state went for that purpose; that the fundraiser provided incomplete information to the State concerning investigations and lawsuits against it by other states; and that the fundraiser misrepresented to Vermont donors that certain of its sponsoring charities had offices or an affiliate in Vermont, when in fact there was only a mail drop in the state, and, at least in one case, that the fundraiser was based in Vermont.

## **IV. DISCUSSION**

### **A. Allocation of Contributions**

The most significant information to emerge from paid fundraisers' filings with the State of Vermont concerns the distribution of contributions between fundraisers and their sponsoring charities. As noted above, of the estimated \$4.6 million in charitable contributions reported by fundraisers registered to solicit in Vermont for campaigns which ended in 1993-97, 70.6 percent went to the paid fundraiser.<sup>32</sup>

The percentage to the fundraiser varied by type of charity: 76.2 percent for in-state campaigns involving an event or sale of advertising; 57.4 percent for other in-state campaigns; 66.8 percent for out-of-state campaigns. The higher percentage in event and sale-of-advertising campaigns is not surprising given the costs associated with putting on a show or publishing a magazine, and the entertainment or business value that flows to the donor.<sup>33</sup> However, even omitting event and sale-of-advertising campaigns, the overall percentage of gross contributions that went to fundraisers was still 61.7 percent.

Moreover, in 85.7 percent of the campaigns, more than 40 percent of gross contributions went to the fundraiser (meaning that less than 60 percent of the donations

were retained by the charity); in 66.6 percent of the campaigns, more than 60 percent of contributions went to the fundraiser (less than 40 percent to the charity); and in 29.5 percent of the campaigns, more than 80 percent of the contributions went to the fundraiser (less than 20 percent to the charity). Thus, in 132 of the campaigns, more than 80 cents out of every dollar donated went not to the charity in whose name the contribution was solicited, but to the solicitor.

The amount of money contributed to different types of campaigns varied significantly. Campaigns on behalf of in-state charities represented only 28.6 percent of the campaigns for which reports were filed, but they raised 82.1 percent of the dollars donated to charities using paid fundraisers. The amounts raised per "in-state" campaign were considerably higher than the norm: \$29,714 per campaign (ranging from \$10,075 in event campaigns to \$137,133 in sale-of-advertising campaigns), versus an estimated \$2,596 per campaign for out-of-state charities. The overall average was \$10,344.

By far the highest per-campaign yields—an average of \$206,228 over 7 campaigns—were achieved by the Vermont Police Association and the Vermont State Police Union, which between them generated 31.2 percent of all charitable contributions covered by this report. The success of these two organizations may be explained by several factors: 6 of the campaigns involved the sale to businesses of advertising in publications, which may result in higher donations than individuals make; the campaigns were statewide in scope (the three other publication-oriented campaigns were all local in nature); and these groups had been fundraising in Vermont for a number of years.

## **B. Fundraiser Contracts**

The terms of contracts between paid fundraisers and their sponsoring charities vary from one campaign to the next. However, there are two basic models: the fixed fee contract, in which the fundraiser receives a set dollar amount which is not dependent on the level of contributions; and the commission contract, which is based on a percentage of contributions. While review of all of the contracts for the 448 campaigns covered by this report is beyond the scope of this discussion, some observations may be made based on a sampling of the contracts.

Contracts for sale-of-advertising campaigns typically guarantee the charity a set percentage of gross contributions—for example, 25 percent (Police Publications, Inc., for Champlain Valley Crime Stoppers), or 20 percent with a \$4,000 minimum (TELCO Communications, Inc., for Orleans County Sheriff's Department).

Contracts for event-oriented campaigns may offer the charity a percentage of gross contributions, with a guaranteed minimum—for example, 20 percent of all ticket revenues and 50 percent of all gate sales, with a minimum of \$500 to the charity (Joan McKnight, for Vermont JCI Senate World Ride for Cancer). On the other hand, they may also reserve for the charity all proceeds after specified expenses have been paid, with no minimum (Rodney Randall, for Shriners Sinai Clown Jewels).

