ASSESSING VETERANS' CHARITIES

HEARINGS

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST AND SECOND SESSIONS

DECEMBER 13, 2007 AND JANUARY 17, 2008

Serial No. 110–68

Printed for the use of the Committee on Oversight and Government Reform

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ASSESSING VETERANS' CHARITIES

THURSDAY, DECEMBER 13, 2007

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Henry A. Waxman (chairman of the committee) presiding.

Present: Representatives Waxman, Cummings, Kucinich, Tierney, Watson, Higgins, Yarmuth, Braley, Norton, Van Hollen, Hodes, Sarbanes, Welch, Davis of Virginia, Burton, Shays, Platts, Cannon, Turner, Issa, Foxx, and Sali.

Staff present: Phil Schiliro, chief of staff; Phil Barnett, staff director and general counsel; Karen Lightfoot, communications director and senior policy advisor; David Rapallo, chief investigative counsel; John Williams, deputy chief investigative counsel; Suzanne Renaud and Susanne Sachsman, counsels; Daniel Davis, professional staff member; Earley Green, chief clerk; Teresa Coufal, deputy clerk; Ella Hoffman, press assistant; Leneal Scott, information systems manager; David Marin, minority staff director; Larry Halloran, minority deputy staff director; Keith Ausbrook, minority general counsel; Grace Washbourne, minority senior professional staff member; Todd Greenwood, minority legislative assistant; Nick Palarino, minority senior investigator and policy advisor; Patrick Lyden, minority parliamentarian and member services coordinator; Brian McNicoll, minority communications director; Ali Ahmad, minority deputy press secretary; and John Ohly, minority staff assistant.

Chairman WAXMAN. The committee will please come to order.

This morning's hearing is about deceit and a sickening betrayal of our most fundamental values, and I hope it is the first step in fixing an intolerable fraud.

I think many Americans are beginning to understand the incredible sacrifice our troops are making in Iraq and Afghanistan. Over 4,000 American soldiers have been killed. Thousands more are coming home with terrible physical and psychological injuries.

But few of us understand that these deaths and injuries often leave families with crippling financial burdens. We assume that Government will provide the services, the benefits and support that our soldiers earn through their selfless sacrifice. Too often, that is an illusion, not a reality.

Many charities are trying to provide the missing support, and this is the time of year when families receive all kinds of charitable solicitations in the mail, over the phone and from people knocking

on our doors, and nothing is more compelling than a charity dedicated to helping our troops and our veterans.

Many of these groups do heroic work. We are fortunate that one of these groups, TAPS, is with us today, and I want to encourage the American people to be generous in supporting these charities.

But our committee has learned that a disturbing number of groups are raising millions of dollars in the name of helping veterans but keeping most of the donations for themselves. Instead of using the money to provide financial assistance or help veterans obtain care, these groups and the professional fundraisers they employ blatantly line their own pockets. They betray their donors and the troops who desperately need help.

In some cases, these organizations spend as much as 90 percent of the donations they receive on fundraising activities rather than helping veterans. In some cases, the executives pay themselves over half a million, $500,000, a year.

In some cases, they jump from State to State, trying to stay one step ahead of State regulators. If Pennsylvania catches them using deceptive fundraising tactics, they close up shop and start again in Iowa, and all the while they are deceiving well intentioned donors and denying veterans the help they need.

We are honored that Ed Edmundson, whose son, Eric, was severely injured in Iraq in 2005, is here to give us a firsthand account of the challenges that families face, and thank you for being here. To deal with Eric's injuries, Mr. Edmundson quit his job and is devoting himself full time to his son's care.

I also welcome our other witnesses. Your testimony will provide the committee with a wide range of perspectives. I know some of you did not want to be here today, but you recognized your obligation to respond to our questions.

I want to say a few words about a witness who is not here today. Roger Chapin has a long history of establishing veterans' charities dating back to the Vietnam War. Currently, he is operating a number of charities focused on veterans from Iraq and Afghanistan.

There have been serious allegations against Mr. Chapin, including allegations that he is paying exorbitant salaries to himself and his wife, using donations to pay for questionable expenses such as new condos, shifting funds among his various groups to skew reporting numbers and concealing millions of dollars in payments to for-profit fundraising corporations.

Mr. Chapin not only refused to testify voluntarily today, but he refused to allow his attorney to receive the subpoena our committee issued to him. For the last week, Mr. Chapin has gone into hiding and evaded the best efforts of the U.S. Marshals trying to serve him.

Mr. Chapin's charities have raised over $98 million last year, yet he refused to appear to answer questions about how this money was spent. I suppose he figured if he could hide from the Marshal for a few days, he could avoid this hearing.

Mr. Chapin will not be here today, but he will be at a second hearing that we are going to call on January 17, 2008. The committee is issuing a new subpoena for Mr. Chapin, and we are sending it directly to the U.S. Marshals to serve Mr. Chapin.

I ask unanimous consent that the committee's letter to him be made part of the record and, without objection, that will be the order.

[The information referred to follows:]

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December 13, 2007

Mr. Roger Chapin
President
Help Hospitalized Veterans, Inc.
36585 Penfield Lane
Winchester, CA 92596

Dear Mr. Chapin:

On November 26, 2007, the Committee invited you to testify at today's hearing about the veterans' charities you control.[1] For the next two weeks, Committee staff repeatedly attempted to contact you, your associates, and your attorneys to determine if you intended to testify voluntarily. On December 10, 2007, your attorney sent a letter to the Committee stating that you had declined to appear voluntarily at the hearing.[2] On the same day, the Committee issued a subpoena to compel your appearance.[3] That evening, your attorney informed Committee staff that you would not authorize him to accept the subpoena on your behalf.[4] Since December 10, federal Marshals have been attempting to locate you to execute service of this subpoena.

I am disappointed that you have chosen to evade federal law enforcement officials who are seeking to serve you with an official order issued by the United States Congress. I am equally disappointed that your attorneys and associates have refused to provide information regarding your whereabouts. Below are some of the steps Committee staff has taken to locate you since the Committee issued the subpoena:

---

[1] Letter from Rep. Henry A. Waxman, Chairman, House Committee on Oversight and Government Reform, to Roger Chapin, President, Help Hospitalized Veterans, Inc. (Nov. 26, 2007).

[2] Letter from Terrence O'Donnell, Williams & Connelly, to Rep. Henry A. Waxman, Chairman, House Committee on Oversight and Government Reform (Dec. 10, 2007).

[3] Subpoena of Roger Chapin, House Committee on Oversight and Government Reform (Dec. 10, 2007).

[4] Telephone call between Terrence O'Donnell, Williams & Connelly, and staff, House Committee on Oversight and Government Reform (Dec. 10, 2007).

- On Monday, December 10, 2007, Committee staff telephoned your attorney, Terrence O'Donnell, and asked him if he knew your current location. Mr. O'Donnell said he did not.

- On the same day, Committee staff e-mailed Mr. O'Donnell, Alan Dye, corporate counsel for your organizations, and Mike Lynch of Help Hospitalized Veterans, requesting information about your location for the purpose of serving you with the subpoena. To date, there has been no response to this request.

- On Tuesday, December 11, 2007, Committee staff left telephone messages for you and your wife at the telephone number listed for the condominium you own in Falls Church, Virginia, requesting that you contact the Committee to arrange for service of the subpoena. To date, there has been no response to this message.

- On the same day, Committee staff called the Coalition to Salute America's Heroes in Ossining, New York. According to IRS filings, you are president and director of this organization. An official at this number referred us to your attorney, Mr. O'Donnell.

- On the same day, Committee staff left a telephone message for Mr. Dye requesting his assistance in locating you for the purpose of serving the subpoena. To date, there has been no response to this request.

- On the same day, Committee staff left a telephone message at the number listed for a charitable organization called Conquer Cancer and Alzheimers Now in San Diego, California. According to tax records, you are or have been the president and treasurer of this organization. To date, there has been no response to this message.

- On the same day, Committee staff left a telephone message at the number listed for a charitable organization called Help Wounded Heroes in San Diego, California. According to tax records, you are a board member of this organization. The listed number, however, connected Committee staff to the offices of the Coalition to Salute America's Heroes in Ossining, New York. An official there again referred Committee staff to your attorney, Mr. O'Donnell.

- On the same day, Committee staff called Help Hospitalized Veterans in Winchester, California, for information regarding your whereabouts. According to tax records, you are the president of Help Hospitalized Veterans. When the official there said she did not know your location, Committee staff left a message for Mr. Lynch, the executive director of the organization. To date, there has been no response to this message.

- On the same day, Committee staff left a message for Dane Chapin, Chief Executive Officer of USAopoly, a for-profit business located in Carlsbad, California, requesting

information about your location. According a biographical statement located on the web site of Help Hospitalized Veterans, you are the founder of this company. To date, there has been no response to this message.

- On Wednesday, December 12, 2007, Committee staff asked another of your attorneys, Michael Morley, if he knew your current location. Mr. Morley did not answer this question.

The federal marshals have also gone to considerable lengths, without success, to serve you with the Committee's subpoena. The marshals went to your home in San Diego on December 11, 2007 and then again on December 12, 2007. The marshals also called five different phone numbers for you, including the phone numbers at your home, at the offices of Help Hospitalized Veterans, and at USAopoly. When making these inquiries, the marshals either received no response or spoke with people who stated that they did not have information about your whereabouts.

Because we have been unable to determine your whereabouts, the Oversight Committee is issuing today a new subpoena requiring your testimony at a hearing on Thursday, January 17, 2008. The Committee will be delivering this subpoena directly to the U.S. Marshals Service with instructions to serve you promptly. At any time, you may contact the Committee at (202) 225-5420 to arrange for acceptance of the subpoena by fax or through legal counsel.

In order to assist the Committee's preparation for the hearing on January 17, 2008, the Committee is now requesting the following information:

(1) The names of all non-profit and for-profit entities you are or have been affiliated with, including those for which you serve on the board or in an executive capacity, those from which you receive salary payments, those from which you receive consulting fees, and those with which you have any other relationship;

(2) For each non-profit entity you are or have been affiliated with, copies of mission statements, Internal Revenue Service Form 1023 filings, articles of incorporation and amendments, board minutes, bylaws and amendments, audited financial statements and accompanying notes, annual reports, and Internal Revenue Service Form 990 public filings, from 1987 to the present, as well as the most recent draft documents for any year for which final versions are not yet available;

(3) For each for-profit entity you are or have been affiliated with, copies of articles of incorporation and amendments, bylaws and amendments, annual reports, board minutes, financial statements, and documents showing how these entities have distributed profits or dividends, if any;

(4) For each such non-profit and for-profit entity you are or have been affiliated with, the following documents for the period 2000 to the present:

a. copies of all expense documents, including reports and receipts submitted for reimbursement, for which you or Elizabeth Chapin have been reimbursed;

b. all other records documenting financial transactions between the entity and any other non-profit or for-profit entities you are currently affiliated with, including those for which you serve on the board or in an executive capacity, those from which you receive salary payments, those from which you receive consulting fees, or those with which you have any other relationship;

c. copies of all contracts or task orders these entities have entered into with other non-profit or for-profit entities;

d. a list of all real estate owned or leased; and

c. a list of all government contracts;

(4) All documents relating to the purchase of the condominium in Falls Church, Virginia listed in the Help Hospitalized Veterans 2005 Internal Revenue Service Form 990;

(5) Copies of all documents under your control or the control of the organizations you are currently affiliated with, including those for which you serve on the board or in an executive capacity, those from which you receive salary payments, those from which you receive consulting fees or any other compensation, or those with which you have any other relationship, related to the production, purchase, or sale of plastic wristbands sold in American supermarkets;

(6) An original example of shirts, bracelets, decals, pins, gift wrap, return labels, calendars, return labels, notepads, day planners, award certificates, checks, and bookmarks sold in American supermarkets or enclosed in direct-mail fundraising materials that were supplied or sent by any fundraising entity affiliated with Richard Viguerie;

(7) all communications between you and Richard Viguerie from 2001 to the present; and all communications between any individuals employed by or associated with any organization you are currently affiliated with, including those for which you serve on the board or in an executive capacity, receive salary payments, receive

consulting fees, or with which you have any other relationship, and any individuals affiliated with American Target Advertising or Viguerie and Associates, from 2001 to the present; and

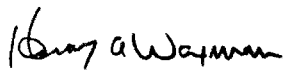
(8) All communications between you and any attorney, accountant, or any individual affiliated with any organization you are currently affiliated with, including those for which you serve on the board or in an executive capacity, those from which you receive salary payments, those from which receive consulting fees or other compensation, or those with which you have any other relationship, from November 26, 2007, to December 13, 2007, regarding the Committee's subpoena to compel your testimony at the December 13, 2007, hearing, the Committee's November, 26, 2007, request for your attendance at the December 13, 2007, hearing, and/or the Committee's November 26, 2007, request to you for documents.

Please provide these documents to the Committee by January 11, 2008, and make yourself available for a transcribed interview with the Committee on that same date.

The Committee on Oversight and Government Reform is the principal oversight committee in the House of Representatives and has broad oversight jurisdiction as set forth in House Rule X. Information for witnesses appearing before the Committee is contained in the enclosed Witness Information Sheet. Another attachment to this letter provides additional information on how to respond to the Committee's document request.

If you have any questions regarding this request, please contact John Williams, Suzanne Renaud, or Susanne Sachsman with the majority staff at (202) 225-5420 or Grace Washbourne with the minority staff at 202-225-5074.

Sincerely,



Henry A. Waxman
Chairman

Tom Davis
Ranking Minority Member

Enclosure

Chairman WAXMAN. I want to thank Mr. Davis and his staff for their cooperation in this investigation. This is a genuine bipartisan investigation. They have been champions of the interests of veterans, and this committee is grateful for their efforts.

I think all Members today share my outrage as how our veterans have been treated and how those who have donated money to help them have been betrayed.

I want to recognize Mr. Davis for an opening statement.

[The prepared statement of Chairman Henry A. Waxman follows:]

Opening Statement of Rep. Henry A. Waxman
Chairman, Committee on Oversight and Government Reform
Assessing Veterans' Charities
December 13, 2007

This morning's hearing is about deceit and a sickening betrayal of our most fundamental values. And I hope it is the first step in fixing an intolerable fraud.

I think many Americans are beginning to understand the incredible sacrifice our troops are making in Iraq and Afghanistan. Over 4,000 American soldiers have been killed. Thousands more are coming back home with terrible physical and psychological injuries.

But few of us understand that these deaths and injuries often leave families with crippling financial burdens. We assume that the government will provide the services, benefits, and support that our soldiers earned through their selfless sacrifice. Too often, that's an illusion, not a reality.

Charities are trying to provide the missing support. This is the time of year when families receive all kinds of charitable solicitations in the mail, over the phone, and from people knocking on our doors. And nothing is more compelling than a charity dedicated to helping our troops and veterans.

Many of these groups do heroic work. We are fortunate that one of these groups — TAPS — is with us today. I want to encourage the American people to be generous in supporting these charities.

But our Committee has learned that a disturbing number of groups are raising millions of dollars in the name of helping veterans but keeping most of the donations for themselves. Instead of using the money to provide financial assistance or help veterans obtain care, these groups and the professional fundraisers they employ blatantly line their own pockets.

They betray their donors and the troops who desperately need help.

In some cases, these organizations spend as much as 90% of the donations they receive on fundraising activities, rather than helping veterans. In some cases, the executives pay themselves over $500,000 a year. And in some cases, they jump from state to state, trying to stay one step ahead of state regulators. If Pennsylvania catches them using deceptive fundraising tactics, they close up shop and start again in Iowa. All the while, they are deceiving well-intentioned donors and denying veterans the help they need.

We are honored that Ed Edmundson, whose son Eric was severely injured in Iraq in 2005, is here to give us a first-hand account of the challenges families face. To deal with Eric's injuries, Mr. Edmundson quit his job and is devoting himself full-time to his son's care.

I also welcome our other witnesses. Your testimony will provide the Committee with a wide range of perspectives. I know some of you did not want to be here today. But you recognized your obligation to respond to our questions.

I want to say a few words about a witness who is not here today. Roger Chapin has a long history of establishing veterans' charities dating back to the Vietnam War. Currently, he is operating a number of charities focused on veterans from Iraq and Afghanistan. There have been serious allegations against Mr. Chapin, including allegations that he is paying exorbitant salaries to himself and his wife, using donations to pay for questionable expenses such as new condos, shifting funds among his various groups to skew reporting numbers, and concealing millions of dollars in payments to for-profit fundraising corporations.

Mr. Chapin not only refused to testify voluntarily today, but he refused to allow his attorney to receive the subpoena our Committee issued to him. For the last week, Mr. Chapin has gone into hiding and evaded the best efforts of the U.S. Marshals trying to serve him. Mr. Chapin's charities have raised over $98 million last year, yet he refused to appear to answer questions about how this money has been spent. I suppose he figured if he could hide from the Marshals for a few days he could avoid this hearing.

Mr. Chapin will not be here today, but we will hold a second hearing on January 17, 2008. The Committee is issuing a new subpoena for Mr. Chapin today, and we are sending it directly to the U.S. Marshals to serve Mr. Chapin. I ask unanimous consent that the Committee's letter to Mr. Chapin be made part of the record.

I want to thank Mr. Davis and his staff for their cooperation in this investigation. They have been champions of the interests of veterans, and the Committee is grateful for their efforts.

Mr. DAVIS OF VIRGINIA. Thank you, Mr. Chairman, for holding this hearing today as we continue to focus on issues affecting the brave men and women who serve our country.

We are joined in this mission by the American people. Public support for our troops is overwhelming, and our fellow citizens generously give their money, time and prayers to those who defend our freedom.

Much of that support is channeled through private charities. Today, we take the time to evaluate some of these organizations and ask some appropriately tough questions.

We all want to believe that money donated to a charity is used wisely. We put our faith in what we assume to be the good faith of others, but charities do not always perform as we hope. With some heartlessly capitalizing on broad public support for veterans to engage in wasteful or even fraudulent fundraising and management practices.

Today, we will hear testimony to help guide us in evaluating the efficiency, accountability and governance of charitable organizations. We will hear from various watchdog groups whose role is to oversee the charitable community and provide donors with the objective facts they need to make informed decisions about where to best direct their contributions.

Now, Congress has visited this issue before. In 2004, a panel on the non-profit sector, convened at the impetus of the Senate Finance Committee, brought together a broad cross-section of those involved in charities and foundations for a thorough examination of non-profit governance, transparency and ethical standards.

The panel's conclusions emphasized that a vibrant charitable sector must remain independent to be effective, recognizing that the first amendment demands charities be given wide latitude in the exercise of fundamental associated freedoms, but the panel also found Government oversight and regulation necessary to deter abuse, misrepresentation and fraud.

We build on those important findings today because a new generation of veterans and their families, suffering the acute and latent traumas of modern warfare, are looking to charities for help and they are looking to us to help them know which organizations are really trying to help veterans and which organizations are just helping themselves.

There is no easy test, no magic ratio of program expenditures to fundraising costs that automatically distinguishes good charities from bad ones. Some startups for marginalized or unpopular causes may have to spend 50, 60 or 70 percent of their revenue on outreach, education and fundraising for a while.

But charities that consistently spend up to 90 percent gross donation revenue on overhead, with only a trickle of the remainder going for token program grants, just don't pass the smell test. Those charities are soaking up funds meant to help veterans, and badly managed or abusive operations merit close scrutiny by local and State regulators, State and Federal tax authorities and Congress.

Particularly during this holiday season with holiday joy and sharing, Americans are unmatched in their generosity and willingness to help those in need. We owe it to those generous donors and

the veterans they want to thank to make sure charities operate as faithful and efficient stewards of the money that they collect. Testimony by today's witnesses will help us do that important job.

Again, Mr. Chairman, than you for convening this hearing and your leadership on this issue.

[The prepared statement of Hon. Tom Davis follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

TOM DAVIS, VIRGINIA
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS

Congress of the United States
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Statement of Rep. Tom Davis
Ranking Republican Member
Committee on Oversight and Government Reform
December 13, 2007

Thank you, Mr. Chairman, for holding this hearing today as we continue to focus on issues affecting the brave men and women who serve our country. We are joined in this mission by the American people. Public support for our troops is overwhelming, and our fellow citizens generously give their money, time and prayers to those who defend our freedom. Much of that support is channeled through private charities.

Today we take the time to evaluate some of those organizations, and ask some appropriately tough questions.

We all want to believe money donated to a charity is used wisely. We put our faith in what we assume to be the good faith of others. But charities do not always perform as we hope, with some heartlessly capitalizing on broad public support for veterans to engage in wasteful or even fraudulent fundraising and management practices.

