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before the

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

UNITED STATES SENATE

on

Shopping Smart and Avoiding Scams:

Financial Literacy During the Holiday Season

December 13, 2007

Chairman Dodd, Senator Shelby and Members of the Committee, I am Art Taylor, President and CEO of the BBB Wise Giving Alliance. I appreciate the opportunity to appear before this Committee to share with you our experience in helping donors make informed giving decisions.

The BBB Wise Giving Alliance (the Alliance) is a monitoring organization that sets voluntary accountability standards for charities (www.bbb.org/charity). We are a 501(c)(3) charitable affiliate of the Council of Better Business Bureaus. The Council of Better Business Bureaus is a 501(c)(6) business membership organization that serves as the umbrella organization for the 114 local Better Business Bureaus in the United States.

Under somewhat different names the BBB Wise Giving Alliance has been monitoring national charities for almost a century. Our mission is to help donors make informed judgments, based on ethical, financial and other considerations, about the charities that seek their support. We work from the donor's perspective.

Our national scope, the breadth of our standards, the public availability of our evaluations, and our practice of identifying organizations that do not meet our standards, as well as those that do, have given the Alliance a distinctive position. We have extensive contact with the public with our Web site, www.bbb.org/charity. Our national charity reports are accessed on our website over 2 million times a year. We work with media to promote sound information about charity operations. We go beyond standards to issue special alerts and advisories for individuals on topics related to giving. These include tips on charity telemarketing, police and firefighter appeals, and charitable responses to disasters.

The Donor's Dilemma

The generosity of American donors is well known. Their support of charitable activity contributes immeasurably to the betterment of virtually every aspect of American life. But donors, subject to fund-raising appeals issue from hundreds of thousands of charities in this country, have problems in making giving choices. In 2001, the Alliance commissioned a major donor expectations survey of over 2,000 adult Americans. Among the key findings:

- 70% of respondents say it is difficult to know whether a charity is legitimate;
- 44% say it is difficult to find the information they want in making a giving decision.

A similar Alliance-commissioned study in 2001 found that small businesses, which almost universally support local nonprofit organizations in some way, are also concerned with having information to aid their giving. Knowing how a charity spends its money was cited as a very important factor in giving decisions by 83% of respondents; the clarity of program descriptions in fund raising appeals was cited by 63%. Like individual donors, these businesses (defined as having 4-99 employees) look for help in finding accountable charities and in verifying the legitimacy of groups that seek their support.

Charity Transparency

In referring to “legitimacy,” donors mean they are looking for information that will give them confidence that their gifts are well used. It is on their behalf that the Alliance seeks information from charities. Our efforts are usually but not always successful: currently about 30% of the approximately 1,200 charities from which we request information do not provide it.

Here I want to stress an important feature of our reporting. Participation in our evaluation program is *voluntary*. While charities must file certain information, primarily financial, with various government bodies, they have no obligation to file with the

Alliance. In that context, charities that are ready to go beyond what is required by government demonstrate that for them transparency is a commitment to openness.

The value that we place on openness is shared by many in the charitable sector. In a report on philanthropy in the Wall Street Journal of December 10, 2007, the article entitled “How charities can make themselves more open,” attributes to Diana Aviv, chief executive of Independent Sector, a coalition of charity and philanthropy leaders, the statement that if charities oppose any sort of self-regulation, that “raises the question of whether you think you should be free to behave in any which way.”

In the same report, the Wall Street Journal quotes Brian Gallagher, chief executive of United Way of America, as saying “I think we get irrational pushback from nonprofits who say, ‘You can’t measure mission-centered work.’ You most certainly can. The question is, ‘Are you committed to do it?’ And then, ‘Are you committed to report on it?’”

Problems in the Charitable Sector

When enormously generous intent and seemingly infinite opportunity to do good intersect as they do in American life, it is not surprising that donors of all kinds often make uninformed decisions, unwittingly supporting charities that do not deserve their trust or falling prey to outright scams. Charities themselves are not immune to manipulation.

Examples abound-- in the records of state charity officials over the years, in the alerts issued by local Better Business Bureaus and in instances reported in the media:

- New York State barred a fund raising company from soliciting in the state, alleging among other things that its telemarketers, seeking contributions for police and firefighter organizations, falsely told potential donors that they are retired police officers, police-offers-in training or volunteers, and represented that the entire donation would benefit the charity
- In disasters especially, Internet websites may mimic the websites of charities, so as to acquire credit card and/or other personal information. Online retailers may offer products that they state will benefit a charity, without the charity's authorization (and quite possibly with no benefit to the charity)
- The Attorney General of Louisiana sued the author of a site soliciting hurricane relief, charging, among other things, that the site omitted to state that contributions would be used for white victims only. With court authorization, the state stopped the fund raising
- Callers representing themselves as representatives from "charitable trusts" call charities. The speakers says he is calling on behalf of an anonymous donor who wants to leave a bequest to the charity and asks for private information that will

allow the scammer to get into the charity's accounts. When the charity asks questions, the caller is unresponsive, emphasizing the importance of anonymity.