Contracts for mixed event and sale-of-advertising campaigns typically provide that the charity will receive a specified percentage or percentages of contributions or revenue. For example, one such contract provides that the charity will receive 25 percent of gross advertising and ticket revenues with a minimum of \$12,000 (New England Concerts & Productions, Inc., for the Burlington Police Officers Association).

Another states that the charity will receive a sliding scale of between 20 percent of the first \$35,000 in gross ticket/advertising revenues and 30 percent of gross revenues over \$50,000, as well as 50 percent of gate and raffle income (All-Pro Productions, Inc., for the Bennington County Sheriff's Department).

Contracts for out-of-state charities typically charge a set fee for each contact with a prospective donor; specified expenses are deducted as well. For example, one contract provides for a per-contact fee of \$4.25, plus \$.50 for each credit card pledge received over the telephone, with additional fees for certain costs of postage, "set-up" (\$500), record processing (\$35 per 1,000), and special programming (\$60 per hour) (Harris O'Malley Marketing, Inc., for Common Cause). Another contract calls for payment of \$3.30-3.80 per telephone call, \$1.10 plus postage per mailing, and additional charges for clerical, computer and other work (Infocision Management Corporation for the National Easter Seal Society). A third contract sets fees at between \$3.75 and \$4.35 per contact, plus the cost of postage increases and computer fees (Facter Direct LTD for The Heritage Foundation).

As noted on the first two pages of Appendix 6, in a number of campaigns the amount paid to the fundraiser actually exceeded the contributions made. An example is the National Easter Seal Society campaign noted above, in which the Vermont contributions totaled \$910; the fundraiser received \$1342. In many of these cases the total of contributions by Vermonters (whether based on specific Vermont figures or extrapolations from national figures) is quite small. Donors might be surprised to learn that a fundraiser grossed more than the charity in whose name it solicited, although (as noted below) in some campaigns raising money for the charity may not be the only goal.

Commission-based contracts would logically seem to provide a greater incentive for successful fundraising, because the higher the level of donations, the higher the compensation. However, a recent study conducted in Pennsylvania found that fixed-fee contracts yielded a significantly higher percentage of contributions to charities, as well as significantly greater total contributions.<sup>34</sup> It is anticipated that in the future, with the introduction of additional precampaign disclosure requirements,<sup>35</sup> reports of this kind will contain a more comprehensive analysis of contract terms and their relationship with contribution levels.

### **C. Conflicting Views of Fundraiser Costs**

Some fundraisers contend that high fundraising expenses are not necessarily a bad thing.<sup>36</sup> They ask that more emphasis be placed on a charity's overall spending on fundraising and less on individual campaigns.<sup>37</sup> They also note that the allocation of contributions between charities and fundraisers can be affected by such factors as the purpose of the campaign (whether the purpose is to obtain new donors, often at a high cost, or to solicit previous donors); and the timing of the campaign (whether the reporting period is the first year of a campaign, involving high start-up costs). Some fundraisers have also pointed out that when their expenses of conducting a campaign are not allocated between "program services" and "fundraising expense" as permitted by accepted accounting practices, the expense of the campaign is inflated—although this claim assumes that a portion of fundraising expenses can be legitimately attributed to the charity's "educational" efforts."<sup>38</sup>

On the other hand, the National Charities Information Bureau ("NCIB"), a watchdog organization, evaluates charities based in part on whether they spend at least 60

percent of annual expenses for program activities, and on whether their fundraising expenses, in relation to fundraising results, are reasonable over time. 39 A similar standard is reflected in the rating system used by the American Institute of Philanthropy<sup>40</sup>; the Council of Better Business Bureaus has a 50 percent benchmark as one of its standards.<sup>41</sup> These percentages are roughly consistent with donor expectations as reflected in past studies.<sup>42</sup> (Since charities that do not use a paid fundraiser are not required to register or otherwise report to the State, it is not known whether those organizations have a lower cost of fundraising, although at least one Pennsylvania study has found that they do.<sup>43</sup>)