Today we will hear testimony to help guide us in evaluating the efficiency, accountability and governance of charitable organizations. We will hear from various watchdog groups whose role it is to oversee the charitable community and provide donors with the objective fact they need to make informed decisions about where best to direct their contributions.

Congress has visited this issue before. In 2004, a panel on the non profit sector, convened at the impetus of the Senate Finance Committee, brought together a broad cross-section of those involved in charities and foundations for a thorough examination of non-profit governance, transparency and ethical standards. The panel's conclusions emphasized that a vibrant charitable sector must remain independent to be effective, recognizing that the First Amendment demands charities be given wide latitude in the exercise of fundamental associational freedoms. But the Panel also found government oversight and regulation necessary to deter abuse, misrepresentation and fraud.

We build on those important findings today because a new generation of veterans and their families, suffering the acute and latent traumas of modern warfare, are looking to charities for help. And they're looking to us to help them know which organizations are really trying to help veterans, and which organizations are just helping themselves.

There is no easy test, no magic ratio of program expenditures to fundraising costs that automatically distinguishes good charities from bad ones. Some start-ups for marginalized or unpopular causes may have to spend fifty, sixty, even seventy percent of their revenue on outreach, education and fundraising. For awhile. But charities that consistently spend up to ninety percent of gross donation revenue on overhead, with only a trickle of the remainder going for token program grants, just don't pass the smell test. Those charities are soaking up funds meant to help veterans, and badly managed or abusive operations merit close scrutiny by local and state regulators, state and federal tax authorities, and Congress.

Particularly during this season of holiday joy and sharing, Americans are unmatched in their generosity and willingness to help those in need. We owe it to those generous donors, and the veterans they want to thank, to make sure charities operate as faithful and efficient stewards of the money they collect. Testimony by today's witnesses will help us do that important job.

Chairman WAXMAN. Thank you very much, Mr. Davis.

I know many Members have been active on this issue, and I want to recognize any Member who wishes to make an opening statement.

Let me see if anybody does. Mr. Tierney, no.

Ms. Watson, do you wish to make an opening statement.

Ms. WATSON. No, I will concede my time to you, Mr. Chairman.

Chairman WAXMAN. OK, thanks.

Mr. Shays, I know that you do.

Mr. SHAYS. Thank you, Mr. Chairman. I am eager to make a statement, and I thank you for this hearing, a very important hearing.

In 1625, sir, Francis Bacon proclaimed, "In charity, there is no excess." The American people certainly agree as U.S. charitable giving in the United States reached a record of almost $300 billion in 2006.

Unfortunately, at today's hearing, we will learn there can be egregious excess of a different kind. Many self-proclaimed charities are collecting funds on behalf of our Nation's valiant veterans only to devote a small amount to actual services for veterans and their families. While this is not a crime, it is an outrage we must correct.

As in past wars, the global war on terror has inspired the American people to open their giving hearts to support returning soldiers. Since 2001, contributions to military and veterans' charities have increased by almost half a billion dollars, totaling $2.48 billion in 2007. Implicit in these generous donations is the assumption that most, if not all, of the funds are going toward actually helping veterans.

Recent reports from five private sector charity watchdogs have exposed many charities devote less 35 percent of the money they raise to actual veterans' services. In one particular case, the American Veterans Relief Foundation of Santa Ana, CA, raised $3.6 million of which only $21,000 was ever directed to veterans' grants and assistance. That is less than 1 percent of the donations.

And, as we will find out today, behind some of these charities are telemarketing and mass mailing businesses whose contracts with charities allow them to keep up to 90 percent of what is raised. While these practices may be technically legal, they are clearly immoral.

I am looking forward to hearing more about the state of the veterans' charities from two of our country's top charity oversight groups, the Better Business Bureau's Wise Giving Alliance and the American Institute for Philanthropy.

I recognize through continuous rulings, the Supreme Court has limited executive and legislative power to regulate charitable giving and that much of the existing oversight power lies at the State level. I look forward to hearing from the Bureau of Charitable Organizations' representative from the State of Pennsylvania as Pennsylvania has done some of the most aggressive charity oversight in the Nation. We need to encourage more States to do what Pennsylvania is doing.

At the Federal level, we should examine whether the Internal Revenue Service [IRS], or the Federal Trade Commission [FTC], should do more and what laws can be changed to stop this outrage.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Christopher Shays follows:]

Statement of Congressman Christopher Shays
Committee on Oversight and Government Reform
"Assessing Veterans' Charities"
December 13, 2007

Thank you, Mr. Chairman, for holding this important hearing concerning veterans' charities.

In 1625, Sir Francis Bacon proclaimed: "in charity there is no excess." The American people certainly agree, as US charitable giving in the United States reached a new record of almost 300 billion dollars in 2006.

Unfortunately at today's hearing, in the administration of charity, we will learn there can be egregious excess of a different kind.

Many self-proclaimed charities are collecting funds on behalf of our nations' valiant veterans, only to devote a third or less of the total donations to actual services for veterans and their families. While this is not a crime, it is an outrage I hope we can begin to correct with this hearing.

As in past wars, the Global War on Terror has inspired the American people to open their giving hearts to support returning soldiers. Since 2001, contributions to military and veterans' charities have increased by almost a half of a billion dollars per year, to total 2.48 billion dollars in 2007. Implicit in these generous donations is the assumption that most, if not all of the funds, are going toward actually helping veterans. Unfortunately, this is a false assumption.

Recent reports from some of our private sector charity watchdogs have exposed many charities devote less than

35% of the money they raise to actual veterans services. In one particular case, the American Veterans Relief Foundation of Santa Ana, California raised 3.6 million dollars of which only $21,000 was ever directed to veterans' grants and assistance. That's less than 1 percent of the donation!

And, as we will find out today, behind some of these charities there is another group: the telemarketing and mass mailing private businesses, whose contracts with

charities can allow them to keep up to 90 percent of what is raised.

While these practices may be technically legal, they are undeniably immoral. In the company of some of our wonderful charities like The Tragedy Assistance Program for Survivors (TAPS), which we will hear from today, some charities clearly pale in efficiency of management and service.

Today, I am looking forward to hearing more about the state of veteran's charities from two of our country's top charity oversight groups: the Better Business Bureau's Wise Giving Alliance and the American Institute for Philanthropy.

I recognize through continuous rulings, the Supreme Court has limited executive and legislative power to regulate charitable giving, and that much of the existing oversight power lies at the state level. I look forward to hearing from the Bureau of Charitable Organizations representative from

the State of Pennsylvania, as I understand Pennsylvania has does some of the most aggressive charity oversight in the nation.

At the federal level, we should examine whether the Internal Revenue Service or the Federal Trade Commission can do more. We should examine if there are laws we can enhance that will promote more comprehensive disclosure and operational efficiency among charities, so that Americans always know their generosity is placed in the best hands.

Our country's veterans, like US Army Specialist Eric Edmundson, have put their lives on the line to protect us. These men and women deserve the very best in return, especially those who return wounded and in need of all avenues of help. To the greatest extent possible, every penny donated to charity should be devoted to providing the best services possible for our veterans. This country needs good charities.

I hope together we can work toward improving the current situation, which is clearly unacceptable. For the sake of all our veterans, especially those who suffer life-altering wounds, we should keep in mind that when $100 is donated to care for them, charities should strive to see that 100 percent of that donation results in services for our veterans. I thank the witnesses for appearing today and look forward to hearing their testimony.

Chairman WAXMAN. Thank you very much, Mr. Shays.

Does any other Member wish to make an opening statement?

Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman, and I will be brief.

I appreciate the fact that you are holding this very bipartisan committee hearing at this time of year. As many of us are contemplating a donation to charitable organizations, it is important to ensure we can give with confidence and that our contributions will help someone in need.

In preparation for today's hearing, I, perhaps like other Members, had to scrutinize the list of charities that will be discussed today against those I had given. Even though we do endeavor to look and to get to the bottom of what the ratio of contributions to overhead to recipients receiving are, it is certainly possible for any of us to find ourselves giving to a charity that is less than reputable.

Although I hope that we will not look into legitimate costs of fundraising because often a direct mail campaign, which can be quite expensive, does two things: it raises money for a cause and it also educates.

It is clear that today the examples that we will see do not fall into that category. They fall into the category of what I would call profiteering, profiteering by those who use the name of a soldier or a cause in order to justify fundraising that ultimately leads to profits for individuals who may or may not be veterans, may or may not have any need, may simply be good at fundraising.

I join with my colleagues on both sides of the aisle, saying that although we have limited jurisdiction, it is clear that on half a billion dollars of tax-deductible donations, we certainly give a great deal of what one might call matching funds. I have no objections to that tax deductibility, but it is very clear that if we can help educate the consumer to give more wisely, then the dollars of tax deductibility that the Federal Government effectively matches with the donor will be better spent.

Therefore, I appreciate your holding this hearing and hope that we all view that it is not only the individual's money that is being squandered but the matching tax-deductible portion, thus Federal taxpayers' dollars that are going into the hands, at times, of profiteers.

With that, I yield back.

Chairman WAXMAN. Thank you, Mr. Issa.

Any other Member wish to make an opening statement?

Yes, the gentlelady from D.C.

Ms. NORTON. I appreciate this hearing, particularly the timing of this hearing, Mr. Chairman, because it is the end of the year when even people of modest income, like Members of Congress, give end of the year contributions.

I would wager that as the American people sit down and see our frustration in trying to bring the troops home, one of the things that might trump all the charitable giving might be anything that looks like it would help or give to the military or, for that matter, Mr. Chairman, to their families.

I think we have to understand who the military is. The military is under the exclusive direction of the U.S. Government, but they

can become a market, and we have an obligation to see that they are not simply a market.

Even for Federal employees, the Combined Federal Campaign provides you with a book. You go through that book, and frankly I take the time to go through the book because there is an enormous difference in the amount spent that goes directly to the charity. So, if you quickly go through it, you can eliminate many charities simply by saying, do I really want to give that much to their overhead or to wherever they put it.

I think we owe our military at least that much, set some standards and the way to find out what kind of standards to set is to have precisely the kind of hearing that you are having, Mr. Chairman, this morning, and I thank you for it.

Chairman WAXMAN. Thank you.

Any other Member wish to make an opening statement?

Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman.

I would like to put on the record you caught my attention when you mentioned Phil Chapin [sic] from Darien. That is the very center of my district and where I grew up. I just called up my staff because I want to make sure this man has not contributed to my campaign and want to put on the record he hasn't, but there is also another individual connected, Phil Kraft, as well, though who has not contributed to my campaign.

I also would like to put on the record a letter we wrote on May 2, 2006. Mayor Koch had alerted me to the fact that there was a quote that they had used of mine in 1988 that they were using, and we wrote them in 2006 and said, don't use that quote. They were using a quote of Mayor Koch's, and they were also using a quote from the Attorney General of the State of Connecticut, Dick Blumenthal. So I would like to put that on the record if I might.

Chairman WAXMAN. Without objection, we will receive that for the record and to protect Mr. Phil Chapin, I want to indicate it is Roger Chapin.

Mr. SHAYS. It is Roger Chapin and Phil Kraft, yes. Thank you.

Chairman WAXMAN. OK. Good.

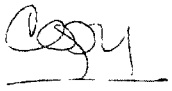
[The information referred to follows:]

CONGRESS OF THE UNITED STATES

May 2, 2006

Mr. Phillip Kraft
National Veterans Services Fund, Inc.
P.O. Box 2465
Darien, Connecticut 06820

Dear Phillip:



It has come to my attention that a statement I made during an event in the 1980s is still being used by the National Veterans Services Fund for fundraising purposes. I have enclosed a copy of the statement.

It seems to me this statement is outdated and out of context. While I am grateful for the valuable service your organization provides, I kindly ask you to please remove my name and quotation from your publications.

Sincerely,

Christopher Shays
Member of Congress

CS:

Enclosure

Congressman
Christopher Shays
Fourth District Connecticut

Offices:

10 Middle Street, 11th Floor
Bridgeport, CT 06604-4223

Government Center
888 Washington Boulevard
Stamford, CT 06901-2927

1126 Longworth Building
Washington, DC 20515-0704

Telephones

BRIDGEPORT 579-5870
NORWALK 866-6409
ROCKVILLE 438-5933
SHELTON 402-0426
STAMFORD 357-8277
WASHINGTON, DC 202/225-5541

E-mail:

cp.shays@mail.house.gov

Internet:

www.house.gov/shays

Mr. WAXMAN. Any other statements?

If not, we will proceed to the witnesses.

I want to welcome today Mr. Ed Edmundson, who is the father of the wounded veteran that I mentioned earlier, and Ms. Tracy L. McCurdy, director of the Bureau of Charitable Organizations for the Commonwealth of Pennsylvania. Senator Chuck Grassley will join us when he is able to complete the vote on the Senate floor, but he is anxious to participate and give us the benefit of his work on this area.

Mr. Edmundson, why don't we start with you? Thank you again for being here.

Oh, let me indicate the rules of the committee do require all witnesses to testify under oath. So if both of you would please stand and raise your right hands, I would appreciate it.

[Witnesses sworn.]

Chairman WAXMAN. Let me indicate for the record that the witnesses answered in the affirmative.

Your prepared statement will be in the record in its entirety.

We would like to ask you, if you could, to keep as close as you can to the 5-minutes. We will have a clock that will be running. It will be green. It will turn yellow when there is 1 minute left. It will turn red when the 5-minutes is up. If you still need a little bit more time, just go ahead, don't worry about it, but we would like to try to keep it in the 5-minute period.

Mr. Edmundson, there is a button on the base of the mic. Be sure it is pressed in and pull it close enough to you that we can hear.

STATEMENTS OF EDGAR EDMUNDSON, FATHER OF SERGEANT ERIC EDMUNDSON, A WOUNDED VETERAN; AND TRACY L. MCCURDY, DIRECTOR, BUREAU OF CHARITABLE ORGANIZATIONS FOR THE COMMONWEALTH OF PENNSYLVANIA

STATEMENT OF EDGAR EDMUNDSON

Mr. EDMUNDSON. Mr. Chairman, committee members, a heartfelt thank you for allowing me to appear before you and participate in this discussion.

My name is Edgar Edmundson. I am here today, speaking for all of Eric's family in regards to our experiences with our soldier, Sergeant Eric Edmundson, U.S. Army retired after 7 years of service.

Today, I will be telling you about my son and his injuries along with the many issues and obstacles that he and the family have confronted and overcome. I will also share with you the utilization of non-profit organizations and their role in my son's rehabilitative outcome.

My son, Sergeant Eric Edmundson, was a Cavalry Scout with the 4th Squadron, 14th Cavalry based out of Fort Wainwright Air Base, Ak. He was assigned to be the company commander's driver. This is a position that he took very seriously and pushed forward to excel in. He took pride with having the finest running, best driven vehicle in the company.

On October 2, 2005, near the Syrian border along the Tigris River in northern Iraq, my son was driving the command vehicle, a Stryker. While advancing through a dry river bed to support an-

other disabled vehicle, an insurgent detonated an improvised explosive device [IED], which detonated directly behind my son's seat. At that instant, my son's life and the lives of his family changed forever.

Eric, having suffered severe blast and shrapnel injuries as well as a moderate traumatic brain injury [TBI], was airlifted to Baghdad where he underwent a number of surgeries. He was then moved to Ballad to await exit to Germany. While there, the doctors were performing a surgical procedure, and my son suffered a cardiac arrest.

We were told it took a great deal of time to bring him back, and now he suffers from an anoxic brain injury or ABI. This condition is from a lack of oxygen to the brain. After 2 days in Germany, Eric was transferred to Walter Reed Medical Center in Washington, DC.

We knew that Eric would be facing challenges that we would never have dreamt possible. We knew our son. We knew he needed us.

Because of his anoxic brain injury, he was left with cognitive and memory issues, suffers from muscle contractions and toning that plague him. A Baclofen pump was placed in his abdomen in January 2007, to aid him in controlling the contractures.

It became apparent early in Eric's recovery that he would need a caregiver-advocate to watch out for his well being. At that time, my wife and I made the decision to resign my position at work in order to be with Eric.

Non-profit organizations became an answer to our prayers. As I stated earlier, I resigned my position to be available for Eric and his needs. That resignation came at the cost of my income, retirement, insurance and our previous way of life. It was a decision that we made as a family, and we do not regret it.

Non-profit organizations helped fill the gap in what we lost financially. They also relieved extreme stressors. We needed to devote so much of our time to Eric's needs, dealing with how to get our financial obligations met was difficult and an additional stress.

We feel very strongly that Eric's recovery and rehabilitative outcomes would have been different had it not been for the support we received from non-profit organizations. Eric needed his family close by. He needed the reassurance of someone was going to be there for him and aid him in going through this journey of recovery.

Per our conversations with non-profit organizations, they recognized the need. They see themselves as being able to meet needs.

Most have some connection with the military and understand how slow the Government takes to address issues, but in the meantime real life continues to tick along. It is our experience that they connect quickly and efficiently.

It may not seem like much, but even simple little things like meals, lodging for extended family, laptop computers to cell phones are critical when dealing with the recovery of a wounded soldier. These little incidentals are so imperative to a soldier and his family's recovery because they allow them to stay connected to the world.

I have listed only a few ways in which non-profits have come to our aid. I am certain there are many more.

Salute, Inc. out of Chicago, IL; Wounded Warrior Project out of Florida; Hope for the Warriors out of Jacksonville, NC; and the Semper Fi Fund are just a few examples of fine organizations that have kept true to their mission.

What is important at this time is that non-profits be utilized to their full potential.

I would hate to think what Eric and his family would have experienced throughout these last 2 years without the non-profits by our side. We made the commitment to be there for our son, and that commitment would have been met no matter what. With the help of non-profits, we have been able to be there for Eric.

Eric was a good soldier. He honored himself, his family, his community and his country. We owe it to him and the thousands of other soldiers that honor themselves and us all to provide the best available care to enable them to return to the life they fought so hard to defend.

I am concerned, the negative effect that the few self-serving non-profits will have on the ability of the legitimate non-profits to obtain funding from the general public. It would be an unfortunate turn of events if the service they provide is not available. As I have shared, the service they provide is immediate and personalized to the needs of the soldiers and their families. I believe that measures need to be implemented to ensure the availability of non-profits and their services.

It is my sincere hope that by sharing our story, you will have a glimpse into why we need to continue to support the non-profit agencies and the service they provide.

Thank you for allowing me to share our story with you today. I am open for any questions.

[The prepared statement of Mr. Edmundson follows:]

STATEMENT OF EDGAR EDMUNDSON, FATHER OF, SGT. ERIC EDMUNDSON FOR PRESENTATION BEFORE THE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM.

DECEMBER 13TH, 2007

Mr. Chairman, Committee Members, a heartfelt thank you for allowing me to appear before you and participate in this discussion. This is a matter which touches all of us here today and the loved ones we are so urgently trying to help recover. My name is Edgar Edmundson. I am here today speaking for all of Eric's family in regards to our experiences with our soldier, Sgt. Eric Edmundson, US Army (medically retired) after seven years of service as of July 28th, 2007. Today I will be telling you about my son and his injuries, along with the many issues and obstacles that he and the family have confronted and overcome. I will also share with you the utilization of Non- profit organizations and their role in my son's rehabilitation outcome. It is my hope that by sharing my son's story with you, it will help to show the importance of these issues before us today.

Today's returning wounded need access to all of the valuable services the non-profit organizations have to offer them.

Sgt. Edmundson's Story

My son, Sgt. Eric Edmundson was a Cavalry Scout with the 4th Squadron, 14th Cavalry based out of Fort Wainwright, Fairbanks, AK. He was assigned to be the Company Commander's driver. This is a position that he took very seriously and pushed forward to excel in. He took pride with having the finest running, best driven vehicle in the company.
On October 2nd, 2005 near the Syrian border along the Tigris River in Northern Iraq, my son was driving the command vehicle (a Stryker) along with the Commander, an Iraqi interpreter and two other soldiers. While advancing forward through a dry river bed to support another disabled vehicle, an insurgent detonated an Improvised Explosive Device better known in this war on terror as an (IED). Which detonated directly behind my son's seat. At that instant my son's life and the lives of his family changed forever.
Eric, having suffered severe blast and shrapnel injuries as well as a moderate Traumatic Brain Injury or TBI, was airlifted to Baghdad where he under went a number of surgeries. He was then moved to Ballad to await exit to Germany. While there the Doctor's were performing a surgical procedure and my son suffered a cardiac arrest. We were told that it took a great deal of time to bring him back and that he now suffers from an Anoxic Brain Injury or ABI. This condition is from a lack of oxygen to the brain. After two days in Germany Eric was transferred to Walter Reed Medical Center in Washington DC.

When we arrived at Walter Reed and saw the condition that our son was in, of course, it was a horrific time. Besides the many urgent medical issues Eric had at that particular moment we also knew at that time that his and our life was taking on a new norm. We knew that Eric would be facing challenges that we would never have dreamt possible. We knew our son and we knew he needed us.