There is no way to put a number on the dollars that are lost to sound charitable activity in one way or another. Experience leads the Alliance to believe that rather than outright chicanery or fraud, however, it is accomplishments of dubious public value, low spending for actual charitable activity, ineffective board oversight, and inaccurate or misleading appeals that betray donors' trust that most weaken the impact of charity.

Resources for Donors

Donors are not always sure what they need to know, how to find it, or how to assess the information they have. Many resources, however, are available to them. Widespread and constant publicizing of these resources can contribute significantly to donors' ability to make sound choices.

The BBB Wise Giving Alliance evaluates over 1,200 national charities against a range of rigorous Standards for Charity Accountability. Its reports, which state whether the subject charity meets or does not meet these standards, are freely available on its Web site, www.bbb.org/charity. Many local Better Business Bureaus report similarly about local charities (www.bbb.org).

State charity government officials - While responsibilities of state charity government officials vary from state to state, individuals can generally contact their offices (usually a

division of the state's office of the attorney general) to verify that a charity is properly registered to solicit.

Guidestar.org gives free access to the IRS Form 990 that hundreds of thousands of charities file annually. These forms focus on financial information.

Internal Revenue Service Publication 526 tells how to claim deductibility for charitable donations. Publication 78 lists organizations to which contributions are deductible. It is important that donors verify the 501(c)(3) status of organizations they consider contributing to, as well as the need for written confirmation from the charity of all gifts, the treatment of non-cash contributions, the impact of receiving something of value from the charity as a result of the contribution, the amount deductible in contributions for benefit tickets, etc.—all information available at this site.

A resource **not** generally available to donors, we might note, is the Do Not Call list, since it does not cover charities. However, it is our understanding that if someone asks a specific charity solicitor not to call his/her house again, that charity is required to honor the request.

Tips for Holiday Giving

Charitable giving always attracts special attention during the holidays, but our view is that donors must be pro-active throughout the year. Certain common-sense tips, like those below, are always relevant. Donors should expect accountability from charities and

be ready to shun those that do not provide it. Acting from that position, they are far less apt to fall make poor giving decisions in the midst of holiday emotions.

WATCH OUT FOR NAME CONFUSION.

Look at the appeal carefully; some charities' names sound the same. More than 1,000,000 organizations have received charitable tax exempt status from the IRS.

QUESTION VAGUE APPEALS.

Make sure the charity's appeals clearly identify the nature of the charity's programs. For example, if the charity says it's helping the homeless, does it explain how (shelter, food, medical care) and where this is taking place?

BE WARY OF EXCESSIVE PRESSURE IN FUND RAISING.

Don't be pressured to make an immediate on-the-spot donation. Charities should welcome your gift whenever you want to send it.

REMEMBER: NOT ALL SOLICITING GROUPS ARE CHARITIES.

If you want to take a charitable deduction for federal income tax purposes, make sure the organization is tax exempt as a charity under section 501(c)(3) of the Internal Revenue Code. To verify a charity's tax status, visit the following IRS site: <http://apps.irs.gov/app/pub78>.

HOW WILL THE CHARITY USE DONATED GOODS?

Many will consider donating all types of used items to charity, from clothing to cars. Find out how the charity benefits. Sometimes the charity receives only a small portion of the resale price of the item.

INTERNET APPEALS REQUIRE CAREFUL SCRUTINY.

For those making donations to giving sites on the Internet, look for clear disclosures that explain how much of the gift goes to the charity, the privacy policy, and whether there is appropriate security on the site for credit card transactions.

CAUSE-RELATED MARKETING: HOW MUCH OF THE SALE GOES TO CHARITY?

If the purchase of a product or credit card is being promoted as helping a charity, does it specify what portion of the purchase price goes to the organization?

DO NOT GIVE CASH.

If you contribute, write out a check to the charity's full official name, not to an individual or third party that might be collecting the donation.

KEEP RECORDS OF YOUR DONATIONS.

Keep receipts, canceled checks, and bank statements that verify your contribution amounts. The IRS also requires donations to be substantiated through a written confirmation from the charity.

CHECK WITH OUTSIDE SOURCES.

Check with your appropriate state government authorities to verify the charity is registered to solicit in your state. This is usually a division of the state's office of the attorney general. Also, contact the BBB Wise Giving Alliance (www.give.org) for information on national charities or the Better Business Bureau that serves your area for information on local charitable organizations.

In closing, I would like to emphasize what I believe is most crucial to the betterment of charitable giving. It is essential not only that donors seek information, availing themselves of the resources available, but that they expect charities to be forthcoming in providing information that donors can use. The public trust on which our charities depend can thrive only in an atmosphere of openness.