#### **D. Constitutional Limits to Public Disclosure**

It is likely that most people who respond to paid fundraisers' solicitations do not know how much of each dollar they contribute goes to the charity in whose name the solicitation is made. Yet, as important as it might be to a prospective donor to have this information before deciding whether to contribute, as things presently stand, there is a constitutional bar to any state's mandating such a disclosure. In a June 1988 ruling involving North Carolina's charitable solicitations law, the United States Supreme Court ruled that it would violate a charity's right of free speech under the First Amendment to the federal Constitution to require a paid fundraiser to furnish this information to the would-be contributor.<sup>44</sup> The effect of this decision is to allow charities to spend as large a percentage of their receipts on fundraising by paid fundraisers as they wish, without having to alert consumers as to how their donated dollars are being used. That decision followed two others by the Supreme Court that struck down, also on First Amendment grounds, state and local enactments requiring charities to use at least a certain

percentage of their receipts for charitable purposes, and limiting charities' fundraising expenses to a certain percentage of receipts.<sup>45</sup>

However, it has been found permissible for a state to require a paid fundraiser to disclose to potential contributors his or her professional status and employer's name and address,<sup>46</sup> and to disclose in writing that information on the fundraiser-charity "split" is available from a state agency.<sup>47</sup> Such disclosures can help increase donor access to information on how much of each donated dollar is retained by any given fundraiser. To that end, the Vermont Legislature amended the Charitable Solicitations Law, effective July 1, 1997, to add the following language:

No paid fundraiser shall solicit a contribution from any person in this state without clearly and conspicuously disclosing to the person, prior to the time the person makes or authorizes payment of a donation:

(1) that the solicitor is being paid by the charitable organization on whose behalf the solicitation is being made; and

(2) how the potential contributor may obtain information from the state on the respective percentages of contributions that will be paid to the charitable organization and to the paid fundraiser.<sup>48</sup>

#### **E. Informing the Public of the Fundraiser-Charity "Split"**

The Office of Attorney General has recently established a system for providing information to members of the public on the allocation of contributions between charities and their paid fundraisers. Specifically, the minimum percentage of contributions contractually guaranteed to the charity (or, if the post-campaign financial report has been filed, then the actual "split" between fundraiser and charity) is now available by telephone from the Attorney General's Consumer Assistance Program at 1-800-649-2424 (656-3183 in the Burlington area). The same information is also available on the Attorney General's Internet website, at <http://www.state.vt.us/atg> (click the Consumer

Protection box, and the first option is Charities Information).

## **F. The Sponsoring Charities**

Until 1997, Vermont's Charitable Solicitations Law regulated only paid fundraisers. It did not impose any obligations on charities, whether or not they employed paid fundraisers to solicit for them. Yet the mere fact that a paid fundraiser registered with the State did not ensure that the charity did what the fundraiser claimed it did, nor that the charity would use the contributions it received for its charitable purposes.<sup>49</sup>

There do exist some "rating systems" for charities that can help potential contributors gauge how their donations will be used.<sup>50</sup> On the other hand, a comparison of one of the more helpful of these services, run by the American Institute of Philanthropy, suggests that such ratings will not necessarily reflect the relative percentages of contributions that go to charities and their fundraisers.<sup>51</sup>

In response to this gap in the law, the Vermont Legislature recently extended the existing prohibition on charities fraud—which in the past had only applied to paid fundraisers—to the charities themselves. Effective July 1, 1997, [n]o ... charitable organization shall misrepresent, directly or indirectly, to a contributor or potential contributor any fact relating to the solicitation, including, but not limited to, the percentage of the contribution that will be paid over to the charitable organization or the purpose for which the contribution will be used.<sup>52</sup>

With this statutory change, the Office of Attorney General is in a better position to address the activities by that minority of the charities community that would seek to raise funds by fraudulent means. A lawsuit has already been filed against a charity for making allegedly deceptive claims that its money would be used for medical services

and equipment in Vermont.<sup>53</sup>

## **G. Proposals for Improvement**

Those concerned with the high percentage of charitable contributions raised by for-profit firms that are retained by fundraisers are not likely to see a change any time soon in the Constitutional doctrine barring allocation-disclosure requirements. Within this legal limitation, however, there are measures that can be taken to enhance public understanding of where the donations actually go.