Eric has overcome many of the issues from his initial blast injuries and we could not be more proud of our son. Because of his Anoxic Brain Injury he was left with cognitive and memory issues, suffers from muscle contractures and toning that plague him. After having a Baclofen pump placed in his abdomen in January 2007 to aid him in controlling the contractures, it is only within the last six months Eric has began eating. He is still on thickened liquids and has a feeding tube for hydration. He still remains silent but is working on gaining back his voice He is working on gaining bowel/bladder control and ambulation. With this in mind, it helps you to understand where our life begins its new chapter.

It became apparent early in Eric's recovery that he would need a caregiver/advocate to watch out for his well being. Eric is fortunate to have a wife that was at his side, but because of Eric's needs, help was needed. At that time my wife and I made the decision to resign my position at work in order to be with Eric.

I want to make a statement that the medical care that Eric received at Walter Reed Medical Center was world class. I can't imagine a better facility for Eric to have been in to receive the care he needed for the type of injuries he had.

Our story continues as we delved into the issues of bureaucracy. We have all heard and been made aware of these issues at Walter Reed and other military medical centers. I don't feel it necessary to go into detail all the issues that we were encountering trying to get the best care for Eric.

One memory I will share is that of not being able to get a straight answer to an issue from anyone. There is a saying, "the left hand did not know what the right hand was doing." I think that says it all.

In the meantime, our primary concern was Eric's well being and assuring he received the care he deserved.

As stated earlier, this is where our journey of advocacy and all that entails begins .It became apparent that Eric was going to need someone to be available to not only assist with his personal care but also deal with the bureaucracy that was in place.
I, along with the rest of Eric's family began to educate ourselves on "the system". We began to ask questions on how to get him what he needed. We did not feel that we were asking for more than any soldier deserved. One thing we would not do is take "no" for an answer if we had found in our research that there was a way to accomplish what we were seeking for Eric.

Nonprofits organizations became an answer to our prayers. As I stated earlier I resigned my position to be available for Eric and his needs. That resignation came at a cost of my income, retirement, insurance and our previous way of life. It was a decision that we made as a family and we do not regret it. Non-profit organizations helped fill the gap in what we had lost financially. They also relieved extreme stressors. We needed to devote so much of our time to Eric's needs, dealing with how to get our financial obligations met was difficult and an additional stress.

I must say, we never knew that Non-profit organizations were available to help when a soldier's family needs assistance. Our first experience was just by a chance meeting. I am forever grateful for the assistance we did receive because as I said earlier, it helped us to meet our monthly obligations and relieved so much stress for us at that particular instance.

We feel very strongly that Eric's recovery and rehabilitative outcomes would have been different had it not been for the support we received from Non-profit organizations. Eric needed his family close by. He needed that reassurance of someone in his family was going to be there for him and aid him in going through this journey of recovery.

Per our conversations with Non-profit organizations, we have found they have been created for a multitude of reasons. An underlying theme is that they want to help. They recognize a need; they see themselves as being able to meet needs. Most have had some connection with the military and understand how slow the government takes to address issues but in the meantime "real life" continues to tick along. It is our experience that they can act quickly and efficiently.

Our experience shows that Non-profits were able to not only help with financial grants but also had the ability to get plane tickets for travel. For example, when Eric was receiving therapy at the Rehabilitation Institute of Chicago for seven months family members came once a month to see Eric and myself. That was a bright spot in our stay while there. Now some may argue "is that important?" I would have to say wholeheartedly "yes". It provided much needed moral support that is so imperative to healing body and soul. It offered Eric something to look forward to. It offered me the support I needed to help Eric.

The need for medical equipment that is unable to be covered under the government guidelines is also being addressed by Non-profit organizations. These needs have ranged from mat tables for a soldier with significant physical needs to specialized wheelchairs.

It may not seem like much but even simple things like meals, lodging for extended family, laptop computers to cells phones are critical when dealing with the recovery of a wounded soldier. These little incidentals are so imperative to a soldier and his family's recovery because they allow them to stay connected to the world.

I have listed only a few ways in which Non-profits have come to our aid. I am certain there are many more. Salute, Inc out of Chicago Illinois, Wounded Warrior Project out of Florida, Hope for the Warriors out of Jacksonville, North Carolina and the Semper Fi Fund are just a few examples of fine organizations that have kept true to their mission.

What is important at this time is that Non-profits be utilized to their full potential.

I would hate to think what Eric and this family would have experienced throughout this last two years without the Non-profits by our side. We made the commitment to be there for our son and that commitment would have been met no matter what.

I want to take this opportunity to make a very important point. Eric's immediate family, by government standards meaning his wife and three year old daughter are having their financial needs met. I would like to report that through our educating ourselves and advocating for Eric, he did obtain the highest rating allowable. This gives us great comfort in knowing that Eric and his family's financial future needs will be met.

But, this does not address his personal care or issues of advocacy. This is where my wife and I have made a choice. We are committed to Eric and know that for him return to the highest quality of life I must remain steadfast by his side as an advocate/caregiver. This is another issue that we feel must be addressed. Compensation for family caregiver that includes insurance is needed. Presently, the system is set up to have non-family members take care of soldiers. We feel that families should have options made available to them. This may be the perfect fit for some families but if a family makes a decision to provide this care; this should be an option also.

With the help of Non-profits we have been able to be there for Eric.

Eric was a good soldier; he honored himself, his family, his community and his country.
We owe it the him and the thousands of other soldiers that honored themselves and us all,
To provide the best available care to enable them to return to the life they fought so hard to defend.

I am concerned. The negative affect that the few self serving non-profits will have on the ability of the legitimate non-profits to obtain funding from the general public. It would be an unfortunate turn of events if the service they provide is not available. As I have shared, the service they provide is immediate and personalized to the needs of the soldiers and their families. I believe that measures need to be implemented to ensure the availability of Non-profits and their services.

It is my sincere hope that by sharing our story you will have a glimpse into why we need to continue to support the Non-profit agencies and the service they provide.

Thank you for allowing me to share our story with you today.

I am open to any questions.

Chairman WAXMAN. Thank you very much, Mr. Edmundson, for being here and for that presentation to our committee in helping us understand more about the issue that we are dealing with today.

I am going to have some questions, others will as well. But we want to hear from Ms. McCurdy, and then we will ask both of you, questions.

Ms. McCurdy.

STATEMENT OF TRACY L. MCCURDY

Ms. MCCURDY. Thank you. I must first just say thank you to Mr. Edmundson and also what a moving story.

Good morning, Chairman Waxman and distinguished members of the Committee on Oversight and Government Reform. On behalf of the Pennsylvania Governor Edward G. Rendell and Secretary of the Commonwealth, Pedro A. Cortes, I thank you for the opportunity to be present before you today and for your leadership on this important issue.

My name is Tracy McCurdy, and I am the director for the Pennsylvania Department of State's Bureau of Charitable Organizations.

In Pennsylvania, the charitable solicitation law requires charities, professional solicitors and professional fundraising counsels that are soliciting charitable contributions in Pennsylvania to be registered with the Department unless otherwise excluded or exempt. By way of an example, an exempt organization would be one that raises less than $25,000 in gross annual contributions. Unless they pay someone to solicit, then they would have to be registered.

The Department currently maintains registration and financial information for more than 10,000 charities and 400 professional solicitors and fundraising counsel soliciting charitable contributions in Pennsylvania. Included among those registered organizations are veterans groups.

The Secretary of the Commonwealth annually prepares a report on the number of registered charities, the number of charities ordered to cease and desist solicitation, the number of charities contracting with professional solicitors and the compensation of professional solicitors for each solicitation campaign in relation to the funds raised and administrative costs. A copy of the report is available on our Web site, and I do believe I made one available for you today.

Relevant to the committee's discussion is the portion of this year's annual report that highlights the average amounts paid by charitable organizations to professional solicitors. Although there is no legal standard defining the permissible amount of fundraising costs, it is generally acknowledged that, on average, charitable organizations should spend no more than 33 a third percent of its contributions on the costs to raise those contributions.

Based upon campaign financial reports submitted by professional solicitors in Pennsylvania, the annual report details that 88 percent of the charities, on whose behalf campaign financial reports were submitted, paid higher than the standard, with 54 percent of them actually paying more than double the standard. Given this data, the Pennsylvania Department of State is keenly aware of the

issue of high fundraising costs being paid by charitable organizations that use the services of professional solicitors.

I heard some discussion earlier from the opening statements that there is concern when it is 90 percent or more. We have found some of the contracts actually allow for more than 100 percent of the money to go to the professional solicitors. So that is, of course, a big concern.

In addition to registration and annual reporting duties, the act gives the Department the power to investigate allegations of wrongdoing by organizations soliciting contributions in Pennsylvania.

Generally, as a question rises involving fundraising issues, the Department, through its Bureau's investigation and audit divisions, assiduously investigates the following matters: unregistered activity by both professionals and charities, failing to file contracts, failing to file campaign financial reports, failing to provide required disclosures, making false and/or misleading statements in solicitation, making false or misleading statements in reports filed with the Bureau and fraudulent transactions involving charitable donations for personal use.

Please note, however, that based upon current Supreme Court case law, high fundraising costs alone do not establish fraud. As a result, the Department cannot pursue an investigation solely on the basis of high fundraising costs.

What the Department can and does do is engage in public awareness efforts to promote informed charitable giving. The Department uses a variety of outreach tools to educate consumers about making smart donation decisions. Available on our Web site is a wealth of consumer information, including tips for charitable giving as well as information about dealing with professional solicitors.

In addition, Department staff routinely participates in senior expos, consumer fairs and other educational forums. Consumers are encouraged to call the Department's Bureau to learn more information or to file a complaint about a charity, a professional solicitor or a fundraising counsel.

The most important tip that the Department routinely conveys to consumers is to ask questions. I tell them, question everything. If consumers are not happy with the answer, they should not give to that group. There are many other worthy organizations in need of charitable contributions.

The question, I believe, that is really before us today is how can we help to ensure that Americans' contributions to veterans' causes are being responsibly used. In response to that question, we offer three recommendations: Increase efforts in public outreach and education. Consumers, again, need to be educated to ask questions, to ask for information about the charity. Specifically, how does it spend its money and, most importantly, how does it spend its money on its charitable purpose and programs versus fundraising and administrative costs?

Second, require increased oral and written disclosures at the point of solicitation. Professional fundraisers should be required to tell potential donors that a portion of the contributions will be used to pay for the cost to raise the money. The disclosure should also include the minimum amount of contributions guaranteed to be re-

tained by the charity as it was provided in the contract submitted to the State in which the solicitation is occurring.

Disclosure of charitable finances, fundraising expenses, administrative costs, efficiencies and successful mission outcomes to the public will provide the kind of accountability and transparency of charities that increases knowledgeable giving.

Finally, increase Federal oversight. I throw out Federal Trade Commission, but whatever organization or Federal agency would be deemed to be appropriate would be helpful.

Professional fundraisers should be required to submit, just as charities do, an annual report disclosing their activities. They should detail the charities for whom campaigns were conducted, the amount of contributions received in each campaign, the actual expenses of each campaign and the amount of contributions actually received by the charity.

Sort of related to all of these issues is the issue of the Internet. There has been an explosion of the Internet. Of course, as we all know, solicitations are occurring and very difficult to regulate at the State level unless we can demonstrate that our State residents are being targeted. If there could be some sort of more Federal oversight or required more disclosures on the Internet, that, we believe, would be helpful.

In conclusion, the majority of charities are honest and provide valuable services for many of the most needy and vulnerable in our society, including our veterans. The Department encourages the public to provide donations to charitable causes.

The key message that consumers should remember from this testimony is that whenever they wish to donate to a charitable organization, they should become informed about the charity's operations by doing some homework. More specifically, they should research the charity to determine if the majority of the money raised is going to its charitable purposes.

Once again, Governor Rendell and Secretary of State Cortes thank you for providing me the opportunity to appear before you today. I welcome any questions that you have at this time. Thank you.

[The prepared statement of Ms. McCurdy follows:]

U.S. House of Representatives
Committee on Oversight and Government Reform
December 13, 2007 - 10 a.m.
2154 Rayburn House Office Building

Testimony of Tracy L. McCurdy, Esq.
Director, Bureau of Charitable Organizations
Pennsylvania Department of State

Assessing Veterans' Charities

Good Morning, Chairman Waxman and distinguished members of the U. S. House of Representatives Committee on Oversight and Reform.

On behalf of the Pennsylvania Governor Edward G. Rendell and Secretary of the Commonwealth Pedro A. Cortés, I thank you for the opportunity to be present before you today and for your leadership on this important issue.

My name is Tracy McCurdy and I am the Director of the Pennsylvania Department of State's Bureau of Charitable Organizations (Bureau).

In Pennsylvania, the Solicitation of Funds for Charitable Purposes Act (ACT), the charitable solicitation law, requires organizations, professional solicitors and professional

fundraising counsels that are soliciting charitable contributions in the Commonwealth to be registered with the Department, unless they are otherwise excluded or exempt. For example, organizations that raise less than $25,000 in gross contributions annually do not need to register, unless the group pays someone to conduct solicitations.

The Department currently maintains registration and financial information for more than 10,000 charities and 400 professional solicitors and fundraising counsels soliciting charitable contributions in Pennsylvania. Included among those registered organizations are veterans groups. According to the National Center for Charitable Statistics, there are 2,514 military and veterans' organizations located in Pennsylvania.

The Secretary of the Commonwealth annually prepares a report on the number of registered charities, the number of charities ordered to cease and desist solicitation, the number of charities contracting with professional solicitors and the compensation of professional solicitors for each solicitation campaign in relation to the funds raised and administrative costs. A copy of the report is available on the Department's Web site (www.dos.state.pa.us).

Relevant to the Committee's discussion is the portion of this year's annual report that highlights the average amounts paid by charitable organizations to professional solicitors. Although there is no legal standard defining the permissible amount of fundraising costs, it is generally acknowledged that on average, charitable organizations should spend no more than 33-1/3% of its contributions on the costs to raise those contributions.

Based upon campaign financial reports submitted by professional solicitors in Pennsylvania, the annual report details that 88% of the charities, on whose behalf campaign financial reports were filed, paid higher than the 33-1/3% standard, with 54% paying more than double the standard. Given this data, the Pennsylvania Department of State is keenly aware of the issue of the high fundraising costs being paid by charitable organizations that use the services of professional solicitors.

In addition to registration and annual reporting duties, the Act gives the Department the power to investigate allegations of wrongdoing by organizations soliciting charitable contributions in Pennsylvania.

Generally, as a question arises involving fundraising issues, the Department, through its Bureau's investigation and audit divisions, assiduously investigates the following matters:

- Unregistered activity (professional or charity)
- Failing to file contracts
- Failing to file campaign financial reports
- Failing to provide required disclosures
- Making false and/or misleading statements in solicitations
- Making false and/or misleading statements in reports filed with the Bureau
- Fraudulent transactions-charitable donations for personal use

Please note however that the U. S. Supreme Court Case *Illinois ex rel. Madigan, Attorney General of Illinois v. Telemarketing Associations, Inc., et al.* held that high fundraising costs alone do not establish fraud. As a result of this case, the Department cannot pursue an investigation solely on the basis of high fundraising costs.

What the Department can—and does—do is engage in public awareness efforts to promote informed charitable giving. The Department uses a variety of outreach tools to educate consumers about making smart donation decisions. Available on our Web site is a wealth of consumer information, including tips for charitable giving as well as information about dealing with professional solicitors. In addition, Department staff routinely participates in senior expos, consumer fairs and other educational forums. Consumers are encouraged to call the Department's Bureau to learn more information or file a complaint about a charity, professional solicitor or fundraising counsel.

The most important tip that the Department routinely conveys to consumers is to ask questions—question everything. If consumers want to know how an organization is spending its money—ask. If consumers are not happy with the answer, they should not give to that group! There are many other worthy organizations in need of charitable contributions.

To ensure that Americans' contributions to veterans' causes are being responsibly used, the Department offers three recommendations.

1. Increase efforts in public outreach and education.

   Consumers need to be educated to ask questions—to ask for information about the charity—specifically, how it spends its money and, most importantly, how it spends its money on its charitable purpose and programs versus fundraising and administrative costs.

2. Require increased oral and written disclosures at the point of solicitation.

   Professional fundraisers should be required to tell the potential donors that a portion of contributions will be used to pay for the services of the professional fundraiser. The disclosure should also include the minimum amount of contributions guaranteed to be retained by the charity, as it was provided in the contract submitted to the state in which the solicitation is occurring. Disclosure of charitable finances, fundraising expenses, administrative costs, efficiencies and successful mission outcomes to the public, will provide the kind of Accountability and transparency of charities that increases knowledgable giving.

3. Increase federal oversight by the Federal Trade Commission, or another federal agency deemed appropriate.

   Professional fundraisers should be required to submit annual reports disclosing their fundraising activities—detailing the charities for whom campaigns were conducted, the amount of contributions received in each campaign, the actual expenses of each campaign and the amount of contributions actually received by the charity.

In conclusion, a majority of charities are honest and provide valuable services for many of the most needy and vulnerable in our society, including some of our veterans. The Department encourages the public to provide donations to charitable causes. The key message that consumers should remember from this testimony is that whenever they wish to donate to a charitable organization, they should become informed about the charity's operations by doing some homework. More specifically, they should research the charity to determine if the majority of the money raised is going to its charitable purposes.

Once again, Governor Rendell and Secretary of State Cortés thank you for providing me the opportunity to appear before you today. I welcome any questions you have at this time.

Chairman WAXMAN. Thank you very much, Ms. McCurdy.

Mr. Edmundson, I was very moved by your situation, what you said about your son and what you have gone through, but I also was angry about it for two reasons.

One, we sent him to Iraq, and I think most Americans would think that the Federal Government is going to take care of all his medical needs and all the services he may need as a result of the injuries he suffered in fighting that war on behalf of the American people.

Second, since that is not happening, I am angry at the idea that some of these groups are not providing the care that they promised that they were going to provide to the veterans and what they promised they were going to provide to the veterans. So it is hard not to be with mixed emotions in hearing what you had to say.

Did you think when Eric went off to war that if something happened to him, the U.S. Government, the military was going to take care of him?

Mr. EDMUNDSON. Mr. Chairman, when Eric went to war, we had no idea, as parents, when Eric was injured so severely and when he came home that we would have to go through as a family what we did in order for Eric to receive the care that he received.

I said many times before, I spoke with my son just before, a couple days before he was injured, and we could tell by his demeanor that he was proceeding to do something dangerous and mentioned to him to just stay safe, keep your head down. He mentioned to me and his mother to just relax, that if something happened, that the Army would take care of him.

Chairman WAXMAN. Instead, he was hurt, and then you found out that there is a maze that he had to go through and there was no one to guide him. You even quit your job just to be his care coordinator. You made a tremendous sacrifice for your son, and I am sure, in fact I know, it has had a very positive impact on his case.

But a lot of injured veterans don't have personal advocates like you or their family members can't quit their jobs and move across the country to battle the Government bureaucracy.

What would you say are our greatest unfilled needs for veterans who are returning home with severe injuries?

Mr. EDMUNDSON. We feel that one of the most important things that we have had to deal with is Eric and many families of severely injured soldiers, they are in desperate need of options, options for the medical rehabilitative care of their soldier, options to stay home and take care of their soldier, such as myself. I had to give up my livelihood in order to stay home and take care of my soldier.

We feel that it should be an option for a parent, a support group, a spouse or whatever, if they so choose, to stay home and take care of their soldier because they know what is best. They can take care. They know their soldier best, but they need to have the option for caregiver support and maybe insurance to stay home, so they don't have to totally give up everything.

Myself, I have been uninsured for 2 years. We, as a family, don't complain because we feel very fortunate our soldier is home. There are 4,000 families that don't have their soldiers home.

Chairman WAXMAN. There are charitable groups. There are nonprofit groups that raise money to help veterans. You have said to

us very clearly that many of them have done terrific work for Eric and have been very helpful to you and your family.

Based on your experience, what was the most valuable type of help you received from these veterans' groups?

Mr. EDMUNDSON. The most valuable help that we received is they have enabled through financial contributions to us. They have enabled me to stay home and be Eric's 24–7 caregiver.

They have enabled me to stay for 7 months in Chicago with Eric while he was going through rehabilitation at the Rehabilitation Institute in Chicago. It was very expensive to stay there. I was under orders with Eric, but I had to, such as when I first arrived in Chicago, it cost me roughly $1,900 for my apartment in Chicago.

I had to pay that $1,900 up front and then wait to be reimbursed from the DOD for that. It, initially, was a tremendous outlay for us and created a burden.