BBB WISE GIVING ALLIANCE STANDARDS FOR CHARITY ACCOUNTABILITY

PREFACE

The BBB Wise Giving Alliance *Standards for Charity Accountability* were developed to assist donors in making sound giving decisions and to foster public confidence in charitable organizations. The standards seek to encourage fair and honest solicitation practices, to promote ethical conduct by charitable organizations and to advance support of philanthropy.

These standards replace the separate standards of the National Charities Information Bureau and the Council of Better Business Bureaus' Foundation and its Philanthropic Advisory Service that were in place at the time the organizations merged.

The *Standards for Charity Accountability* were developed with professional and technical assistance from representatives of small and large charitable organizations, the accounting profession, grant making foundations, corporate contributions officers, regulatory agencies, research organizations and the Better Business Bureau system. The BBB Wise Giving Alliance also commissioned significant independent research on donor expectations to ensure that the views of the general public were reflected in the standards.

The generous support of the Charles Stewart Mott Foundation, the Surdna Foundation and Sony Corporation of America helped underwrite the development of these standards and related research.

Organizations that comply with these accountability standards have provided documentation that they meet basic standards:

- ♦ In how they govern their organization,
- ♦ In the ways they spend their money,
- ♦ In the truthfulness of their representations, and
- ♦ In their willingness to disclose basic information to the public.

These standards apply to publicly soliciting organizations that are tax exempt under section 501(c)(3) of the Internal Revenue Code and to other organizations conducting charitable solicitations. The standards are not intended to apply to private foundations, as they do not solicit contributions from the public.

The overarching principle of the BBB Wise Giving Alliance *Standards for Charity Accountability* is full disclosure to donors and potential donors at the time of solicitation and thereafter. However, where indicated, the standards recommend ethical practices beyond the act of disclosure in order to ensure public confidence and encourage giving. As voluntary standards, they also go beyond the requirements of local, state and federal laws and regulations.

In addition to the specific areas addressed in the standards, the BBB Wise Giving Alliance encourages charitable organizations to adopt the following management practices to further the cause of charitable accountability.

- ♦ Initiate a policy promoting pluralism and diversity within the organization's board, staff and constituencies. While organizations vary widely in their ability to demonstrate pluralism and diversity, every organization should establish a policy, consistent with its mission statement, that fosters such inclusiveness.
- ♦ Ensure adherence to all applicable local, state and federal laws and regulations including submission of financial information.
- ♦ Maintain an organizational adherence to the specific standards cited below. The BBB Wise Giving Alliance also encourages charities to maintain an organizational commitment to accountability that transcends specific standards and places a priority on openness and ethical behavior in the charity's programs and activities.

GOVERNANCE AND OVERSIGHT

The governing board has the ultimate oversight authority for any charitable organization. This section of the standards seeks to ensure that the volunteer board is active, independent and free of self-dealing. To meet these standards, the organization shall have:

1. A board of directors that provides adequate oversight of the charity's operations and its staff. Indication of adequate oversight includes, but is not limited to, regularly scheduled appraisals of the CEO's performance, evidence of disbursement controls such as board approval of the budget and fund raising practices, establishment of a conflict of interest policy and establishment of accounting procedures sufficient to safeguard charity finances.

2. A board of directors with a minimum of five voting members.

3. A minimum of three evenly spaced meetings per year of the full governing body with a majority in attendance, with face-to-face participation. A conference call of the full board can substitute for one of the three meetings of the governing body. For all meetings, alternative modes of participation are acceptable for those with physical disabilities.

4. Not more than one or 10% (whichever is greater) directly or indirectly compensated person(s) serving as voting member(s) of the board. Compensated members shall not serve as the board's chair or treasurer.

5. No transaction(s) in which any board or staff members have material conflicting interests with the charity resulting from any relationship or business affiliation.

Factors that will be considered when concluding whether or not a related party transaction constitutes a conflict of interest and if such a conflict is material, include, but are not limited to: any arm's length procedures established by the charity; the size of the transaction relative to like expenses of the charity; whether the interested party participated in the board vote on the transaction; if competitive bids were sought and whether the transaction is one-time, recurring or ongoing.

MEASURING EFFECTIVENESS

An organization should regularly assess its effectiveness in achieving its mission. This section seeks to ensure that an organization has defined, measurable goals and objectives in place and a defined process in place to evaluate the success and impact of its program(s) in fulfilling the goals and objectives of the organization and that also identifies ways to address any deficiencies. To meet these standards, a charitable organization shall:

6. Have a board policy of assessing, no less than every two years, the organization's performance and effectiveness and of determining future actions required to achieve its mission.

7. Submit to the organization's governing body, for its approval, a written report that outlines the results of the aforementioned performance and effectiveness assessment and recommendations for future actions.