Some of these measures can be put into law through the rulemaking process, which the Attorney General has the authority to initiate under the Charitable Solicitations Law.<sup>54</sup> For example, the Office of Attorney General is now considering a rule that would:

- require paid fundraisers to provide charitable donors with a specific and very conspicuous form of written disclosure of the availability, from the State, of information on the charity-fundraiser "split," including the availability of this information over the Internet.
- require fundraisers to report to the State information that would allow the development of a more accurate database of information for prospective donors, such as the amount of contributions by Vermonters in multistate campaigns (so that this figure does not have to be estimated); the amount of expenses specifically attributable to running a show or other event or to producing magazine advertising (so that these expenses can be deducted from those attributable to the fundraising process itself); and whether the fundraiser will receive a fixed fee or a commission for its work (to facilitate analysis of which

type of contract produces

- require fundraisers in certain circumstances to furnish to the Office of Attorney General copies of their charitable solicitation materials, including telephone scripts and mass mailings, to verify the truthfulness of statements made to prospective donors about how much of their contributions will go to the charity.<sup>55</sup>

With the availability of more information on solicitation methods will come a greater capacity to enforce the statutory prohibition on deceptive practices by fundraisers and charities. A similarly strict approach to fundraisers' failures to file end-of-campaign financial reports, including efforts to revoke fundraiser bonds, may be appropriate as well.

Finally, public education continues to be essential. Recent efforts, undertaken jointly with organizations such as the American Association of Retired Persons (AARP), to help consumers cope effectively with telemarketing calls, mass mailings and door-to-door solicitations could serve as models for such a program. These efforts have included a "Senior Sting," in which volunteers gathered, and then passed on to the Office of Attorney General, questionable solicitations they had received by mail; and a "Reverse Boiler Room," in which volunteers contacted over 1,000 senior citizens by telephone in one night to warn them of the dangers of telemarketing, mail and door-to-door fraud. Of course, due care must be exercised to ensure that charitable giving is encouraged, not discouraged; the key is to help people become informed donors.

## **V. CONCLUSION**

The best approach to charitable giving, from the prospective donor's point of view, is to ask for information about the charity and the paid fundraiser before making a donation.

Vermonters can—and should—ask charitable solicitors, whether paid or not, for a brochure or other document explaining the mission of their sponsoring charity and how it uses the contributions it receives, including the percentage devoted to fundraising.

Information on the allocation of contributions between fundraisers and charities can also be obtained by contacting the Attorney General's Consumer Assistance Program or his website on the Internet. Vermonters should use this information to "give generously, but give wisely."

## Endnotes

<sup>1.</sup> AAFRC Trust for Philanthropy, Giving USA 1998 (visited Oct. 26, 1998)

<<http://www.aafrc.org/CHAR.HTM>.

<sup>2.</sup> Id.

<sup>3.</sup> Bruce R. Hopkins, Charity Under Siege: Government Regulation of Fundraising (John Wiley & Sons 1980) at 28.

<sup>4.</sup> As of January 1, 1998, 47 states and the District of Columbia required paid fundraisers to make certain disclosures to prospective donors, to register, and/or to comply with other state regulatory requirements. Giving USA Update (Annual Survey of State Laws Regulating Charitable Solicitations) (Issue 1, 1998).

<sup>5.</sup> As used in this report, the term "fundraiser" is synonymous with "paid fundraiser"—that is, a person or company that is paid by a charitable organization to solicit contributions on behalf of the charity.

<sup>6.</sup> Office of the Vermont Attorney General, Paid Fundraising in Vermont 1990-92 (June 1993), at 5.

<sup>7.</sup> Id. at 2.