But non-profits enabled us to stay communicated and connected with the family. They enabled the family with air tickets to come up and give Eric and I support, and enabled me too. It was a morale support for me to be able to stay there and deal with the issues that Eric was having to go through.

Eric's outcome, my son's outcome would be drastically different if it were not for non-profit organizations.

Chairman WAXMAN. Thank you.

You are emphasizing how important it is to help these non-profits. Of course, we are also looking the kind of chicanery that some of these non-profits are using by not providing the benefits and not actually using the funds they raise for veterans.

If Members will permit, I just want to read an e-mail that I received from Senator Bob Dole, a great American who served our country, suffered injuries in World War II, and headed a panel looking at veterans' health care.

He said to me, "Thank you for holding hearings and considering veterans' charities. The timing is excellent since some of the groups unfairly and perhaps unlawfully raise a great deal of money during the holiday season. We cannot do enough for America's deserving veterans and, while many of the groups do a good job, a great many are parasites who take the money and keep all or most of it. I cannot imagine anyone or any group stooping so low to enrich themselves by exploiting veterans' misery. The committee hearing will serve many useful purposes by exposing the downright fraud used by some and the good other groups do. The winner will be deserving veterans and their families."

I thank former Senator and former Majority Leader Bob Dole for that message that is an important one for all of us.

Mr. Davis, I want to recognize you.

Mr. DAVIS OF VIRGINIA. Well, thank you very much.

Let me thank the panelists for being with us today and sharing your story.

Mr. Edmundson, in your written statement, you related that non-profit organizations became an answer to your prayer. What specific need did the charities meet that the Department of Defense and the Department of Veterans Affairs couldn't do?

Mr. EDMUNDSON. I am sorry, sir.

Mr. DAVIS OF VIRGINIA. What did the charities step forward and do that the Defense Department and the Veterans Affairs Department didn't do?

Mr. EDMUNDSON. Non-profit organizations have the ability to, as I mentioned in my statement, they have the ability to meet immediate needs of the families.

Mr. DAVIS OF VIRGINIA. It is not bureaucratic?

Mr. EDMUNDSON. Yes, sir.

Eric was injured 2 years ago back when before the Walter Reed incident broke, and we were having to deal with a huge amount of bureaucracy, and one of the issues was that you couldn't get a direct answer from a person. It was like the left side didn't know what the right side was doing, that kind of thing, and we were having to wait and deal with bureaucracy. We were having to deal with hundreds of e-mails, phone calls, advocating to get Eric what he needed.

In the interim time, non-profit organizations were able to come through and aid us in getting support to Eric.

Mr. DAVIS OF VIRGINIA. They got back quicker and more personal, those kinds of things?

Mr. EDMUNDSON. Yes, sir.

Mr. DAVIS OF VIRGINIA. Ms. McCurdy, what standards does Pennsylvania use when deciding to allow a charity to register in Pennsylvania?

Ms. MCCURDY. I am sorry.

Mr. DAVIS OF VIRGINIA. What are the standards that Pennsylvania uses when you allow a charity to register in Pennsylvania?

Ms. MCCURDY. Well, the actual process of registration is more of an administerial function, if the forms are filled out completely and, as best as we can tell at that, function correctly.

It is more if we have reason to believe that there is something going on that is improper by that charity. If they are not reporting everything accurately, we have an investigative and audit division that will then take over and look at the matter.

Mr. DAVIS OF VIRGINIA. They file annual reports basically.

Ms. MCCURDY. Yes.

Mr. DAVIS OF VIRGINIA. They are supposed to, if you look at these reports, talk about how much is used for fundraising and how much overhead and how much goes to the actual recipients.

Ms. MCCURDY. Yes. In Pennsylvania, we have a registration statement which asks about 25 different questions just more about what their general activities were.

One of our filing requirements is the IRS Form 990. If you are familiar with that form, it is the reporting form by charitable organizations that gets to all of those things that you mentioned. Then depending upon their threshold amounts in contributions, we also require financial statements which may need to be audited.

Mr. DAVIS OF VIRGINIA. You probably have something that would trigger an audit if the numbers don't reach a certain level, or look a little funny?

Ms. MCCURDY. Not necessarily if they don't reach a certain level but if we are questioning how those numbers have been reported, that would trigger us looking at that.

Mr. DAVIS OF VIRGINIA. How many auditors do you have that can look at that?

Ms. MCCURDY. We have a staff of four auditors.

Mr. DAVIS OF VIRGINIA. How many charities do you have registered in the State?

Ms. MCCURDY. We have information on more 10,000 charities in Pennsylvania right now.

Mr. DAVIS OF VIRGINIA. Wow.

Ms. MCCURDY. But we believe there are more out there, and we have been engaging in a huge effort to bring as many of them into compliance as possible.

Mr. DAVIS OF VIRGINIA. What statute does Pennsylvania have that might prevent a solicitor from engaging in fraudulent activities including obtaining money based on a false pretense, representation or promise?

Ms. MCCURDY. Well, I think we have several available generally. The only one that falls under my jurisdiction would be the Solicitation of Funds for Charitable Purposes Act. That is found in Title X of the Pennsylvania statutes. It starts at Section 162.1.

The attorney general, which also has jurisdiction over that law, certainly has other avenues available under the consumer protection laws, but we have some specific prohibited acts that are identified in our law.

Mr. DAVIS OF VIRGINIA. Have there been successful prosecutions under those laws?

Ms. MCCURDY. Absolutely. I was a prosecuting attorney for the last almost 5 years before I became the director, and we have been very aggressive in our pursuit.

Mr. DAVIS OF VIRGINIA. Would higher penalties in these areas, including jail time, be appropriate in your opinion?

Ms. MCCURDY. Well, and I should say we have been working with the local criminal authorities on pursuing criminal matters as opposed to just pursuing them at the administrative level.

I don't think it is necessarily higher money is going to get the job done. It is going to be criminal prosecution.

And then it is also just going to be, and someone mentioned. I think Chairman Waxman mentioned earlier that we have the problem where we have people in Pennsylvania. We get them out of Pennsylvania, and then they go somewhere else, and that is unfortunate. But at the State level, all I can do is to work to get them out of Pennsylvania if they deserve it, and we have done that.

Mr. DAVIS OF VIRGINIA. I guess the last question is maybe federally there ought to be some Federal law or something that looks at this. It always on our side to start some new regulatory agency, but seeing some of the outrageous actions that are brought to our attention today, I think it may be merited.

We appreciate the example that Pennsylvania is setting and, Ms. McCurdy, we appreciate your testimony. Thank you.

Ms. MCCURDY. Thank you.

Chairman WAXMAN. Thank you, Mr. Davis.

We are being called to the House floor. We do have 5 minutes, Ms. Watson, if you want to take it now.

Ms. WATSON. Yes, let me go real quickly and thank Mr. Edmundson. Your testimony was very moving.

This committee has been investigating Mr. Chapin and his charities, and we are concerned that he may not be using the money he raises in an appropriate manner. I would like to ask some questions.

My understanding is that after your son, Eric, was injured, your family sought assistance from a number of veterans' groups and that Mr. Chapin's group, the Coalition to Salute America's Heroes, is one of the organizations that provided assistance. Is that right, Mr. Edmundson?

Mr. EDMUNDSON. That is correct.

Ms. WATSON. Can you tell us what Mr. Chapin's group provided to you?

Mr. EDMUNDSON. Shortly after Eric was first injured, like I said, he was based at Fort Wainwright, Fairbanks, AK, and ended up receiving medical care at Walter Reed. Shortly after he arrived at Walter Reed, his wife and daughter came down from Fairbanks, AK, and stayed with him at Walter Reed for the 3-months he was there.

That organization aided Eric and his wife in taking care of some of their financial obligations back in Alaska, which took a great burden off of them at that time and allowed his wife and his daughter to stay with him there.

Ms. WATSON. We are concerned that Mr. Chapin and some other people who operate these veterans' charities are keeping too much of the donations they received for themselves and not giving enough to soldiers and their families. For example, we understand that Mr. Chapin paid himself and his wife more than $500,000 last year in salaries and benefits.

In your opinion, Mr. Edmundson, do you think it is appropriate to make a half a million dollar salary in 1 year while running veterans' charities? What is your opinion on that?

Mr. EDMUNDSON. I don't think that is appropriate.

My son as well as the other thousands of injured soldiers from this war or any other war, they are not a commodity. Organizations come to us and offer their assistance. We gladly welcome them to aid us in our quest to get Eric the care that he needs and help us maintain so that we can help and be with him.

But I don't think it is right that you can use these soldiers as commodities to raise funds and, as an organization, to say that you are raising funds to aid all of the thousands of soldiers and receive charitable contributions from the public and then turn around and give a small percentage of that to what you are saying you are going to do with those contributions.

Ms. WATSON. Let me just comment that we understand that Mr. Chapin's group raised over $98 million through donations that he solicited from people who thought they were helping people like your son, Eric. But according to his IRS filings, his group spent only 30 percent of those funds to help other veterans, and he used the rest of the donations to pay for for-profit fundraising corporations to raise even more money for his groups.

For example, he paid one of those for-profit organizations—it is called American Target Advertising—$3.5 million last year alone, $3.5 million. Think of how it would help Eric and other families like yours.

I don't think you know that less than a third of every dollar donated to Mr. Chapin's groups actually goes to help directly the injured veterans.

So we asked Mr. Chapin to come into the hearing today to explain these actions, but he refused. In fact, the committee issued a subpoena. I don't know how you can refuse receiving a subpoena unless nobody is ever there to receive it, but they evaded the Federal Marshals who were trying to serve the subpoena. That behavior alone speaks greatly to me and should speak greatly to you.

Let me ask you this.

Chairman WAXMAN. Ms. Watson, your time is up.

Let me indicate to you that we are not going to accept his evasion of service and unwillingness to be here.

Ms. WATSON. Yes. Thank you.

Chairman WAXMAN. We are going to have another hearing, and we are going to get that subpoena issued to him and demand that he come before us.

Ms. WATSON. Yes. Thank you so much.

Thank you, Mr. Edmundson, and may God bless you and yours.

Chairman WAXMAN. We are going to break now because there are four votes on the House floor. It will probably take us at least a half-hour. So let's plan to reconvene at 11:30.

The committee stands in recess.

[Recess.]

Chairman WAXMAN. The meeting of the committee will please come back to order.

We were questioning Mr. Edmundson and Ms. McCurdy, and I want to recognize Mr. Shays to proceed with questioning.

I wonder if somebody can close the door in the back, so we can avoid the noise coming in the chambers.

Mr. SHAYS. Thank you very much, Mr. Chairman.

Mr. Edmundson, thank you for coming.

Ms. McCurdy, thank you as well. Thank you for what your Government is doing.

There are so many elements to this. There is the element that the chairman raised just about what is our country doing for our veterans irrespective of the charity groups.

Then there is the acknowledgment that Americans want to assist, want to provide help and give to charities because they want the charities also to be able to add value-added. It should be not to do the basics. It should be for those extra things that can make life a little more tolerable for the veteran and his or her family.

I got introduced to this issue a few years ago when we had another charity. Actually, it was for campaigns.

It was Americans for Bush and Americans for Dole, and each of them raised about $10 million. It was the same outfit that raised it for both. They gave $5,000 to George Bush and $5,000 to Senator Dole, and they kept the rest.

Really, what it was is it was a fundraising phone bank operation. So they just kept increasing their lists, but then they had lists to sell and so on. They had money to pay all their employees, and the people who ran it did well.

In this AIP, which is not a pamphlet I am too familiar with, American Institute of Philanthropy, I think, Mr. Chairman, your

hearing has raised an amazing opportunity for us to do some good. I was looking at some of these charities, and some score very well, frankly.

Abortion and family planning, As and Bs and Cs; African American fundraising, As and Bs; AIDS, As and B pluses; American Indians, a lot of Fs, Cs and Ds; cancer, a lot of Fs, amazing number of Fs; blind and visually impaired, a lot of As and Bs, and we go down.

Then when they get to international relief, a lot of As and Bs. Save the Children in my district is an A. Other organizations, I am pretty impressed with.

Then you get to criminal justice issues, and we are back down to Cs and Ds. Anyway, lots of opportunity to look at this issue.

But we ended up with a challenge with the Supreme Court when we wanted to look at the constitutionality of putting a little bit more requirements on the fundraising done for Americans for Bush and Dole.

Ms. McCurdy, maybe you could tell me what challenges you think exist when we deal with the Constitution on the Federal level and why are the States able to do it a little better than we are?

Ms. MCCURDY. First of all, you pointed out the challenge from the perspective of the U.S. Supreme Court, and that is the first amendment, and that is routinely what is thrown out there as an impediment sometimes for us to be able to do some further regulation because the professionals enjoy the same protection as the charities of the person when they are raising money for the charities.

Mr. SHAYS. It is a freedom of speech issue, basically.

Ms. MCCURDY. Yes.

Mr. SHAYS. They can say what they want and do what they want.

Ms. MCCURDY. That is what it would appear although that is not entirely true.

Mr. SHAYS. So why do the States have a little easier time or how do the States deal with this issue?

Ms. MCCURDY. First of all, I don't believe that there is any Federal agency charged with oversight of the sector other than the Internal Revenue Service, which, what they do is just focus really in on the reporting issues, on how the documents are being reported and their activities are being reported to the Internal Revenue Service.

I am not aware of any Federal agency that enjoys the power to regulate the sector as at the State level.

Mr. SHAYS. So one issue is that we should be looking to see if, for instance, the Federal Trade Commission or the Internal Revenue Service should be empowered to have more oversight potentially or some oversight?

Ms. MCCURDY. If there is that ability. I know with the proposed new Form 990, the Internal Revenue Service is looking at some governance issues.

Mr. SHAYS. Explain again what you do that is so much better than what other States do? What are the things that you do?

Ms. MCCURDY. We do enjoy the luxury, I guess, of having a dedicated staff of investigators and auditors who are devoted to this issue, solely.

Mr. SHAYS. So you are allowed to audit them.

Ms. MCCURDY. Yes.

Mr. SHAYS. And that opens up opportunities.

Ms. MCCURDY. Yes.

Mr. SHAYS. You are allowed to publicize what they do, and that probably is helpful.

Ms. MCCURDY. Actually, we are directed to publicize what they do.

Mr. SHAYS. But what would constitute an illegal act in your State versus another State?

Ms. MCCURDY. Well, I don't know that I can say, make the distinction, but I can talk about what would be in my State, an illegal act.

Mr. SHAYS. Your State does it better than others. I am just trying to understand what do you do. Is it just the people and just the energy or do you have certain laws that give you opportunities?

Ms. MCCURDY. I don't believe that our law is really that much different from other States' laws. I think it is that we have the staff. We have the energy, as you pointed out, to be able to push this forward. We have a prosecuting attorney who is dedicated full time to work on the cases that are brought in by the investigators and the auditors.

Mr. SHAYS. Thank you.

Evidently, my time went by faster than I realized. Thank you.

Chairman WAXMAN. Thank you, Mr. Shays.

Ms Norton.

Ms. NORTON. Thank you, Mr. Chairman.

Ms. McCurdy, I am interested in pursuing the question I raised in my opening remarks about the amount of funds that go directly to the charity as announced.

I have here this month's Better Business Bureau guide, Wise Giving Guide, and I note that their guide says no more than 35 percent of the money should go for what we will call fundraising or expenses, in other words.

Then there is another guide, the American Institute of Philanthropy. This is the charity rate guide and the watchdog report. Both of these are this month's report, and they say $35 percent for every $100. I think it is pretty generous.

I will ask you about that. Would you agree that fundraising costs should be capped at one-third or below?

Ms. MCCURDY. I think this was pointed out in one of the opening statements. You can't say that necessarily across the board. If you have a new organization that is just getting started, there will be higher costs of fundraising at the beginning. It is where you look at the historical tracking of that particular organization and if they can't find a way to reduce their fundraising costs to keep them below that amount.

That is the, I think, the average. I think I made that point in my statement as well, that is the generally accepted standard for fundraising. So you have to look at it over a historical time, but

if consistently they are spending more than that, I believe it would be a concern, yes.

Ms. NORTON. It would be a concern.

I wonder if you could look at a slide that I would ask the staff to put up concerning the percentage of funds spent on veterans by a number of groups. As you look at the first group, TAPS, and this group has a solid record as they kept fundraising down to around 27 percent, meeting the benchmark.

But all four of the other groups failed the test. Some of them are well-known groups. In other words, they spent the majority of their funds raised from the public on the fundraising. It ranges, if you look, from 58.6 percent to 85.9 percent.

Would you agree that at least people know in advance, for example, that 85 cents of every dollar they are giving is going to expenses, fundraising expenses? Is that at least the kind of knowledge?

I am not sure what kind of regulation. I am using, at least as a guide, the one group I know under Federal jurisdiction and that is Charitable Giving here.

Ms. MCCURDY. I assume when you are saying these people, you are talking about the donors should know about this?

Ms. NORTON. Charitable giving.

Ms. MCCURDY. Yes, absolutely, that is part of my point that I am hoping I get across today. I believe the donors should know this, and it should be disclosed at the beginning of any solicitation whether it is in writing or oral.

Unfortunately, we are, as I mentioned earlier, constrained by the Supreme Court case, the *Madigan* v. *Telemarketing Associates case,* which says that it will be unconstitutional to require that disclosure at the outset.

Ms. NORTON. It would be unconstitutional? I am sorry.

Ms. MCCURDY. To require the disclosure of the actual percentage of money that is going to go to the fundraiser versus to the charity.

Now, if the donor asks the question——

Ms. NORTON. Well, I don't think we are violating the law. The Combined Campaign Fund does, in fact, list what amount of funds go to fundraising, so you know.

Ms. MCCURDY. Absolutely. The problem would be if the Government required that disclosure. I believe that the charities should fully disclose that, and it is certainly not only acceptable, but I think should be encouraged to disclose that.

Ms. NORTON. You said there may be constitutional problems with requiring the disclosure of the amount of the funds that go for expenses even though they have to file an annual report that go for expenses and that go to the charity.

Ms. MCCURDY. It is at the point of solicitation which is where the issue is.

Ms. NORTON. Sorry?

Ms. MCCURDY. It is at the point of solicitation is where the issue becomes the issue. If the donor asks the question, which is why I want to focus so much energy on trying to better educate the donors, if they ask the question, they are required to answer truthfully, but we cannot require that there is a voluntary disclosure at the outset.

The reason that is stated is it would quash fundraising efforts if the donor knew, and it is sort of ironic because that is exactly what we are hoping.

Ms. NORTON. I don't know this decision, but I think, Mr. Chairman, we will have to look at this decision because I don't think the Federal Government is in violation of this decision.

I know this: Federal employees, we have some jurisdiction on. They are our employees. We have, forgive the expression, sole custody of these soldiers. They are under our command. They must do exactly what we say.

So the notion that there can't be at least some way to inform people whether they are giving to our soldiers or giving to expenses does not seem to me to be forbidden.

Ms. MCCURDY. I think the Combined Federal Campaign is a perfect way to be able to do exactly what you are suggesting which is to disclose how the money is going to be spent.

Chairman WAXMAN. Thank you very much, Ms. Norton.

Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman.

I would like to first yield to my colleague, Mr. Shays.

Mr. SHAYS. Yes, I thank the gentleman for yielding.

Just to correct the record, Mr. Chairman, I had said that myself and Mr. Koch and Attorney Blumenthal had been used by the National Veterans Service Fund in quotes that they took from us in 1980, and Mr. Koch had notified me of that and we got ourselves off the list. But it wasn't Attorney Blumenthal. It was former Governor William A. O'Neill who just recently passed away, whose quote they were using, I think, mistakenly.

I thank the gentleman for yielding.

Mr. PLATTS. You are welcome.

Mr. Chairman, thank you and the ranking member for hosting this very important hearing. We certainly are a blessed Nation because of those who serve in uniform, and we want to make sure when individuals seek to help them by contributing funds to charity groups, that those funds really go to those who have served us or the family members.

I want to thank both of our witnesses for your work and especially, Mr. Edmundson, please convey my sincere gratitude to your entire family for your son's service and sacrifice. As I said, we are blessed because of him and all our heroes who wear the uniform.

Certainly, Ms. McCurdy, I am delighted to be here with a fellow Pennsylvanian, and I appreciate your work at the Bureau.

Without breaching any privacy requirements on you, can you give some examples of actual investigations you have done into misconduct or allegations of misconduct?

Ms. MCCURDY. I can talk about a couple of veterans ones we have done or I can talk in the broader scope if you would like.

Mr. PLATTS. If you can keep the focus on the veterans, that would be great.

Ms. MCCURDY. Sure. As I mentioned earlier, and you weren't in the room at the time.

Mr. PLATTS. Yes, I do apologize if I am repeating because of trying to be in too many places at one.