FINANCES

This section of the standards seeks to ensure that the charity spends its funds honestly, prudently and in accordance with statements made in fund raising appeals. To meet these standards, the charitable organization shall:

Please note that standards 8 and 9 have different denominators.

8. Spend at least 65% of its total expenses on program activities.

Formula for Standard 8:

$$\frac{\text{Total Program Service Expenses}}{\text{Total Expenses}} \text{ should be at least } 65\%$$

9. Spend no more than 35% of related contributions on fund raising. Related contributions include donations, legacies and other gifts received as a result of fund raising efforts.

Formula for Standard 9:

$$\frac{\text{Total Fund Raising Expenses}}{\text{Total Related Contributions}} \text{ should be no more than } 35\%$$

10. Avoid accumulating funds that could be used for current program activities. To meet this standard, the charity's unrestricted net assets available for use should not be more than three times the size of the past year's expenses or three times the size of the current year's budget, whichever is higher.

An organization that does not meet Standards 8, 9 and/or 10 may provide evidence to demonstrate that its use of funds is reasonable. The higher fund raising and administrative costs of a newly created organization, donor restrictions on the use of funds, exceptional bequests, a stigma associated with a cause and environmental or political events beyond an organization's control are among factors which may result in expenditures that are reasonable although they do not meet the financial measures cited in these standards.

11. Make available to all, on request, complete annual financial statements prepared in accordance with generally accepted accounting principles.

When total annual gross income exceeds \$250,000, these statements should be audited in accordance with generally accepted auditing standards. For charities whose annual gross income is less than \$250,000, a review by a certified public accountant is sufficient to meet this standard. For charities whose annual gross income is less than \$100,000, an internally produced, complete financial statement is sufficient to meet this standard.

12. Include in the financial statements a breakdown of expenses (e.g., salaries, travel, postage, etc.) that shows what portion of these expenses was allocated to program, fund raising and administrative activities.

If the charity has more than one major program category, the schedule should provide a breakdown for each category.

13. Accurately report the charity's expenses, including any joint cost allocations, in its financial statements.

For example, audited or unaudited statements which inaccurately claim zero fund raising expenses or otherwise understate the amount a charity spends on fund raising, and/or overstate the amount it spends on programs will not meet this standard.

14. Have a board-approved annual budget for its current fiscal year, outlining projected expenses for major program activities, fund raising and administration.

FUND RAISING AND INFORMATIONAL MATERIALS

A fund raising appeal is often the only contact a donor has with a charity and may be the sole impetus for giving. This section of the standards seeks to ensure that a charity's representations to the public are accurate, complete and respectful. To meet these standards, the charitable organization shall:

15. Have solicitations and informational materials, distributed by any means, that are accurate, truthful and not misleading, both in whole and in part. Appeals that omit a clear description of program(s) for which contributions are sought will not meet this standard.

A charity should also be able to substantiate that the timing and nature of its expenditures are in accordance with what is stated, expressed or implied in the charity's solicitations.

16. Have an annual report available to all, on request, that includes:

- (a) the organization's mission statement,
- (b) a summary of the past year's program service accomplishments,
- (c) a roster of the officers and members of the board of directors,

(d) financial information that includes:

- (i) total income in the past fiscal year,
- (ii) expenses in the same program, fund raising and administrative categories as in the financial statements, and
- (iii) ending net assets.

17. Include on any charity websites that solicit contributions, the same information that is recommended for annual reports, as well as the mailing address of the charity and electronic access to its most recent IRS Form 990.

18. Address privacy concerns of donors by

- (a) providing in written appeals, at least annually, a means (e.g., such as a check off box) for both new and continuing donors to inform the charity if they do not want their name and address shared outside the organization, and

(b) providing a clear, prominent and easily accessible privacy policy on any of its websites that tells visitors

- (i) what information, if any, is being collected about them by the charity and how this information will be used,
- (ii) how to contact the charity to review personal information collected and request corrections,
- (iii) how to inform the charity (e.g., a check off box) that the visitor does not wish his/her personal information to be shared outside the organization, and
- (iv) what security measures the charity has in place to protect personal information.

19. Clearly disclose how the charity benefits from the sale of products or services (i.e., cause-related marketing) that state or imply that a charity will benefit from a consumer sale or transaction. Such promotions should disclose, at the point of solicitation:

- (a) the actual or anticipated portion of the purchase price that will benefit the charity (e.g., 5 cents will be contributed to abc charity for every xyz company product sold),
- (b) the duration of the campaign (e.g., the month of October),
- (c) any maximum or guaranteed minimum contribution amount (e.g., up to a maximum of \$200,000).

20. Respond promptly to and act on complaints brought to its attention by the BBB Wise Giving Alliance and/or local Better Business Bureaus about fund raising practices, privacy policy violations and/or other issues.