<sup>8.</sup> 9 V.S.A. §2471. A "paid fundraiser" is defined as "a person who, for financial consideration, solicits contributions from persons in this state, either directly or through employees, agents, or those with whom the paid fundraiser is in privity." 9 V.S.A. §2471(8). A "contribution" is "the grant, promise or pledge of money, credit, financial assistance or other goods or services in part or in whole for a charitable purpose." 9 V.S.A. §2471(4). A "charitable purpose," in turn, means "any benevolent, educational, philanthropic, humane, patriotic, social welfare, advocacy, public health, environmental conservation or civic objective or any objective of law enforcement officers, fire fighters or other persons who protect the public safety." 9 V.S.A. §2471(3).

<sup>9.</sup> 9 V.S.A. §2471(8)(A) through (D).

<sup>10.</sup> 9 V.S.A. §2472(a).

<sup>11.</sup> 9 V.S.A. §2473(b).

<sup>12.</sup> 9 V.S.A. §2473(a).

<sup>13.</sup> Specifically, the law requires that the notice of solicitation contain the following:

- the name, address and telephone number of the paid fundraiser and, if the fundraiser is a business, of each of its principal officers and directors.
- the name, address and telephone number of the charity on whose behalf solicitations are to be made.
- information on any litigation or investigation concerning the fundraiser's solicitation activities in any jurisdiction in the past six years.
- the nature and starting and ending dates of the solicitation campaign in Vermont.
- the address and telephone number from which the campaign will be conducted.
- the names and addresses of all employees and agents of the fundraiser who will solicit during the campaign and whether any of these persons has been convicted of a

crime involving dishonesty arising from a charitable solicitation.

- information on any person or business related to an officer, director or owner of the fundraiser that will be paid for goods or services in connection with the campaign.
- a copy of the contract between the fundraiser and the charity.

9 V.S.A. §2473(a)(1) through (8). Subsection (a)(9) permits the Attorney General to promulgate a regulation requiring the filing of additional information.

<sup>14.</sup> 9 V.S.A. §2475(a) through (c).

<sup>15.</sup> 9 V.S.A. §2476(b).

<sup>16.</sup> 9 V.S.A. §2476(c).

<sup>17.</sup> 9 V.S.A. §2477.

<sup>18.</sup> Specifically, the financial report must set forth the following information:

- total gross receipts.
- how the gross receipts were distributed, including an itemized list of all expenses, commissions, and other costs of the campaign, and the net amount paid to the charity.
- the percentage of gross receipts represented by the total of fundraising expenses, commissions, and other costs.
- the percentage of gross receipts represented by the net amount paid to the charity.

9 V.S.A. §2477(b). The Attorney General may promulgate a regulation requiring additional information to be furnished in the report. §2477(b).

<sup>19.</sup> That is, the number 542 includes campaigns for which a notice of solicitation was filed with the State that called for the campaign to be completed between 1993 and 1997, even if in fact the campaign was never completed (because, for instance, the fundraiser went out of business).

<sup>20.</sup> For the purposes of this report, a fundraising campaign is a campaign which was conducted for one year or less. A campaign which was scheduled to be conducted for a period of time in excess of one year is shown as two or more campaigns.

<sup>21.</sup> These 94 campaigns include 7 for which financial reports were actually filed but indicated that no funds were contributed in Vermont. The remaining 87 can be summarized in this way: 27 involved fundraisers who went out of business; 25 resulted in the collection of no funds (but no financial report was ever filed); 3 presented miscellaneous circumstances (overlapping campaigns, a campaign exempt from filing requirements, another the subject of legal action by the Office of Attorney General), and 15 resulted in financial reports filed after September 30, 1998. The remainder, 17 (or 3.1 percent of the 542 campaigns), reflect true failure-to-file situations.

<sup>22.</sup> While the statutory deadline for submitting financial reports that pertain to campaigns ending in 1997 was March 31, 1998, 9 V.S.A. §2477(a), financial reports filed through September 30, 1998, were taken into account in compiling the data in this report. Where more than one financial report was filed, the second report covered the time since the

last financial report.