Ms. MCCURDY. No. I certainly understand, but I mentioned that we do work with the criminal authorities. The local district attorneys in Pennsylvania share jurisdiction over our act. It has been one of our goals of our Bureau to work more. There are 67 counties in Pennsylvania, and we probably have about 8 or 9 that we have had some good working relationships with now, and we believe that is the best way to get to some of this.

We have successfully prosecuted two individuals who were using a veterans' organization as a mechanism to raise money for themselves.

Mr. PLATTS. How did they or that information come to your attention that led to the investigation and prosecution?

Ms. MCCURDY. I know at least one of them was doing solicitation in front of a Wal-Mart, and they were violating, I think, a local solicitation law. I am not sure on the facts, and I do have the chief of our investigation division with us, and he can certainly amend anything that I have to say.

But we learned about them through local authorities, that they were out there, that they were asking for money, and someone would report it to us. We have enjoyed the benefit of being able to call up the local authorities, and then they would go out and exercise their arrest powers on our behalf, basically.

Mr. PLATTS. Does the Bureau only respond to when there is information brought to you—having been in the State House, but it has been 7 years, so I am maybe a little rusty on the interaction—or do you do any kind of spot checks on charitable groups, more kind of an undercover approach, proactively?

Ms. MCCURDY. All of the above. We have reactive investigations. Of course, if we receive a complaint, that is going to be something that we will consider to be a priority that we would pursue, but we have proactive investigations. We learn a lot about our investigations through the media, anyway.

We also do random audits. We do maintain the records for the 10,000 organizations that I mentioned in my statement, and we have the ability. We have five investigators and four auditors to be able to routinely check them.

Of course, it is sort of like any other agency. If you have come to our attention before, you will stay on our radar screen, and we will look at you in the future as well.

Mr. PLATTS. I apologize. This may have been asked as well earlier. Is there something, anything particular or specific that we could do that would better help you at the State level and then alternately at the local level with our DAs in Pennsylvania and across the country that is currently not in law?

Ms. MCCURDY. If there was some way that we could better educate the donors. We are one bureau in Pennsylvania. The attorney general's office also has jurisdiction, and they do some outreach efforts through their charitable trusts section.

But it needs to be more national. It needs to be more global. We struggle with how do we reach the donors, how do we educate them that the most important thing a donor can do before they give money is ask questions. Question everything.

Mr. PLATTS. Yes. So we have done better nationally with identity theft and outreach to better get the public aware or something similar, that type of national effort?

Ms. MCCURDY. Absolutely, that is a perfect example of something that I think has been done well. Whatever the methods that were used to achieve that, if we can employ that in the charitable sector, it would be really helpful.

Mr. PLATTS. Great.

Well, again, my thanks, Mr. Chairman and to our witnesses for your important testimony and again, Mr. Edmundson, to your family for your family's service to our Nation.

Thank you, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Platts.

Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

Mr. Edmundson, thanks for coming and talking to us today and testifying. You really set the stage for all the testimony that follows in terms of why we have to pay so much attention to this. So, thank you.

Ms. McCurdy, I had a couple questions. I am going to go back to this line of questioning that Congresswoman Norton was pursuing just so I can understand a little bit better because disclosure seems to be a key ingredient here in solving the problem, and you talked a lot about just needing to have more information available to people.

Just so I understand, you are saying that the law currently prohibits at the point of solicitation a disclosure at that point, whether it is orally like over the phone or something or embedded somehow in a written solicitation.

It prohibits requiring that, at that point, you disclose how expenses have been paid for—is that what you are saying—versus a requirement that would say how money is going to be spent going forward? Is there any distinction there or are both prohibited?

Ms. MCCURDY. As I understand the case, the Supreme Court case which was the Madigan versus Telemarketing Associates case, first of all, they come right out and say that high fundraising costs per se are not per se fraud. Then the second element of that is that the States or whoever is regulating the disclosure cannot require that they voluntarily disclose that amount during a solicitation. However, if asked, they have to truthfully answer.

That is as I understand the case.

Mr. SARBANES. I, like others, want to understand that case better because it seems to me there must be some way to build some basic disclosure in there.

Ms. MCCURDY. It is critical.

Mr. SARBANES. But let me ask a different question. Are there any accreditation opportunities out there? Are there organizations, and maybe the next panel is better positioned to respond to this than you are, but are there any organizations out there that, in effect, accredit, where you can seek accreditation?

Like within the non-profit world, I know that there are accrediting organizations that have grown up where if you hit 15 measures successfully, then they will say you have the stamp of approval from such and such organization which gives people some con-

fidence in dealing with that non-profit. Are there any similar kinds of organizations out there and, if so, is it having the effect of people, charities invoking that or using that stamp of approval as a way of promoting their cause or giving more comfort to the donors?

Ms. MCCURDY. I am not aware. The only organization that I have any knowledge of is the Association of Fundraising Professionals, and I don't know if they have any accreditation process as is done at the charitable level.

I know in Pennsylvania the Pennsylvania Association of Non-Profit Organizations does use the Standards of Excellence Program, but I can't really speak on how they view the success of that. I know it is a program that they are using more and more, so they must believe that it is being successful for their member organizations in how they are building the donor confidence with their own donors.

I am not familiar at the fundraiser level. I think the next panel maybe might have some more insight into that than I do, but I don't know if that would help necessarily at the point of solicitation.

Mr. SARBANES. When you say that, why is that? What do you mean?

Ms. MCCURDY. Well, it relates to the fact of it is like with any profession. People who want to do good will do good. People who will join those organizations, they are not the ones we are concerned about.

We are concerned about the other ones who aren't joining member organizations, who aren't participating in accreditation programs. They are the ones that we have to worry about. They are the ones that are the profiteers. They are the ones.

I would imagine that if I were to look at the contracts in Pennsylvania, the ones that are problematic and they are in our report. You can see the ones where the high numbers of costs are versus the amount of money, and we also report on the ones that are responsible. They are not going to be helped by any further disclosure.

Mr. SARBANES. I guess what I would hope is if you develop a mechanism, a kind of good housekeeping seal of approval thing that people wanted to get to help with their credibility in solicitation, over time when people are calling in or you are doing your education efforts, you could say, look for the good housekeeping seal of approval, so that over time, people, the donor audience would come looking for that as a way of giving them some comfort. I was wondering, do you have any?

You have 10,000 charities that are registered, I think you said. Are you aware of charities that are using in their solicitation and, in the case that they make to the public, are pointing to how efficient they are? Do you instances of that and how effective do you think that is as part of the pitch that they are making?

Ms. MCCURDY. I am aware that they are doing it. Of course, it makes absolute sense to do that if they have achieved, and I know it is a stringent process for PANO, the Pennsylvania Association, to achieve that standards of excellence.

If they have gone through everything, and they look at everything. They pull out all the drawers and look at everything that is

in those drawers. So, certainly, if they survive that process, absolutely, they are going to use it.

How effective is it in their solicitation campaigns? I can't comment. I don't know.

Mr. SARBANES. OK.

Chairman WAXMAN. Thank you, Mr. Sarbanes.

Mr. Burton.

Mr. BURTON. Thank you, Mr. Chairman.

I just don't understand how an organization can give less than 5 or 4 or 3 or 2 percent to the soldiers involved and not be guilty of some kind of infraction, so they can be prosecuted. Well, what is the standard?

I mean maybe you have answered this before. At what point does it become fraudulent?

Ms. MCCURDY. There is not a legal standard that is applied.

Mr. BURTON. Is there a way to create a legal standard?

It seems like the State legislatures or, if we are talking about veterans from across the country, the Congress could pass some kind of a law saying that there has to be accountability and set some kind of a standard.

Ms. MCCURDY. If the legislature can do that, I would applaud it, and it certainly would make our job easier if we had a standard for us to be able to look at whether or not the high fundraising costs are a problem. Then certainly that triggers us to look at it if it is a high amount, but we have to look at the underlying numbers and we really have to look for actual fraud.

Mr. BURTON. I get these things all the time. I am sure all of us do. Some of these on this list, I have given money to on a regular basis, and it is really distressing to know that.

That is a tax-deductible item to the person who is giving that money. If they are frittering away that money or wasting that money, it seems like they would be complicitous in tax fraud because they are taking my money and they are not spending it wisely or they are putting it in their own pockets. It seems like there ought to be some retribution for that.

Ms. MCCURDY. I don't disagree.

Mr. BURTON. Have you ever thought about or has there been any legislative proposals to set some standards like that?

Ms. MCCURDY. Not in the 5-years that I have been working in this area. I know we are revisiting our current statute in Pennsylvania. We haven't done anything officially with the legislature, but we in the Bureau are looking at it and looking for areas where there might be some amendments that would be helpful.

Mr. BURTON. Are there any groups that are looking at a legislative way or a law that could constrict some of these people's appetites for pocketing this money?

Ms. MCCURDY. I am not sure what you mean by are there any groups looking at?

Mr. BURTON. I mean are there any groups coming up with any legislative proposals?

You folks are watchdog groups, but have any of your organizations that are watching these charities come up with some legislative mechanism that we could work on here in Congress or in the State legislatures to set the standard?

Ms. MCCURDY. Not that I am familiar with, but I can.

Mr. BURTON. That is something. That seems like to me that is something that we need.

Having these hearings and talking about it and focusing attention on it like in the paper, the Washington Post this morning, I think that is good, but I will bet you that not 1 percent of the American people are following this hearing. They are not going to know it is going on, and so they are going to continue to pour this money into these charities that are wasting it.

It seems to me that there has to be some way to say, OK, if you are getting a dollar, you have to at least put this much money into the charitable purpose. You can use the rest for advertising and whatever you want to, but you have to put at least this percentage in. That would, I think, put a real hammer on these people.

But you don't know of any legislative proposal like that?

Ms. MCCURDY. I am not aware of any, but the State, the State regulators are all members of an organization called the National Association of State Charity Officials [NASCO]. I am actually on the board of directors for that. I can certainly bring that up at our next board meeting and see if we think there is anything at our level that we might be able to start looking at.

Mr. BURTON. Well, I have Brian, my staff guy, here. I would like to really have somebody. When you meet with these people, if you could give us some kind of parameters that could be put into a legislative proposal, that might at least scare the hell out of these people that are stealing this money.

Ms. MCCURDY. We can certainly do that. I would be happy to provide further information to you to that.

Mr. BURTON. I will have Brian get in touch with you then.

I don't think I have any other questions. I just feel the frustration—I think all of us do—especially when I think of the money I have given them.

Ms. MCCURDY. You are not alone.

Mr. BURTON. Thank you, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Burton.

I want to express my concern that there is not sufficient legislative protections. I think we ought to, on this committee in our oversight, not only find out the problems but figure out some solutions, and I hope we can all work together on this committee to come up with some ideas to do that.

I think a lot of people don't realize how little of that money they are giving to these charities, not just veterans' charities but all charities, actually goes for the purpose that they were told charities serve.

Another thing that most people don't realize is we have heard about the charities raising money, but there are professional organizations. In fact, there is an entire industry of for-profit companies that do nothing but send letters and make calls to solicit charitable donations.

For example, you have a charity. Let me give an example, the Disabled Veterans Association. They have a major fundraising campaign from August 2005 to April 2006, but they didn't do the fundraising themselves. Instead, they hired a for-profit fundraising corporation called Civic Development Group to help them, and DVA

has provided the committee with a breakdown of its fundraising expenses. I would like to see if we can put that on the board.

As this document shows, the first number is the amount of money that people donated. Fundraising collections were over $4.5 million, and that is a phenomenal amount for a charity. But the next line indicates fundraising expenses were about $4 million. In other words, out of $4.5 million in donations, this charity got less than 500,000. That is what the charity got, and that is not even 10 percent of the money that was raised for that charity.

Now, Ms. McCurdy, based on your experience, do donors know that up to 90 cents of every dollar they provide could be eaten by fundraising costs?

Ms. MCCURDY. I don't think that the large amount of donors do know it, and I do believe that is one of the most critical things that we as State regulators and that you as the Federal Government can do is to provide better education, as I was discussing with Representative Platts, that there could be some way that we could take this to the level that we have on other important issues and make them more aware.

Chairman WAXMAN. So people aren't aware.

That which we have just shown on the board is the breakdown of the fundraising campaign's expenses, but the actual expenses are broken down even further. They have all kinds of things you would expect. They are paying for salaries. They paid for rent, equipment, telephones, all the supplies, printing and shipping.

Most people think, of course, there are fundraising expenses, but then you come to the last line. Even after all these charges for every expense imaginable, the for-profit corporation charges $2.2 million for "management consulting fees." This $2.2 million is 55 percent of all the money that they have raised in that campaign, and they have something called a management consulting fee.

I don't know what goes through your mind, but let me ask you, Mr. Edmundson. What goes through your mind when you now see that they are taking $2.2 million or 55 percent of all the money raised, and it is going to a management fee?

It is pretty outrageous, isn't it?

Mr. EDMUNDSON. The first thing that goes through my mind when I read this is anger, absolutely.

Chairman WAXMAN. Well, we all share that anger. Just giving them a seal of approval or not doesn't seem to me enough. We ought to do what we can do, but I don't think this should be tolerated, and I don't think most Americans would think it ought to be tolerated either.

It makes all of us angry that the veterans, people who have served our country, are used to raise money to give some professional organization and the business of fundraising, management fees of 55 cents out of every dollar. It is absolutely inexcusable.

I see Mr. Van Hollen has come, and I want to recognize him.

Mr. DAVIS OF VIRGINIA. Mr. chairman, can I just take 1 second to say I would associate myself with your remarks?

Chairman WAXMAN. Yes.

Mr. DAVIS OF VIRGINIA. We are talking today about veterans, but I think unfortunately this stretches into every part of charitable donations to diseases, orphans and the like.

I really applaud you for holding the hearing, and I hope we can work with you to followup with some legislative action.

Chairman WAXMAN. Thank you very much.

Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman, and thank you for calling this hearing on a very important issue. It is, obviously, important that the American people have confidence that when they are providing money to our veterans, in support of our veterans, that it is being used for that purpose.

I appreciate your testimony and, Mr. Edmundson, I heard your opening statement. I want to thank you for being here and for the sacrifice your family has made.

Ms. McCurdy, I had a question with respect to the recourse that the public has in these cases. I understood your testimony with respect to the Supreme Court ruling which is they said that you can't essentially hold one of these non-profits accountable through the criminal justice system anyway right now with respect to fraud.

If an organization that is raising money, one of these charitable foundations, makes a statement, a representation to the public as part of their fundraising, for example, if they say, 80 cents of every dollar goes to veterans, and that proves to be untrue, then there would, would there not, be some recourse against them in terms of a misrepresentation and fraud on the public?

Ms. MCCURDY. Absolutely, and we would pursue that in Pennsylvania aggressively both administratively through my office and hopefully with whatever criminal jurisdiction that fell in.

Mr. VAN HOLLEN. Right. So did the Supreme Court decision bar in any way either State or local governments from requiring that non-profit organizations that register in their communities be required to disclose the amount that goes to veterans' organizations?

Ms. MCCURDY. There is disclosure that does take place. It is in the annual reporting that they are required to do, and the professionals are required to file with us every contract.

I mean the disturbing thing for us—coincidentally, before this issue came up that we had the opportunity to be here today and speak to you, we had been looking. As I said earlier, in our annual reports, we report on what professional solicitors are reporting and we look at their contracts. Charities are agreeing to this, and it doesn't violate State law for them to agree to a contract.

I can tell you we looked at all the ones that were over 100 percent of the costs went to the professionals. So, in other words, the charities were actually paying for the campaign, and they got nothing out of it, and they agreed to this in contract form.

Mr. VAN HOLLEN. I understand.

I guess my question is that you get the information. You get to look at the contracts. But is there anything that would prohibit a State government, for example, from saying as a condition of registering as a non-profit, you must tell the public how much of the dollars you are raising goes to veterans and how much is going to the purpose, so that then you can hold them accountable for making a public statement?

In other words, then if they misrepresent to the public what they are doing, you do have grounds for going after them. Is there anything that would prohibit us from requiring that they disclose to

the public how much of every dollar raised is going got the cause that people giving think it is going to and how much is going to overhead and profit or overhead and to pay the salaries?

Ms. MCCURDY. Legislatively, we don't have that ability to do that right now. I don't know whether or not that is something that can be changed in Pennsylvania law. I don't know whether or not the Supreme Court case, any constitutional challenge to that law would prevent it ultimately.

However, we can require them to state that when asked, and that is required in Pennsylvania. If the donor asks the question, they have to give a truthful answer. At that point, if it is not a truthful answer and we are able to demonstrate that, we would pursue it.

Mr. VAN HOLLEN. Yes, we want to educate the public.

Ms. MCCURDY. Right.

Mr. VAN HOLLEN. But that, of course, puts the burden on every financial contributor to ask that question.

Ms. MCCURDY. Yes, it does.

Mr. VAN HOLLEN. I am just asking whether there is anything that you know of in the Supreme Court decision that would prevent us from reversing that burden and saying to somebody who is raising money for a good cause, how much of that money is actually going to the cause that they are serving.

Ms. MCCURDY. I would love to see that if that could happen. We are as frustrated in my Bureau as anyone else. At the same time that we are regulating this, we are donors also, and we enjoy the ability to be able to investigate the organizations. If that could happen, that would be a really, really helpful thing.

Mr. VAN HOLLEN. Thank you.

Thank you, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Van Hollen. Let me commend you for your leadership on this issue. I know it has been a very important cause to you.

Thank you both very much for being here. You have certainly set out the framework for the issue that we are looking at, and we are going to have another panel of witnesses. I very much appreciate your participation in the hearing, and we are grateful for that.

Mr. Edmundson, we owe you and your son to do something about this problem. Thank you so much.

Mr. EDMUNDSON. Thank you.

Ms. MCCURDY. If there is anything that I or my Bureau can assist with in the future, please don't hesitate to ask.

Chairman WAXMAN. Thank you.

I would like to now call forward Mr. Robert Friend, president of the American Veterans Coalition, Gig Harbor, WA; Ms. Pamela L. Seman, executive director of the Disabled Veterans Associations in Rocky River, OH; Mr. Daniel Borochoff, president of the American Institute of Philanthropy; Mr. Bennett Weiner, chief operating officer, the Better Business Bureau's Wise Giving Alliance; and Ms. Bonnie Carroll, executive director, Tragedy Assistance Program for Survivors in Washington, DC.

I want to welcome each of you to our hearing today. We very much appreciate your being here.

It is the practice of this committee now that you are seated, to ask you to stand because all witnesses that testify before us must do so under oath.

[Witnesses sworn.]

Chairman WAXMAN. Let the record show that the witnesses responded in the affirmative.

Ms. Carroll, why don't we start with you?

Let me indicate that your prepared statements will all be in the record in full.

We would like to ask you to limit the oral presentation to no more than 5 minutes. We will have a clock there that will be green, turn yellow for the last minute and then red when the 5-minutes are up.

Please proceed.

STATEMENTS OF BONNIE CARROLL, EXECUTIVE DIRECTOR, TRAGEDY ASSISTANCE PROGRAM FOR SURVIVORS; PAMELA L. SEMAN, EXECUTIVE DIRECTOR, DISABLED VETERANS ASSOCIATIONS; ROBERT FRIEND, PRESIDENT, AMERICAN VETERANS COALITION; DANIEL BOROCHOFF, PRESIDENT, AMERICAN INSTITUTE OF PHILANTHROPY; AND BENNETT WEINER, CHIEF OPERATING OFFICER, THE BETTER BUSINESS BUREAU'S WISE GIVING ALLIANCE

STATEMENT OF BONNIE CARROLL

Ms. CARROLL. Mr. Chairman, distinguished members of the committee, on behalf of TAPS, the Tragedy Assistance Program for Survivors, and the families of those who have died while serving in the Armed Forces, I am honored to have this opportunity to speak about the care provided to surviving military families.

Dr. Daniel R. Sudnick, the chief financial officer for TAPS, has provided a written statement addressing critical aspects of the subject before today's panel, and I respectfully request his statement be submitted to the record.

Chairman WAXMAN. Without objection, that will be the order.

[The prepared statement of Mr. Sudnick follows:]

United States House of Representatives

Committee on Oversight and Government Reform

Full Committee Hearing

"Assessing Veterans' Charities"

Testimony

of

Daniel R. Sudnick

Chief Financial Officer

Tragedy Assistance Program for Survivors, Inc., ["TAPS"]

Washington, DC

December 13, 2007

Good morning, Chairman Waxman, Ranking Member Davis, and Committee Members.

My name is Daniel Sudnick. I am the Chief Financial Officer of the Tragedy Assistance Program for Survivors, "TAPS". Thank you for the opportunity extended to to me to testify on this timely subject on the role of Veteran's Charities.