<sup>23.</sup> All dollar amounts have been rounded to the nearest dollar, and all percentages to the nearest tenth of a percent.

<sup>24.</sup> The source of Vermont's share of the U.S. population is the 1990 U.S. Census and estimates of population growth since 1990 found in U.S. Dept. of Commerce, Statistical Abstract of the United States (17<sup>th</sup> ed. 1997).

<sup>25.</sup> Very few campaigns on behalf of out-of-state charities involved an event or the sale of magazine advertising, so the campaigns for out-of-state charities have not been subdivided in the same manner as the campaigns for in-state charities.

<sup>26.</sup> DialAmerica Marketing turned a fixed percentage of its sales of mass-market magazine sales over to its charitable sponsors. The Charitable Solicitations Law exempts these "coverture" arrangements from its regulatory requirements, but only if the fundraiser is regularly and primarily engaged in trade or commerce in Vermont other than in connection with the raising of funds, see 9 V.S.A. §2471(8)(B)—for example, a retail store that incidentally offers to donate a portion of its sales to charity during a given week. When it conducted the campaigns referred to in this report, DialAmerica did not fit within this exemption.

<sup>27.</sup> It will be noted in Appendix 6 that in a number of other campaigns, the percentage of gross contributions that went to the fundraiser was actually greater than 100. The reason for this is that the expenses and other charges attributable to the campaign (and charged to the charity) exceeded the amount of gross contributions. However, the average amount raised in Vermont in these campaigns is estimated to have been very small, \$188. That is why the list of ten fundraisers with the highest percentages set out in the text is limited to campaigns in which more than \$10,000 was raised. Moreover, because event and sale-of-advertising campaigns arguably require higher levels of fundraising expense, the list was also limited to campaigns that involved no event or sale of advertising.

<sup>28.</sup> See supra at n.21.

<sup>29.</sup> See State of Vermont v. Civic Development Group, L.L.C., et al., No. 863-98CnC (Chittenden Super. Ct.) (Consumer Fraud Complaint filed July 20, 1998). The Attorney General's Complaint cites three such failures to file by Civic Development Group.

<sup>30.</sup> The statutorily required statement, set out in 9 V.S.A. §2472(a)(4), reads,

Chapter 63 of Title 9 of the Vermont Statutes Annotated requires a paid fundraiser to provide the fundraiser's charitable sponsor, within 60 days after the end of a solicitation campaign, with a statement setting out the name and address of each contributor and the amount of the contribution; the amount of the gross receipts; and an itemized list of all expenses, commissions, and other costs incurred in the campaign. The law also gives charities other rights, including the right to cancel this contract or to recover damages, or both, in certain circumstances. Contact the Vermont Attorney General for further information.

A charitable organization may rescind its contract with a paid fundraiser and have all contributions in the fundraiser's possession returned to the donors if the contract or the

paid fundraiser does not comply with the Charitable Solicitations Law. §2472(c). In addition, the charity has the same rights against its fundraiser for unfair or deceptive acts as a consumer has against a business under the Vermont Consumer Fraud Act. §2479(c).

<sup>31.</sup> See American Trade and Convention Publications, Inc., et al., Docket No. 369-7-96 (Wash. Super. Ct., July 3, 1996) (Assurance of Discontinuance).

<sup>32.</sup> There is little change in this figure even if either of two other averages is used: the average percentage of contributions, by campaign, that went to paid fundraisers was 71.7 percent; and the median percentage (by campaign) that went to paid fundraisers was 73.1 percent. In theory, these numbers may reduce the skewing that can result from the existence of large-dollar campaigns.

<sup>33.</sup> See Janet S. Greenlee & Teresa P. Gordon, The Impact of Professional Solicitors on Fund-raising in Charitable Organizations, 27 Nonprofit and Voluntary Sector Quarterly, no. 3, 277, 283 (Sept. 1998) (hereinafter Impact of Professional Solicitors) (in case of special events, "[t]he ticket price has an element of charity, but purchasers may well be more interested in the band playing at the concert, for example, than the particular charity the concert is supposed to support.").