Bringing awareness on this topic to the American people is timely and important for three principal reasons: 1) as a society, during this peak of the holiday giving season, we need to inform the donating public of the roles of private charities, especially those which serve our military veterans and their families. We must inform the public that some charities, although they may present noble external appearances, in actuality may not perform as advertised or purport to serve; 2) as a country, we experience the consequences of our nation's decision to apply the use of combatant forces in projecting our national security interests. These consequences affect all aspects of our society, especially the image and values which we project as a nation. As we continue the public debate, we thankfully do not diminish the often heroic roles of our men and women in uniform who serve in hostile zones or who have traveled into harm's way, and their families who keep the fires warm at home; 3) lastly, as a society we need to recognize and reaffirm the vital role of the non-profit sector as an essential shock absorber for the road bumps resulting from shortfalls of publicly-mandated programs and from voids in mission and focus of the commercial, for-profit sector.

I am honored to participate and to testify.

The Business of Being a Charity.

First and foremost, a charity organized as non-profit corporation is a business. As with a for-profit business, a non-profit must address all of those same concerns as any businessperson: the hiring and training a staff of paid staff of full-time professionals and trained volunteers, providing an appropriate and safe work environment, delivering programs and services efficiently and productively, managing costs and expenses, making payroll, making strategic investments, safeguarding and managing intellectual property, complying with oversight by an internal board of directors, and conducting internal assessments of the effectiveness of our services with our clients and customers .

In addition to these internal oversights, we must additionally comply with external controls. Charities must comply with state and federal regulations, including obtaining permits, paying use fees, and paying local taxes. Where charities and other non-profits begin to flounder or outright fail occurs when their leadership focuses solely upon the charity's mission to the exclusion of the needs of the business. Some of the charities which this Committee is examining may wander aimlessly in a forest of poorly-conceived and ill-constructed fundraising plans. Regrettably, a small percentage of non-profits exist solely to satisfy the egos of its principals rather than to perform their stated public services.

Properly managed charities must also comply with mandatory or voluntary standards imposed by professionally accrediting organizations. TAPS' mission touches the borders

of the mental health profession. Accordingly, as para-professionals, we rely upon external oversight by accrediting organizations to qualify our programs and to certify our staff.

State Charter

By definition, any business which receives a state charter exists to perform a public good. TAPS, as any company which wishes to maintain its good standing, registers annually with its charter-issuing jurisdiction. In our case, TAPS is an Alaska corporation. We have been active since 1994.

IRS Accreditation as a 501.c.3 Corporation

Upon receiving its state charter, a non-profit applies for 501.c.3 status with the Internal Revenue Service. Upon receipt of a favorable determination letter by the IRS, the charity may then practice as a non-profit. Earnings derived from fundraising events and campaigns which are related to its primary business activities remain exempt from corporate income taxes.

The IRS monitors unrelated business activities (UBA). That is, those fundraising activities which are not core to the non-profit or charity's mission. Any UBAs constitute taxable income. Depending also, on how the non-profit is structured, UBAs may affect that entities insurability for underwriting purposes and complicate its risk management profile.

TAPS takes great strides to manage its revenue sources so as to stay "on course". In partnership with publicly-spirited, for-profit companies we have built of a portfolio of fundraising programs which support TAPS' mission. Nevertheless, as these programs emerge from the incubation phase, mature, and begin to generate revenue, we monitor their individual relationships to our core mission. Those which become tangential to our core mission, become UBA targets. We take appropriate actions. We advise our Board of Directors, our auditors and legal counsel; we then examine the various options and make the appropriate business decisions

Foreign Corporation Oversight by States

Before a charity may solicit within a state's jurisdiction, it must register as a foreign corporation and receive that states' consent to solicit. TAPS maintains current registrations within all fifty states and the District of Columbia. We also register any paid solicitors which we may engage within a jurisdiction to perform services as agents on our behalf. Each state Attorney General (AG) or corresponding oversight agency polices charities operating within its jurisdiction to varying degrees. Some are rigid in enforcing their rules; other jurisdictions provide less rigor.

Compliance with the IRS and State AG regulations

Most jurisdictions require foreign non-profits to renew their registrations annually. The registration consists of filing an annual report with copies of the most recent tax return and independent auditors' reports. The charity's registration and reporting requirements

flow down to the charity's agents including direct mail solicitors, if employed. All of these compliance rules drive the overhead upward. Accordingly, as with any for-profit business, we segment our markets served, and allocate funds in our budgets accordingly.

Financial Expenditures and Ratios: Federal and Private Third Party Accreditation

To assist the donating public with its making informed decisions, a number of organizations exist which examine and report the business and financial practices of non-profits and charities.

TAPS belongs has registered with a variety of 3rd-party accreditation firms including GuideStar and the Independent Charities of America, the ICA. Within ICA, TAPS belongs to a select number of "Military, Veterans, and Patriotic Services Organizations" (MVPSO). For the most part, all of the MVPSO charities are mature, well-established, and professionally operated. We work closely with sister organizations, such as the National Military Family Organization, Fisher House Foundation, and the Injured Marine Semper Fi Fund. Sadly, many of the families of those gravely injured soldiers, sailors, airmen, and marines, die from their wounds. Their grieving families then become TAPS "clients". The work which each charity performs for its respective constituency, including those which I have not mentioned here, bears public recognition and accolades.

The ICA serves to benchmark those charities selected for participation in the federal workplace giving program known as the "Combined Federal Campaign", or "CFC".

TAPS belongs to ICA along with NMFA, Fisher House, and IMSFF. The Office of Personnel Management (OPM) oversees the CFC and its annual work-place giving campaigns and distributions.

The OPM is highly selective in whom it selects, accredits, and admits into the CFC. Among the metrics which it monitors, the OPM monitors a charities overhead ratio. OPM defines the overhead metric as the ratio of [fundraising + management] expense to total revenues. These numbers derive directly from the charity's IRS Form 990. To be compliant [but only until recently] a charity must maintain its overhead at 25% or less. That is, the converse of overhead, namely, program expenditures, should exceed 75% in a given fiscal year. TAPS audited overhead rate, based upon our 2006 financial results as reported to the IRS, was 26.2%.

The OPM has relaxed this 25% limit, by recognizing that not all resources received by charities can be expended in a given tax year. For example, if a charity has entered has received new funding grants, it may elect to retain these sources on its balance sheet as restricted assets before expending the resources in the succeeding out-years. Similarly, a charity may elect to direct some of its sources of income toward building infrastructure. By illustration, TAPS has invested heavily in building its information infrastructure to manage the data associated with over 15,000 survivors in our Survivor Database. We use this database to monitor and record the in-take, care, and casework with we provide to our family survivors distributed all across the fifty states, the District of Columbia, and at over 23 non-US installations where US troops and their families are deployed.

Mismanagement and Avenues for Abuse.

Where charities can fall short in their respective mission frequently stems from drifting afar from the charity's mission. In the urgency to raise funds to pay for expenses of all kinds, charities will frequently grow disproportionately large fundraising and development staffs. As these machines requires increasingly larger amounts of resources to feed direct mail and marketing programs, the charities management oftentimes will lose focus on their core mission and saner ways of outreach and solicitation.

Opportunities for abuse or occasional outright fraud may arise in the wake of natural or man-made disasters. This Committee has undoubtedly studied those organizations which arose in the wake of Hurricanes Rita and Katrina, the Indonesian Tsunami, the recent Southern California wildfires. Organizations attendant to the 9-11 disasters advertised relief for victims whether primarily civilian {New York City] or primarily military [Pentagon]. Many of the charities appeared overnight like mushrooms sprouting after a spring rainstorm.

Once again, new veteran's support organizations have appeared overnight in the wake of the Iraq and Afghanistan conflicts. These charities often appear with a single purpose, such as collecting toys for donating to children whose military parent is deployed, injured, or as TAPS sees, whose parent has been killed. TAPS' mission is more

expansive, however. TAPS cares for all family members, regardless of the relationship to the decease service member, the place or circumstances surrounding his or her death.

What the Public and the Congress can do.

An informed public will conduct due diligence before donating. As Executive Director, I respond daily to requests from donors who are "checking us out" before writing their donation check or giving a gift of fungible property. We take great strides to bring transparency to our business operations for all donors. We post our IRS 990s and auditor's report for all to download and analyze in their unabridged raw format. We are now preparing our annual report which we send to our large private donors and to corporate donors. We submit our financial data to third-party accreditation organizations such as the Independent Charities of America.

The public should read the published reports and factor in those assessments prepared by "watch" firms. Many of these reports are free of charge. If these data and reports do not exist, those omissions should raise the first "red flag".

As with many businesses, favorable referrals are invaluable. As a purchasing manager or contracting officer evaluates suppliers based upon past performance, so should a donor examine the results of charities' programs. This evidence is found not only in the charity's publications and websites, but also in the reports of industry groups, community social services organizations, and in the press and media.

We have registered TAPS' logos brand with the US Patent and Trademark Offices (USPTO). As when the public purchases consumer or industrial products, the selling company's brand reflects a broad spectrum of tangibles and intangibles, all which reflect value. Donors to military charities should similarly look for those charities who have branded their name, logos and marks. This takes time, money, and patience. But these investments imply a degree of staying power.

In today's world of the Internet and e-commerce, new charities may appear overnight and present websites with great emotional appeal. Without providing the tools for conducting due diligence by consumers at the state AG level, however, policing many of the companies or individuals behind these websites, may be challenging. This Committee may wish to refer its findings to its colleagues with oversight in these areas and propose a broad spectrum of reforms.

In TAPS case, however, we receive the greatest accolades and referrals from the military and our military survivor families. The Departments of Defense and the Veterans Affairs give TAPS consistently high marks for the work which we perform as members of their extended casualty affairs and decedent affairs teams. From these institutions TAPS seeks to identify and capture, and to extend the expertise of knowledgeable retired casualty affairs and military mental health counselors as full or part-time staff, or as unpaid volunteers as contributors to our programs and case work. As an aging society, we find these new recruits to our TAPS workforce as assets rather than as high-cost liabilities.

From our military survivor families come unsolicited testimonials, such as "if it were not for TAPS, I would not be here today", or from various soldiers and marines, "if I am deployed and the worst should come to me, I will rest assured that someone from TAPS will be there for my loved ones". Recently, a wounded marine whom I met pointed to his prosthetic leg and remarked: "if that bullet which took my leg, had hit me 1 inch higher, I would be dead. My family would be a TAPS client."

We collect and publish these anecdotes in our paper and electronic publications to donors, so that donors receive testimony directly from the "customer" so that they see where their money goes.

The merit of any non-profit or charity resides with the value which it provides to its clients and customers.

With the Chairman's concurrence, I respectfully submit these written remarks to the proceedings of this Hearing. I will now be happy to answer any questions that you may have.

Ms. CARROLL. The subject of today's hearing reflects the gravity of the words of President Abraham Lincoln, inscribed on the front of the Department of Veterans Affairs building: "With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the Nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan."

As the widow of a soldier killed along with seven other soldiers in the Army National Guard, as a Reserve commander who lost two of my airmen, as Chief of Casualty Operations at Headquarters U.S. Air Force Casualty Affairs, as a Department of the Army civilian serving in Iraq and now as the executive director of TAPS, I have seen the best of the services provided to our surviving families, both in the public and private sectors. It is my privilege to offer insight today.

For the past 14 years, TAPS has been a sanctuary providing hope, comfort and healing for all those whose lives have been forever changed by the death of a loved one who served in the Armed Forces. Whether they are parents, children, spouses or siblings, TAPS meets a critical need by offering a national network of peer-based emotional support, the Survivor Seminars and Good Grief Camps for young survivors, long-term case work assistance connecting families with all public and private agencies, bereavement and trauma resources, and information across America and crisis intervention.

This network is available 24 hours a day, 7 days a week, at no charge to the family and at no expense to the Government. In cooperation with our fellow veterans service organizations such as Gold Star Wives, Gold Star Mothers, Society of Military Widows, National Military Family Association and others, we meet the need of offering loving, emotional support services to all those grieving the death of their loved one.

TAPS was founded after 2 years of careful research examining the need, the existing services provided, and the private and public support already in place. The goal of creating this veterans service organization was to provide care not otherwise offered. From this extensive research, TAPS identified those areas where gaps existed and carefully benchmarked the best practices of existing peer-based emotional support programs in America and abroad.

In speaking with officials from the Departments of Defense and Veterans Affairs in 1993 and 1994, TAPS was able to determine where the federally funded services ended and it was appropriate for private sector support to begin. I would offer special thanks for guidance in those early days to then Secretaries of Defense Cheney and Perry, Senators Bob Dole and Ted Stevens, and the director of our sister organization for police officers, Suzie Sawyer.

The military has a critical mission to meet. The surviving families, likewise, have a mission: remembering the life and grieving the loss of their loved one while honoring their service and sacrifice.

TAPS provides an understanding embrace of care and comfort. Through our peer-based emotional support network, families are not only able to help others but, in doing so, continue to help themselves. As Ralph Waldo Emerson said, "It is one of the most beau-

tiful compensations of this life that no man can sincerely try to help another without helping himself."

This network and the staff and infrastructure to support it is made possible entirely through the generosity of Americans who understand our mission and support our non-profit organization.

A decade ago, then-chairman of the Joint Chiefs John Shalikashvili looked carefully at our program, and when he spoke at the TAPS National Military Survivor Seminar, he told our families, "We can't do for you what you can best do for each other."

This solidified our mission and forged the bond that exists to this day between TAPS and the military casualty teams. After 9/11, TAPS served alongside the American Red Cross as the only private organization inside the Pentagon Family Assistance Center. It is our partnership with the military that allows us to provide a comprehensive package of support to all who are grieving a loss.

TAPS supports over 15,000 surviving family members in our data base with 24–7 support, quarterly journals, invitations to regional and national events and weekly online support services.

In the past year, TAPS has hosted 11 regional and national survivor seminars and Good Grief Camps, serving over 2,500 family members. We provided TAPS Care Teams to support 4 major national gatherings of surviving military families attended by over 5,000 people. We sent 5,236 TAPS Survivor Care Packages to grieving families, casualty officers and military installations supporting surviving families.

Our call center received 8,844 calls from surviving families on our toll-free line. We averaged 750,000 Web site hits per months, hosted 208 national online support group sessions, organized 24 TAPS Care Groups, trained 254 peer mentors to support newly grieving families, provided Care Team training to over 834 military members and DOD civilians, recruited and trained 465 military volunteers who serve as mentors to surviving children.

We have expanded our services to support the families of 1,000 civilian contractors who died while serving in Iraq and conducted outreach to the large population of Spanish-speaking surviving family members.

To meet our mission, we must have a sophisticated technology and communications infrastructure and a staff who not only understand the military surviving family but who are also academically and professionally qualified.

We are in the process of developing our next level of staffing and infrastructure to meet the demands of today. This will require TAPS to invest significant portions of its operational budget in the technology infrastructure and training that will enable to deliver critically needed support services to the surviving family members.

Chairman WAXMAN. Ms. Carroll, your time is up. Do you want to conclude your testimony?

Ms. CARROLL. Yes. I am sorry.

On behalf of the families of our fallen heroes and TAPS, I appreciate the dedication and commitment of the distinguished members of the committee to protect, defend, restore and improve the services provided to those who have served our Nation in peace and war and to their families, and to ensure the organizations who are seeking funds from a patriotic public use the funds wisely to meet essential mission requirements as dictated for the needs of the military and the families, not by the needs of the non-profit.

[The prepared statement of Ms. Carroll follows:]

United States House of Representatives

Committee on Oversight and Government Reform

Full Committee Hearing

"Assessing Veteran's Charities"

Testimony

of

Bonnie Carroll

Chairman and Executive Director

Tragedy Assistance Program for Survivors, Inc., ["TAPS"]

Washington, DC

December 13, 2007

MISTER CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE: On behalf of TAPS, the Tragedy Assistance Program for Survivors, and the families of those who have died while serving in the Armed Forces, I am honored to have this opportunity to speak about the care our nation provides its surviving families.

Dr. Daniel R. Sudnick (CAPT USNR Ret.), the Chief Financial Officer for TAPS, has provided a written statement addressing critical aspects of the subject before today's panel and I request his statement be submitted to the record.

The subject of today's hearing reflects the gravity of the words of President Abraham Lincoln, inscribed on the front of the Department of Veterans Affairs building: "...Caring for he who shall have borne the battle, and his widow and his orphan." When a service member joins the military community, not only does the member become part of a larger whole, but so does the member's family. If he is killed, the grieving widow thus loses twice: her immediate loss of life partner, but also the extended military family and way of life which she and her partner have shared, regardless of the circumstances surrounding the death, whether in combat or in a peacetime duty status.

As the widow of a soldier killed in the crash of an Army National Guard C-12 aircraft, Reserve commander losing two of my airmen, Chief of Casualty Operations at HQ USAF Casualty Affairs, Department of the Army civilian serving in Iraq and as the Executive Director of TAPS, I have seen the best of the services provided to our surviving families both in the public and private sectors.

For the past fourteen years, TAPS has been a sanctuary providing hope and healing for all those whose lives have been forever changed by the death of a loved one who served in the Armed Forces. Whether they are parents, children, spouse or sibling, TAPS meets a critical need by offering a national network of peers, the Good Grief Camp for Young Survivors, long term case work assistance, bereavement and trauma information and care, and crisis intervention. This network is available 24 hours a day, 7 days a week, at no charge to the family and at no expense to the government. In partnership with our fellow Veterans Service Organizations – the Gold Star Wives, Gold Star Mothers, Society of Military Widows, National Military Family Association, and others – we meet the need of offering loving emotional support services to *all* those grieving the death of their loved one in the armed forces.

TAPS was founded after two years of careful research examining the need, the existing services provided, and the government support already in place. The goal was to provide care not otherwise offered in either the private or public sectors. From this extensive research, TAPS was able to identify where the gaps existed and benchmark the best practices of existing peer based emotional support programs in America. In speaking with officials from the Departments of Defense and Veterans Affairs, TAPS was able to determine where the federally funded services stop and the gap begins. And TAPS coordinated with existing Veterans Service Organizations to examine support they provided to the same clientele so there would be no duplication of service.

The military has a critical mission to meet. The surviving families likewise have a mission – remembering the life and grieving the loss of their loved one and honoring the sacrifice given. TAPS is there to provide that understanding embrace of care and comfort. In providing a peer based emotional support network, families not only are able to help others, but in doing so, continue to help themselves. This network, and the staff and infrastructure to support it, is made possible entirely through the generosity of Americans who support our nonprofit organization that exists to help this fragile population. Unfortunately, funds which could go to worthy causes such as TAPS and many of our sister organizations instead are diverted to questionable nonprofits.

In the year, TAPS has hosted eleven regional and national survivor seminars and "Good Grief Camps" serving over 2500 family members, we provide "TAPS Care Teams" to four major national gatherings of surviving military families, mailed 5,236 "TAPS Survivor Care Packages" to grieving families and military installations supporting surviving families, received 8,844 calls from surviving families, averaged 750,000 website hits per week, hosted 208 online support group chats, organized 24 regional "TAPS Care Groups," trained 254 "Peer Mentors" to support newly grieving families, provided "Care Team Training" to over 834 military members and DOD civilians, recruited and trained 465 military volunteers who serve as Mentors to the surviving children, and expanded our services to support the families of over 1,000 civilian contractors serving in Iraq and the large population of Spanish speaking surviving family members.

Like many other non-profit organizations, TAPS is challenged to find the time, effort and energy required to raise the funds necessary to fulfill its mission. TAPS' core function is to enable surviving family members to help other surviving family members find comfort, learn to cope and build a support network that they will lean for a lifetime. As Emerson said, "It is one of the most beautiful compensations of this life that no man can sincerely try to help another without helping himself."

To do this, we must have a sophisticated technology and communications infrastructure and a staff who are not only part of the military surviving family but also academically and professionally qualified. TAPS is in the process of putting this infrastructure in place. This project will require TAPS to invest significant portions of its operational budget in the technology infrastructure and training that will enable us to deliver these support services to the surviving family members. This infrastructure is vital to the TAPS mission of caring for the families of those who have borne the battle.

The military casualty officer, commander, chaplain and family readiness group leader understand and appreciate the critical services TAPS provide. The surviving family who calls the toll free number in the middle of the night seeking comfort and hears the voice of another surviving family member on the line understands and appreciates the need for this emotional support safety net.

TAPS appreciates the dedication and commitment of the distinguished members of the Committee to protect, defend, restore, and improve the benefits earned by those who have

served our nation in peace and war, and to ensure the organizations who are seeking funds from a patriotic public use the funds received wisely, to meet essential mission requirements as dictated by the needs of the family, not by the needs of the nonprofit organization.

Your actions on behalf of today's surviving military families will send a powerful signal that their sacrifice is recognized and honored. Thank you for the opportunity to submit testimony on behalf of the surviving families of TAPS.

Chairman WAXMAN. Thank you very much, Ms. Carroll.

Ms. Seman.

STATEMENT OF PAMELA L. SEMAN

Ms. SEMAN. Thank you, Chairman Waxman, Ranking Member Davis and distinguished members of the committee for the opportunity to appear before you today on behalf of the Disabled Veterans Associations.

My name is Pamela Seman, and I am the executive director of the Disabled Veterans Associations.

Disabled Veterans Associations, which started in 1996, is a charitable organization registered under Ohio law. Its mission is to help improve the quality of life of our veterans through aiding and assisting needy and disabled veterans, their families and dependents, whether they have been hospitalized at one of the U.S. Department of Veterans Affairs medical centers, admitted to one of the 100 State-run and State-funded veterans homes, or simply in need at home.

We have developed a number of programs to assist veterans and have funded these programs through our fundraising efforts. Our organization accomplishes its goals with the assistance of only three paid employees.

Statistics from the U.S. Department of Veterans Affairs are staggering. There are now more than 23 million living veterans. Nearly 2.2 million of these veterans suffer from a service-connected disability and nearly 40 percent are 65 years or older.

There are over 100 State-run, State-funded veterans' long-term care and domiciliary homes that provide care exclusively to veterans and their spouses. Yet, four out of five people you meet on the street have no such idea that these facilities exist. Our public service announcements inform the public and veterans that these State-run veterans homes exist and are available to the men and women who gave up so much for our freedom.

Our public service announcements can be heard on more 3,500 radio stations nationwide. They inform the listener that help is available to honorably discharged veterans. A toll-free number is provided for the listener to obtain information not only on the State-run homes but on any veterans' issues they may have.

We offer gifts and grants to the State-run veterans homes and the VA medical centers throughout the country, so they may provide veterans with day-to-day necessities that they otherwise may not receive due to budgetary limitations. We have provided everything from basic toiletries to reconstruction [sic] and refurbishing an audiology room. These gifts and grants have proven to be vital to the well being of veterans in these facilities.

Our Helping and Assisting Veterans in Emergency Program allows us to assist our veterans on a more individual basis. Many of these veterans are awaiting their benefits through the VA and find they are unable to pay their bills during the interim. By working hand-in-hand with county service offices and other agencies, we are able to assist veterans on a short term, beneficial basis. Veterans can receive a one-time gift to help them through their rough period. We assist with mortgages, rent, utilities and various other items.

We also offer a veterans' entrepreneurial training seminar program. The day-long seminars are available to all veterans free of charge. We include speakers from the Small Business Administration, the Service Corps of Retired Executives, certified lenders and State taxation departments. The program is designed to help veterans struggling with their small business or who are starting a small business.

The Disabled Veterans Associations first entered into a fundraising contract with Civic Development Group in 1998. I became executive director in 2002. At that time, the contract was already in place for fundraising services provided by Civic Development Group.

The first time a fundraising contract came up for review while I was Executive Director was in September 2004. The percentages in the contract remained the same as they were from the beginning, 12.5 percent for us and 87.5 for Civic Development Group. I questioned the split and actually made inquiries with other vendors and learned that the percentages were pretty much a standard in the industry.

Though we were unhappy with the split, CDG agreed to provide us with a guaranteed minimum of 600,000 which was more money than Disabled Veterans was able to raise under past contracts. Under the arrangement, Civic Development Group became a consultant. This appeared to be a good thing for us because we were going to receive more money than we had in the past and it would mean more money for our vital programs.

My primary goal as executive director of this charity was and is to raise as much money as possible to fund the programs that we offer in order to make a difference in the lives of veterans.

I would like to thank the committee again for the opportunity to be here today and would be pleased to answer any questions.

[The prepared statement of Ms. Seman follows:]

TESTIMONY OF PAMELA SEMAN
EXECUTIVE DIRECTOR OF THE DISABLED VETERANS ASSOCIATIONS
BEFORE THE
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
CONCERNING VETERANS' CHARITIES

December 13, 2007

Thank you Chairman Waxman, Ranking Member Davis, and distinguished members of the Committee for the opportunity to appear before you today on behalf of the Disabled Veterans Associations. My name is Pamela Seman and I am Executive Director of the Disabled Veterans Associations ("DVA").

DVA, which started in 1996, is a charitable organization registered under Ohio law. DVA's mission is to help improve the quality of life of our veterans through aiding and assisting needy and disabled veterans, their families and dependents -- whether they have been hospitalized at one of the US Department of Veterans Affairs medical centers, admitted to any of the over 100 state run and state funded veterans homes, or simply in need at home. We have developed a number of programs to assist veterans and have funded these programs through fundraising efforts. DVA accomplishes its goals with the assistance of 3 paid employees.

Statistics from the U.S. Department of Veterans Affairs are staggering. There are now more than 23 million living veterans. Nearly 2.2 million of these veterans suffer from a service-connected disability and nearly 40 percent are 65 years or older.

There are over 100 state-run, state-funded veterans' long-term care and domiciliary homes that provide care exclusively to veterans and their spouses. Yet, four out of five people you meet on the street have no idea that such facilities exist. Our Public Service Announcements ("PSA") inform the public and veterans that these state run veterans homes exist and are available to the men and women who gave up so much for our freedom.

Our PSA can be heard on more than 3,500 radio stations nationwide. They inform the listener that help is available to honorably discharged veterans. A toll-free number is provided for the listener to obtain information on not only the state-run homes, but on any veterans' issue they may have.

We offer gifts and grants to the state-run veterans' homes and the VA medical centers throughout the country so they may provide veterans with day-to-day necessities that they otherwise may not receive due to budgetary limitations. We have provided everything from basic toiletries to reconstruction and refurbishing an audiology room. These gifts and grants have proven to be vital to the well-being of veterans in these facilities.

Our Helping and Assisting Veterans in Emergency program allows us to assist our veterans on a more individual basis. Many of these veterans are awaiting their benefits through the VA and find they are unable to pay their bills during the interim. By working hand-in-hand

with county service offices and other agencies, we are able to assist veterans on a short-term, beneficial basis. Veterans can receive a one-time gift to help them through a rough period. We assist with mortgages, rent, utilities, and various other items.

We also offer a veterans entrepreneurial training seminar program. The day long seminars are available to all veterans free of charge. We include speakers from the Small Business Administration, the Service Corps of Retired Executives, certified lenders and state taxation departments. This program is designed to help veterans struggling with their small business or who are starting a small business.

DVA first entered into a fundraising contract with the Civic Development Group ("CDG") in 1998. I became executive director of DVA in 2002. At that time, a contract was already in place for fundraising services provided by CDG. The first time a fundraising contract came up for review while I was executive director was around September of 2004. The percentages in the contract remained the same as they were from the beginning – 12 ½ - 87 ½. I questioned the split and actually made inquiries with other vendors and learned that the percentages were pretty much a standard in the industry. Though DVA was unhappy with the split, CDG agreed to provide DVA with a guaranteed minimum amount of $600,000.00, which was more money than DVA was able to raise under past contracts.

Under this arrangement CDG became a consultant. This appeared to be a good thing for DVA because it was going to receive more money than it had in the past, and this would mean more money to fund vital programs.

My primary goal as Executive Director of DVA was, and is, to raise as much money as possible to fund the programs that we offer in order to make a difference in the lives of veterans.

I would like to thank the Committee again for this opportunity and would be pleased to answer any questions.

Chairman WAXMAN. Thank you very much, Ms. Seman.

Mr. Friend.

STATEMENT OF ROBERT FRIEND

Mr. FRIEND. Mr. Chairman and members of the committee, I am here to testify today as president of American Veterans Coalition and as a Vietnam veteran, regarding an ever-increasing needful sector of our population, our American veterans.

I served proudly for my country in Vietnam. When entering the Navy in late 1969, I was sent on four WESTPAC tours of Alameda. The first two were on the *U.S.S. Bellatrix,* and the next two were on the *U.S.S. Pictor.* We acted in the capacity of a refrigerated reefer in the Tonkin Gulf at sea for the grocery needs for those ships afloat. We also acted as a freezer and refrigeration depot when the Danang facility was bombed in early 1970.

In 1971, I was transferred to the Gator Fleet, assigned to the LST 609 Clarke County. Our duty was that of moving supplies up and down the Mekong Delta from as far south as Vung Tau to Dong Dang, which was our home base, and as far north as the Cambodian border.

I spent 1½ months recuperating at Great Lakes Mental Hospital for a small wound, saw many amputees, servicemen paralyzed and those who had sustained massive injuries while in Vietnam. My last 9 months of service were that of being part of the first 34 to arrive on the Ranger stationed at Diego Garcia in the Indian Ocean. There, we were part of the Seabees out of Quonset Point, RI, responsible for building the initial runway and basic infrastructure for those to follow.

So the veterans scene is not a foreign one to me. One of the things I promised myself while there was to continue to care for my fellow servicemen and others who entered service before me or were to serve after me and who struggle with assimilating back into society with their return.

AVC was founded with these things in mind in late 2002 to provide financial aid to needy veterans and their families and to educate veterans on various Government and public service programs available to them as well as educate the public on the needs of and problems facing our Nation's veterans.

The focus of our organization, aside from education on veterans' needs and issues, has been providing direct assistance to individual veterans in need and their families and making grants to VA hospitals, homeless centers and non-profit veterans organizations who provide assistance to veterans.

We have provided thousands of dollars in grants and aid to individuals and organizations in Los Angeles at the National Veterans Foundation. We came to an agreement and developed a program where they receive calls and immediately send them to us via phone or our Web site.

All the veterans have to do is go to our Web site into assistance, pull down the forms, fill them out to the best of their ability and send them on to us. We move very fast on the applications for those in need of help. We ask that they send us a letter and let us know how they are doing and revisit their situation on many occasions, helping some veterans two or three times a year.

We also ask our professional fundraising counsels to send us any names of veterans they come across that need help as well, and we act on those as well as quickly as we can.

We are striving to be more efficient in our fundraising so that we may make our program services available on a continuously increasing basis. This is a slow process but can and will come to fruition as other alternate activities are entered for that of raising moneys without the assistance of professional fundraisers.

I have been with the American Veterans Coalition since its inception and am the Fundraising and Program Service Director. I spend a significant amount of my week in service to the organization. The organization is small and has limited resources.

As you can see from the financial information we supplied in response to your invitation to be here today, the organization has three employees, one of whom is my wife. She and I both draw minimal salaries although her service to the organization entails financial recordkeeping, fundraising regulation compliance issues, corresponding with contracted fundraisers and other activities that take up most of her week. We receive no other fees or payments from the organization.

Like my other colleagues present here today, we can appreciate the committee's interest in fundraising efficiency and the cost associated with raising funds to help our veterans. We are proud of our program service accomplishments. We know we can be more efficient and continue to strive to lower our cost of fundraising.

As I stated previously, we are a small organization. Without the help of outside fundraisers, we would not be able to disseminate the information we are able to get out to veterans and the public, and we would not be able to raise enough funds to continue as a going concern.

We maintain fundraising registration with all States that require same and provide significant information to those State agencies when information is designed to be available to the public. We are completely transparent on our fundraising, accounting and other operations.

We have taken steps beginning in the early part of this year to scale back our use of outside fundraisers and to consult with counsel and other professionals on steps we can continue to take to lessen our fundraising costs.

It is evident that there remains a significant number of people who were put off with organizations that incur high costs of fundraising. We aren't proud to be one of those organizations but still believe that the first amendment has given us the opportunity to make some differences in the veterans' world.

Despite some of our inefficiency, we are still able to reach a multitude of people with information about veterans and veterans issues that would otherwise not reach those people. No one is forced to contribute to our organization or listen to our message. However, we hope that the steps we are taking continue to allow us to deliver our message while generating significant revenues that can go directly to benefit our Nation's veterans.

I was proud to serve our country and believe that American Veterans Coalition can make a significant difference in the lives of veterans. I have a personal interest as a veteran of the Vietnam War

in making such a difference and hope the American Veterans Coalition can strive to do bigger and better things to help my fellow veterans in the future. I believe we are taking steps to do that in a better and much more efficient manner.

Thank you.

Chairman WAXMAN. Thank you, Mr. Friend.

Mr. Borochoff.

STATEMENT OF DANIEL BOROCHOFF

Mr. BOROCHOFF. Hello. I am Daniel Borochoff with the American Institute of Philanthropy. I am gratified that we are holding this session today. It is going to be a really big help.

I am gratified for Mr. Burton that his interest in furthering legislation to help donors make more informed giving decisions. Right now, there is incredible waste out there, and it is being done in the name of our brave veterans. We really owe a lot. We owe a lot more to the veterans than too many of these nonprofit groups are providing.

The American Institute of Philanthropy, since 1993, has been one of the most independent and toughest watchdogs. We are not afraid to give an F grade when it is called for.

If there is one point that I want people to be able to walk away from today, to understand that we have these numbers and percentages out there. A lot of the groups are able to make themselves look good and appear as if most of the money is going to charitable programs when in fact that is not at all the case. That is why some of these ratings and ratios that we are putting out there are helping the public have a clear sense as to how the money is actually being spent.

I am going to focus on four key areas. First, fundraising efficiency, it is too low with these veterans' charities; second, low accountability; third, excessive asset reserves with some of the charities; and the misuse of Congressional Charter status.

First, I will describe our rating system. We give groups an F grade if they have 35 percent or less of bona fide charitable programs. They may be saying things are charitable programs, but it is not at all what the donating public thinks, and I will get into that.

We believe that if your fundraising costs are $60 or more, $60 of $100, that deserves an F. If you are holding asset reserves in excess of 5 years, that deserves an F. We consider 3 years to be excessive.

Most of the charities that we rate do a good job. Seventy-eight percent of the groups get C or higher grades. But with the veterans' groups, this is also true for police and firefighter type groups, 75 percent of them get Ds and Fs, certainly not adequate.

One of the main reasons is the very high fundraising costs that they incur. This is what is happening. Many of these veterans' charities and a lot of the major ones are broadly soliciting everybody under the sun. It is ironic because they are one of the most very popular causes, so they ought to be able to raise money more inexpensively than anybody else.

But what they are doing is they are asking everybody, and they are going for little $5 and $3 contributions. It is too expensive to raise money that way. You have to go $25, $50, $100 contributions.

They are sending out trinkets, address labels, greeting cards, things that cost money to send out because they know many people feel guilty and send a few dollars in return, but that is not a way to build loyal long-term supporters to get little contributions here and there because somebody got a gift and feels they should respond.

Accountability is a big problem. Fifty-nine percent of the veterans' groups that we rate are not willing to provide basic financial documentation on their activities. That is the first screen. If a group is not willing to answer basic questions about their finances and other areas, one should look elsewhere about giving to them.

The tax forms, while widely available on the Internet, are very helpful but a lot of them are dated with information being like a year or two old.

We encourage donors to look at the audited financial statements and notes. It is a lot more solid document. You can find out things where maybe they denied it on the tax form, but you can see it happening on the audit.

But the trouble is audits are hard to obtain. They are with a lot of States. Some of the States have them. A few of the States have them, but they are hard to get a hold of.

This is what is going on. A lot of people don't realize this, but you know those telemarketing calls that interrupt your dinner or all the solicitations that we talked about flooding your mailbox. A lot of that is counted as a program service.

What they can do according to the accounting rules is they can put a little nice message in like, Hire a Vet, Buckle Your Seatbelts, Fly Your U.S.A. Flag, put a magnet on your refrigerator that shows you care about vets, and then they can allocate those solicitations costs as a charitable program. It shows up on the tax form this way and gets reported on the Internet this way. It is in the charity's promotion this way. The public needs to know what is really going on with the finances.

Another thing that goes on are in-kind donations. Things of highly questionable value are flowing through these charities' financial statements. The person giving that gets a tax deduction, and then the charity can show that they are having like millions of dollars worth of things that really are not much value to veterans. Then they pass them on to another group.

OK, another problem is excessive asset reserves. Unfortunately, three of the major military charities have high asset reserves. In fact, Army Emergency Relief makes the top of our list. They could operate for 17.6 years with what they have already got. They have over $300 billion in reserve.

We consider it a poor basis to ask for more money if you already have more than 5 years in reserves. Part of the problem is the people that are allowed to access this money are not able to access it because they have too tight of rules of who the money is made available to.

One final point on the Congressional Charter status since this is Congress. A number of the charities like to boast of their Congres-

sional Charter status, and the public thinks that means somehow they are better or superior or they are good groups, but it doesn't.

I think that these charities ought to be required to state if they want to say they are Congressional Chartered, they need to state that it does not imply endorsement or recommendation by Congress.

[The prepared statement of Mr. Borochoff follows:]

Statement of Daniel Borochoff, President, American Institute of Philanthropy, Chicago, Illinois
Testimony before the House Committee on Oversight
and Government Reform
Hearing on Veterans Charities
December 13, 2007

Our Nation's Veterans Deserve Better from America's Charities

The American Institute of Philanthropy (AIP) and Charitywatch.org is a nonprofit charity watchdog and information resource dedicated to helping its members and the general public make wise giving decisions. Since 1993 we have been America's toughest and most independent watchdog of the accountability, finances, governance and promotional practices of charities. Rather than merely repeating a charity's self-reported finances, AIP conducts an in-depth analysis of a charity's income, expenditures and financial position. Our letter grade (A+ to F) ratings of nonprofit organizations' financial performance as published in the *Charity Rating Guide & Watchdog Report* are utilized by thousands of conscientious donors across the nation to make better informed giving decisions. Nearly every major US media outlet has covered AIP's advice, analyses and concerns.

Americans, whether or not they favor our military's involvement in Iraq, Afghanistan or other conflicts, care deeply about the plight of our nation's wounded veterans. Compassionate Americans are distraught with grief that soldiers have sacrificed their lives and good health to protect us and/or our interests. We want to do something to help our brave wounded warriors. So when a veterans charity calls or writes for a donation, we feel compelled to open our wallets wide without thinking fully about whether the charity is deserving of our support. We are giving with our hearts and not our minds. Unfortunately, too many charities are taking advantage of this and getting away with wasting millions of dollars of contributions that were intended to help veterans.

AIP rates the financial performance and accountability of over 500 charities in 36 categories including International Relief, Health, Environment, Child Protection, Human Rights, and others. AIP believes that a charity should spend at least 60 percent of its cash budget on bona-fide charitable programs (35 percent or less receives an F and 75 percent or more receive an A), should spend less than $35 to raise $100 ($60 or more receives an F and $15 or less receives an A) and should not maintain over three years of available assets in reserves (over five years receives an F). The two worst performing categories are Veterans & Military and Crime & Fire Prevention. While most categories have a preponderance of charities with A and B grades, 75 percent of the groups in these two categories earn D's and F's. This is a very disappointing performance for these two categories since 78 percent of the charities that AIP rates receive a C or higher grade. It is ironic that two of the very most popular causes are the least efficient with America's donated dollars. It is a national disgrace that hundreds of millions of dollars raised in the name of injured veterans, police and firefighters are being squandered. (Please see the attachment to this testimony for ratings of veterans charities as reported in the December 2007 issue of AIP's *Charity Rating Guide & Watchdog Report.*)

Many veterans and military charities do a lot of good. They help veterans obtain benefits from the government, fund medical research and rehabilitative services, provide vocational and financial counseling and offer many other valuable programs for veterans and their families. Unfortunately, too many veterans charities choose to spend most of their donated dollars on direct mail and telemarketing solicitations, executive salaries, and other overhead expenses that do not directly benefit veterans.

Low Fundraising Efficiency

Many veterans charities, much like police or firefighter groups, are not very discriminating about whom they solicit because they know that their cause is so widely popular. Many groups conduct massive "cold call" solicitation campaigns to millions of people in the general public, rather than to smaller, targeted groups of people who are more likely to make a donation. This is an extremely inefficient solicitation practice that results in large fundraising expenses eating up nearly all of the contributions. Many veterans groups include address stickers, greeting cards or other trinkets with their solicitations. The problem with this fundraising method is not necessarily the cost of the gifts but rather the size of the individual contributions that are given in response to these items. Many people, especially senior citizens who receive the trinkets, do not want to make a donation but feel morally obligated to send the charity a few dollars to pay for these items. (Note: Under U.S. law recipients are under no obligation to pay for any gift that they did not order.) So the charity may be getting new people for its mailing list but not people strongly interested in its cause. Fundraising efficiency is usually a function of the average size of the contributions a charity receives. In other words, charities that receive mostly very small contributions tend to have high fundraising costs.