<sup>34.</sup> See Impact of Professional Solicitors at 293. The study found a mean yield to the charities of 34 percent (and mean contributions of \$723,070) with fixed-fee contracts, versus 21 percent (and \$150,500) for commission-based contracts.

<sup>35.</sup> See the section of this report on proposals for improvement, infra at 26-27.

<sup>36.</sup> The source of this discussion is conversations between representatives of various fundraisers and staff of the Attorney General's Office; see also Impact of Professional Solicitors at 284 (new charities must make proportionally larger expenditures to find interested donors).

<sup>37.</sup> Anyone wishing to analyze in greater detail how a charitable organization's contributions are being used would be well advised to review the charity's Form 990, filed annually with the Internal Revenue Service and, in some cases, copied to the Attorney General's Office.

<sup>38.</sup> A recognized accounting standard permits the costs of mailing solicitations to prospective donors to be jointly allocated between fundraising and "program" activities if certain conditions are met. Thus, for example, a charity that mails informational materials containing a request for contributions to parents of students, which materials explain the dangers of drug abuse, can legitimately attribute part of the cost of the mailing to its program functions if (a) the materials also encourage the parents to counsel children about the dangers of drug abuse and how to recognize it; (b) the charity conducts other activities in other media informing the public about the dangers of drug abuse and encouraging parents to counsel their children, which activities do not include requests for contributions; and (c) compensation to the charity's management is not based on contributions raised by the informational mailing. See Statement of Position 98-2, Accounting for Costs of Activities of Not-for-Profit Organizations and State and Local Governmental Entities That Include Fundraising (American Institute of Certified Public Accountants, Mar. 11, 1998), App. E (Illus. 1).

39. Under the NCIB's standards for use of funds, a charity should:

- a. spend at least 60 percent of annual expenses for program activities;
- b. insure that fundraising expenses, in relation to fundraising results, are reasonable over time;
- c. have net assets available for use in the following fiscal year not usually more than twice the current year's expenses or twice the next year's budget, whichever is higher;
- d. not have a persistent deficit in net current assets.

National Charities Information Bureau, Guidelines to Standards in Philanthropy (visited Aug. 20, 1998) <<http://www.give.org/standard.cfm>.

<sup>40.</sup> The American Institute of Philanthropy assigns letter grades ("A" through "F") to charities, based in part on the percentage of contributions they spend on charitable purposes (the AIP target is 60 percent or more), and on the cost of raising \$100 (AIP target: \$35 or less). AIP Charity Rating Guide & Watchdog Report (Fall 1997) at 3.

<sup>41.</sup> That is, at least 50 percent of total income from all sources should be spent on programs and activities directly related to the organization's purposes, and at least 50 percent of public contributions should be spent on the programs and activities described in solicitations. Also according to the CBBB, fundraising costs should not exceed 35 percent of related contributions, and fundraising and administrative costs should not exceed 50 percent of total income. CBBB Standards for Charitable Solicitations (visited Oct. 16, 1998) <<http://www.bbb.org/about/charstandard.html>.

<sup>42.</sup> See Impact of Professional Solicitors at 281-82 (citing a focus group study in which participants felt that an appropriate ratio would be 75 percent for programs and 25 percent for administration and fundraising, and another study of 5,000 donors in which organizations that were perceived to spend 60 percent or more on programs received significantly larger gifts). Similarly, in a recent survey of 1,683 persons age 25 and older, the mean estimate was that 54 percent of any contribution goes to the charity itself (this figure excluded the 9 percent of respondents who said they did not know); and 70 percent of all respondents said the fundraiser's share of contributions should be 10 percent or less. See AARP Research Group, 1998 AARP Survey on Charitable Donations: A Summary of Key Findings at 8-9 (Nov. 1998).

<sup>43.</sup> See Impact of Professional Solicitors at 289 (charities using paid fundraisers reported average of 25 percent of total expenses devoted to fundraising; charities not using paid fundraisers reported average of 15 percent for that purpose).

<sup>44.</sup> See Riley v. National Federation of the Blind of North Carolina, 487 U.S. 781 (1988).

<sup>45.</sup> See Village of Schaumburg v. Citizens for a Better Environment, 444 U.S. 620 (1980) (striking down ordinance prohibiting door-to-door or on-street solicitation of contributions by charities not using at least 75 percent of their receipts for charitable purposes); and Secretary of State of Maryland v. Joseph H. Munson Co., 467 U.S. 947 (1984) (striking down statute prohibiting charity from paying fundraising expenses of more than 25 percent of amount raised, despite possibility of waiver of this limitation in certain circumstances).

<sup>46.</sup> See Riley, 487 U.S. at 799 n.11.

<sup>47.</sup> See Telco Communications, Inc. v. Carbaugh, 885 F.2d 1225, 1232 (4th Cir. 1989); and Hechler v. Christian Action Network, 491 S.E.2d 618, 630 (W. Va. 1997).

<sup>48.</sup> 9 V.S.A. §2475(e).

<sup>49.</sup> For example, when the State of Illinois sued Telesystems Marketing, Inc., for consumer fraud, it also sued the sponsoring charity, the National Children's Cancer Society, Inc. ("NCCS"). According to the court complaint, about \$2.5 million was contributed to NCCS in 1988, but Telesystems billed NCCS \$3 million for its fundraising services (more than was donated). By contrast, NCCS made cancer-related grants in 1988 totaling only \$100,430. See People of the State of Illinois ex rel. Hartigan v. Telesystems Marketing, Inc., et al., No. 90 CH 93 (3d Jud. Cir. Ct., Madison Cty.) (Complaint for Damages, Injunctive Relief, etc.).

<sup>50.</sup> These organizations include:

American Institute of Philanthropy  
4905 Del Ray Avenue,  
Suite 300 Bethesda, MD 20814  
tel. (301) 913-5200  
(Publishes quarterly Charity Rating Guide & Watchdog Report.)

National Charities Information Bureau  
19 Union Square West  
New York, NY  
10003-3395  
tel. 1-800-501-NCIB [www.give.org](http://www.give.org)

(One free NCIB charity report is available upon request; additional reports can be obtained for \$3.50 each by writing to NCIB or calling the toll-free number. Reports detail how much is spent on actual charitable activities and how much on administration and note the extent of each charity's compliance with nine NCIB standards.)

The Philanthropic Advisory Service  
Council of Better Business Bureaus  
4200 Wilson Blvd., Suite 800  
Arlington, VA 22203  
tel. (703) 276-0100  
[www.bbb.org](http://www.bbb.org)

(PAS reports on specific charities, providing information on their governance, fundraising, and financial status. A free booklet, "Tips on Charitable Giving," can be obtained by sending a stamped, self-addressed envelope to the Service.)

<sup>51.</sup> Of the 50 campaigns in which 100 percent or more of the estimated contributions by Vermont residents went to the paid fundraiser, 32 were rated in AIP's Charity Rating

Guide & Watchdog Report (Fall 1998). Of that number, over half (17) received an overall grade of B- or better.

<sup>52.</sup> 9 V.S.A. §2475(b). A violation of this prohibition is deemed to be a violation of the Consumer Fraud Act, carrying with it the potential for the imposition of civil penalties and the return of donations to contributors, among other remedies. See 9 V.S.A. §2458.

<sup>53.</sup> See supra at n.29.

<sup>54.</sup> The Charitable Solicitations Law authorizes the Attorney General to prescribe by rule additional information to be included in a fundraiser's initial notice of solicitation, 9 V.S.A. §2473(a)(9), and additional information to be included in the end-of-campaign financial report, 9 V.S.A. §2477(b)(6), as well as to promulgate rules relating to unfair and deceptive practices when necessary to carry out the purposes of the Law, 9 V.S.A. §2479(b).

<sup>55.</sup> One specific concern is that campaigns in which all or virtually all of the contributions go to the fundraiser may also involve specific representations to prospective donors that their money will benefit the charity. Clearly, such statements are deceptive.