The wool is being pulled over the eyes of the donating public by some F-rated charities. Professional for-profit fundraising companies like to work with veterans and police/firefighter charities because they know that people are more likely to respond to solicitations from these charities than just about any other type of group. Veterans and other charities often enter into contracts with professional fundraising businesses that may keep (for their profits and expenses) 80 percent or more of the contributions raised. **National Veterans Services Fund (NVSF)** filed a 2004 contract with Bee LC that guarantees at least 15 percent of the gross revenues "for calling of individuals who have previously donated by telephone via this contract to NVSF." It is unfortunate that NVSC did not insist on a higher guaranteed minimum of gross proceeds from current donors to benefit veterans.

When questioned about their lopsided agreements with for-profit solicitors, charities often rationalize them by saying: "We don't have the staffing to fundraise," "It's very expensive to raise money" or "It's money we wouldn't have otherwise." AIP doesn't buy these arguments. By far most charities are able to receive C or higher grades for getting 60 percent or more of their cash budgets to bona-fide program services. It is my position that unless a charity can operate efficiently it should either merge with another group that can do so or close its doors. There is an opportunity cost to funding highly inefficient charities. Total U.S. giving (now at about $300 billion a year) is a fixed pie. It has been 2 percent of GDP (Gross Domestic Product) for over four decades. Therefore, contributions wasted by a poorly performing charity is money that is

not available to a charity that could use most of it to help a wounded veteran or other worthy recipient.

A number of AIP F rated veterans charities return most of the money raised to their professional fundraisers. It's a shame that groups such as **American Veterans Relief Foundation, American Ex-Prisoners of War Service Foundation, National Veterans Services Fund** and **Vietnow National Headquarters** dishonor America's brave veterans by using over 80% of the money raised on their behalf to pay fundraising expenses. More charities need to adopt a policy to not enter into costly arrangements with for-profit operations.

AIP strongly believes that most charities raising money for a highly popular cause such as injured veterans, firefighters, police, disaster relief, hungry or ill children, cancer, etc… should maintain reasonable annual fundraising costs of 35% or less. Exceptions would be made for groups that have been in existence for less than 3 years or with gross revenues of $500,000 or less. Controversial or unpopular causes, e.g. legalization of marijuana, gun rights, abortion, and gay rights should be allowed to have fundraising costs exceeding 35% per year due to the smaller number of people willing to support these causes. Past attempts to regulate fundraising costs have failed in the courts due to free speech concerns. The First Amendment should continue to guarantee that we have the right to raise money for unpopular causes even if it is very expensive to do so. Opportunistic fundraisers, who purposely pick causes that the public is most likely to support, should not be allowed to hide behind the First Amendment.

Low Accountability

Most of the veterans charities that AIP rates do not pass our basic accountability test. Of the 27 major Veterans & Military groups rated in the December 2007 issue of AIP's *Charity Rating Guide & Watchdog Report*, 16 groups or 59% receive a "closed book" for not making their most recent audited financial statements, IRS form 990 and annual report available to AIP. Since so many veterans charities do not make their audited financial information readily available, AIP must turn to public sources such as state offices of charity registration, which are severely understaffed and do not exist in some states. Due to charities' late filing of information and processing time at state agencies, information that is two years old or more may be all that is available. Guidestar.org and some other sources post charity tax forms from the IRS but rarely provide audits, which AIP considers to be a much more solid document. For example, NVSF reports in its fiscal 2006 IRS form 990 that it does not allocate the costs of its solicitations to program services yet in its audit of the same year it reports allocating $971,927 of these costs to program services. The donating public would not know on the basis of a tax form alone that 59 percent of NVSF's reported program service expense is the educational component of a direct mail or telemarketing solicitation.

What sets AIP apart from other sources of charity information is our thorough analysis of every group that we rate. Other watchdogs do not use the same standards when evaluating charities. For example, one ratings group simply runs the self-reported, unaudited numbers from a charity's tax form through a formula, which does not take into account the many complexities and inconsistent nature of charity financial reporting. Another watchdog has an opt-out policy

which allows charities to decide when and if they want to be rated. At AIP, we carefully review a charity's audited financial statements, IRS form 990, including all schedules & attachments, and annual reports in order to determine how a given charity is actually raising and spending the public's donated dollars. Our rating criteria are available in each edition of the *Charity Rating Guide & Watchdog Report*, as well as on our web site at www.charitywatch.org.

The public is being bombarded with an ever-increasing amount of phone and mail solicitations from all types of charities, including veterans groups. As a nationally prominent charity watchdog organization, we are flooded with questions from both the public and the media, who want to understand how charities are using donors' hard-earned dollars. Many people are outraged to learn that under an accounting rule called AICPA SOP 98-2, charities are allowed to report large portions of solicitation costs as program service expenses.

Under current rules, a charity that includes an "action step" in their phone or mail solicitations such as "buckle your seat belt," "fly your U.S.A. flag," "hire a veteran" or "don't park in spaces for the handicapped unless you are handicapped," can claim that they are "educating" the public, and can therefore report much of the expense of these appeals as a program. Such "action steps," often relayed to potential donors through professional fundraisers, are typically messages of information that is common knowledge. Professional telemarketers, on average, keep two-thirds of the money they raise before the charity receives anything. What this means is that someone donating $50 to charity through a professional fundraiser may have just paid $30 to be solicited and "learn" that they should buckle their seatbelt. This is not what most donors would consider to be a charitable program.

Charities may claim that such activities are educating the public. You would not know this based on the complaints we frequently receive from donors who are fed up with the constant barrage of phone calls and mail they receive from charities requesting contributions. Based on AIP's more than fifteen years of experience reviewing such mail and phone appeals, we think it would be obvious to almost anyone that the primary purpose of solicitations is to raise funds, with the educational component being largely incidental in most cases.

The reporting requirements for joint costs, which are the program, fundraising, and management and general expenses related to solicitation campaigns that include an educational message, should be expanded so donors know what they are really paying for. The public accounting profession in its nonprofit audits and the IRS in its nonprofit disclosure report called the Form 990 should add an additional requirement in which charities would disclose their five most expensive solicitation campaigns, including a breakout of each campaign's program, management and general and fundraising expenses, and the method used for allocation. The nonprofit should also provide a fair description of the program being conducted in conjunction with each solicitation that cites specifically what is being accomplished and why the recipient of the solicitation has a use or need for the information.

Another technique that charities use to inflate the amount they report spending on program services is to include large amounts of donated goods and services in their financial statements. Lumping donated goods and cash into the same pool can produce very misleading results when

attempting to discern how efficiently charities will use cash contributions in forwarding the causes donors are intending to support. AIP makes a distinction between cash and donated goods when determining how efficiently a charity is operating and offers an "apples to apples" comparison with charities that do not obtain in-kind donations. When charities report a high percentage of their expenses going to program services, it may be far less when in-kind items are excluded.

A good example of questionable in-kind items flowing through the financial statements of veterans charities is the $18,750,000 of "phone cards" that **Help Hospitalized Veterans (HHV)** in fiscal 2006 received and passed through to its related entity, **Coalition to Support America's Heroes (CSAH)**. These "phone cards," which were distributed to overseas military personnel by CSAH, were not for soldiers to call home to their family but rather to make free calls for sports scores with ads provided by a company called EZ Scores. HHV and CSAH, who share the same president and founder, each counted $18,750,000 of the sports score cards as a contribution and program expense in their respective fiscal 2006 financial statements. These sports score cards and $2 million in donated public service airtime accounted for 85 percent of CSAH's total program expenses reported in its 2006 financial statements.

In-kind items are difficult to value and distort the calculation of how efficiently a charity is spending your dollars. Charity financial statements often disclose the amount of donated items that are collected and distributed. However, they do not always tell you how useful these items are to the final recipient, or if they will even result in additional problems such as disposal fees for unusable items. (See *Appetite Stimulants for the Starving* at www.charitywatch.org). Sometimes groups accept in-kind goods of questionable value that they cannot use, simply to puff up their program expense. In other cases, groups may be told by a company looking for a tax deduction that they either must accept all the goods the company wants to give, or get nothing. The ability of the charity to use or distribute said goods is not always given primary consideration. More importantly, a charity's ability to obtain and distribute donated goods has little relevance as to whether a charity efficiently spends its cash donations. For these reasons, donated items are generally excluded from AIP's calculations of program and fundraising ratios. AIP gives favorable ratings to many groups that receive and distribute large amounts of in-kind items and are still able to use their cash efficiently.

AIP strongly believes that charities should report their finances in a way that gives the public a better understanding of how their contributions are being used. Charities should also be required to make available to the public their audits and tax forms within one year of the end of their fiscal years. The failure to do so should incur the risk of losing their ability to offer tax deductions on contributions during the time that the reports are over one year late. Donors need better and more timely financials in order to evaluate a charity's current level of efficiency.

Excessive Available Asset Reserves

Another practice that is keeping veterans from being helped is the policy of some charities to hoard money that is desperately needed now by veterans, particularly the estimated 200,000 homeless veterans, which account for one-third of the adult homeless population. As reported in

AIP's August 2006 *Charity Rating Guide & Watchdog Report*, the official armed forces charities for the U.S. Army, Air Force, Navy and Marines are holding massive asset reserves. These three charities, which provide financial, educational and other assistance to current and past members of the armed services and their families, have combined fund balances of $638 million yet spent only $59 million, according to their 2005 financial reports. **Army Emergency Relief (AER)** tops AIP's list of charities with large asset reserves in relation to expenses with 17.6 years of available asset reserves and a fund balance of $307 million as of 2005. This means that AER could continue to operate at current spending levels without raising another dime until the year 2023. **Air Force Aid Society (AFAS)** has 10.1 years of available asset reserves and as of 2005 holds fund balances of $172 million. **Navy-Marine Corps Relief Society (NCRS)** has fund balances of $158 million as of 2005. Its years of available assets is lower at 4.8, just low enough to keep them from earning an automatic F grade for charities having over 5 years worth of available reserves. AIP believes that charities that hold more than 5 years of available assets in reserve have a poor basis for which to ask for additional funds.

Why are these large stockpiles of reserves not going to aid the vast numbers of homeless veterans? The answer is that most of the homeless vets do not meet the armed forces charities' eligibility requirements. For instance, AER states that it only helps active duty soldiers and reservists and their dependants, or soldiers retired from active duty due to reaching age 60 or to "longevity," usually defined as 20 or more years of service, or physical disability. AER also helps surviving spouses and children of soldiers who died while on active duty or after retirement from the military. Since poverty is the major cause of homelessness, the veterans eligible for AER assistance due to having obtained Army retirement status and the accompanying Army benefits are not likely to become homeless. It's a shame that AER's eligibility requirements keep aid from reaching those veterans that arguably need it most.

While these armed forces charities do accept contributions from the general public, most of their contributions come from armed services personnel through payroll deduction plans. Little to no funds come from the U.S. Government. They are very efficient fundraisers; each has a cost to raise $100 of only $2 to $3 in 2005. Also, each of these charities spends a very high percentage (93% to 94%) of its budget on charitable programs.

The armed forces charities operate more like private foundations than emergency relief charities. Private foundations typically spend only a small portion of asset reserves, usually 5% of their investment portfolio, whereas emergency relief charities generally spend most of their donations in the year received. For example, AFAS reports on its web site, www.afas.org, that throughout its 64 years of operations some donations were put into an investment fund for contingencies and future programs. AFAS' 2005 audit says its current policy is to spend annually about 6% of its investments.

I asked Col. George Mason, Treasurer of AER, why it was not spending more of its available asset reserves to assist needy veterans. He said, "the key reason and probably the only reason" is "the unknown contingencies faced on a daily basis." He said that the largest outflow of funds from AER was 15% during a 1.5-year period in the early 90's as a result of Operation Desert Storm and Desert Shield. I replied that based on AER's reasoning for holding its high level of

asset reserves, the American Red Cross could claim that it needed to hold a few billion dollars in reserve in the event of another Katrina scale hurricane. Many other charities could also claim that they need to hold large reserves for unknown contingencies. The problem with this reasoning is that there are not enough charitable dollars to go around for groups to stockpile massive reserves for events that may never happen. Groups that hold over five times their budget in reserve are limiting the supply of money for other charities that need it to meet their annual budgets so that they don't have to turn away those in immediate need. Certainly, it is reasonable for some charities to maintain reserves worth a year or two, but to hold available reserves for over five years worth their budget is, in AIP's opinion, excessive.

I asked why AER wouldn't undertake a special public fundraising campaign in the event of a large, protracted war, rather than holding 17.6 years of asset reserves that could be used to assist veterans now. He said that traditionally AER has refrained from actively soliciting the public. AER's audit reports that 35% of its total contributions were "unsolicited." Its web site, www.aerhq.org welcomes contributions from "Army or civilian individuals or organizations."

I also asked Col. Mason if AER was doing enough to inform soldiers and veterans of the availability of charitable aid. He said that $100,000 had been spent to publicize AER over the last 6 months and cited some new outreach efforts, including 45-minute classes for brigade commanders and spouses, and briefings to Army Reserve and National Guard. He said that traditionally 8% of the Army utilizes AER and that they would like to increase that to 10%-12%.

Misuse of Congressional Charter Status

Veterans charities that prominently state or display their congressionally chartered status are confusing the American public. Many of the major veterans groups are chartered by acts of the U.S. Congress, including **American Ex-Prisoners of War, AMVETS, Disabled American Veterans, Jewish War Veterans of the USA, Paralyzed Veterans of America and Veterans of Foreign Wars of the U.S.** According to a 2004 report by the Congressional Research Service, Congressional charter status does not mean that the U.S. government approves these groups' activities and provides oversight. That report also stated that Congress has never pulled a charity's charter status. Congressman Barney Frank was cited in a 1992 Washington Post article as calling charters "a 'nuisance,' a meaningless act. Granting charters implied that Congress was exercising some sort of supervision over the groups and it wasn't." In order to reduce public confusion, AIP believes charities that wish to promote their Congressional charter status should be required to state that this status does not imply endorsement, approval or recommendation by Congress.

Conclusion

AIP strongly believes that our brave veterans, as well as the intentions of donors who sincerely want to help them, are being dishonored by poorly rated veterans charities. Too little of America's donated dollars given in the name of veterans are actually benefiting veterans. AIP encourages the public to support accountable veterans charities that raise money efficiently and spend a high percentage of their budget on bona-fide charitable programs that substantially assist veterans. We would also like to see Congress, the IRS and the states create and enforce rules that motivate veterans groups and other charities to better fulfill their important missions.

AIP
American Institute of Philanthropy
Charity Guide and Watchdog Report
December 2007
www.charitywatch.org

VETERANS & MILITARY

American Ex-Prisoners of War Service Foundation		410-464-0860	4	88	F	<50
American Veterans Relief Foundation		800-215-6782	1	84	F	<50
AMVETS National Service Foundation	📖	800-810-7148	29-46	40-55	F	83-119
Armed Services YMCA of the USA	📖	703-313-9600	84	18	A-	251
Blinded Veterans Association		202-371-8880	43-76	21-55	D	72-97
Disabled American Veterans		859-441-7300	50-68	30-49	D	198-277
Fisher House Foundation	📖	888-294-8560	92	2	A+	100-352
Freedom Alliance		703-444-7940	23-56	24-43	F	51-131
Help Hospitalized Veterans /Coalition to Salute America's Heroes		909-926-4500	31-53	39-61	F	254-426
Intrepid Fallen Heroes Fund	📖	800-340-4376	95-97	1-2	A+	106
Military Order of the Purple Heart Service Foundation		703-256-6139	28	62	F	121
National Military Family Association	📖	703-823-6632	82	9	A	53-60
National Veterans Services Fund		203-656-0003	2	97	F	60
National Vietnam Veterans Committee		202-408-0944	48-54	46-54	D	116-222
NCOA National Defense Foundation		703-549-0311	27-73	25-78	F	<50
Paralyzed Veterans of America	📖	800-424-8200	34-64	30-60	F	190-223
Soldiers Angels		615-676-0239	36	48	D	<50
USO (United Service Organizations)		800-876-7469	67	39	C+	202-492
Veterans of Foreign Wars of the US and Foundation		816-756-3390	56-70	32-52	C-	202-236
Veterans of the Vietnam War & The Veterans Coalition	📖	800-843-8626	41-52	41-54	D	54
Vietnam Veterans Memorial Fund	📖	202-393-0090	41-61	21-36	D	52-130
Vietnow National Headquarters		800-837-8669	11	90	F	N/A
World War II Veterans Committee, a program of American Studies Center		703-303-1013	48-54	46-54	D	116-222

Grades Reduced for Charities with Large Asset Reserves

Army Emergency Relief	📖	3	17.8	307,238	A+	F
Air Force Aid Society	📖	3	43.1	171,304	A+	F
Navy Marine Corps Relief Society	📖	3	4.8	198,233	A+	C

Key of Symbols in the Guide

Columns

- In the Rating Guide indicates the percent spent on program services. AIP's target is 65% or more.
- In the Rating Guide indicates the cost to raise $100. AIP's Target is $15 or less.
- In the Rating Guide indicates charity's grade based on percent spent on program services and cost to raise $100.
- In the Rating Guide gives the telephone number of the charity.
- In the Rating Guide indicates whether a group has an open book accounting.
- In the Large Asset Reserve Chart indicates an organization's years of available assets. AIP's target is from 1 year or less.
- In the Large Asset Reserve Chart indicates an organization's total reserves.
- Indicates charities that have provided the information requested by AIP, annual reports, audited financial statements and Internal Revenue Service Form 990, with which AIP's evaluation applicable.
- In the Rating Guide indicates a charity's organization.
- In the Large Asset Reserve Chart indicates grades reduced due to high asset levels.

AIP strongly believes that your dollars are most urgently needed by charities that do not have large reserves of available assets. AIP therefore applies the guide of no more than available assets equal to three to five years of operating expenses, and assigns an F to groups with more than years of reserves. In AIP's view, a reserve of less than three years is reasonable and does not affect a group's grade.

These reductions in grades are based solely on the charities' asset reserves as compared to budget. If you agree with those charities that reserves greater than three years budget are necessary to enhance their long-term stability, you may wish to discount the lower grades that AIP assigns on the basis of high assets. AIP's definition of "years of available assets" includes funds currently available for the charity's use, including investments that the charity has set aside as a reserve but could choose to spend if it needed to do so.

Chairman WAXMAN. Thank you very much, Mr. Borochoff. The rest of that statement is going to be in the record. Your time is up.

Mr. Weiner.

STATEMENT OF BENNETT WEINER

Mr. WEINER. I am Bennett Weiner. I am chief operating officer of the BBB Wise Giving Alliance.

Mr. Chairman and members of the committee, thank you for inviting us here today to share our views on this important subject.

The BBB Wise Giving Alliance is a charity-monitoring organization. We are affiliated with the Council of Better Business Bureaus, the national office of the Better Business Bureau system, and we evaluate charities in relation to 20 accountability standards. In fact, under various names, we have been doing this work for almost a century.

About 45 percent of the 114 local Better Business Bureaus have a similar program for local charity evaluation. We don't charge charities for our evaluation, and the resulting reports are free to the public.

Certainly, veterans' charities fill a very important need in society for current and former members of the Armed Services and their families, and I am pleased to say a number of these organizations meet our standards. However, we have also seen some concerns.

Currently, we find that about half, 50 percent, of all the veterans charities we contact do not provide any of the requested governance, financial program and fundraising information needed to complete our evaluations. This 50 percent non-disclosure rate is significantly higher than the 30 percent non-disclosure rate that we see for the 1,200 national charities that are the subject of our reports.

While participation in our evaluation service is voluntary, it certainly suggests to us that many veterans' charities have a way to go in demonstrating accountability.

Now for those charities that do provide the requested information to our office, we generally find that overall about 65 percent of all the charities meet our standards. However, of the veterans' charities that we evaluate that provide information, we find a significantly lower number of veterans' charities meeting our standards, less than 40 percent of them.

It is difficult to say that there is no single reason they don't meet standards. Some of these organizations are relatively new, created in the past few years. But the reason that they don't meet standards is not solely because of financial issues. Financial issues, we feel, don't provide the full picture of accountability.

The accountability issues in our standards in terms of these organizations range from conflict of interest policies not being present, insufficient frequency of governing board meetings to problems with donor privacy, the accuracy of the way expenses are reported on financial statements among other things.

Now, in our view, the message for donors, we think, is to be proactive in making giving decisions, to check with outside sources such as the BBB Wise Giving Alliance and others in making an informed giving decision, and that can certainly go a long way.

I do want to make one comment in response to Congressman Sarbanes' earlier questions about accreditation seals. We do have such a program at the BBB Wise Giving Alliance, an accreditation seal for charities that do meet our standards. I am pleased to say that about 200 of the 1,200 national charities that we evaluate display the seal indicating they meet our standards on their Web sites and in their appeals, and we think that is a program that is having an impact.

So, thank you again for allowing us to share our comments, and I will be happy to answer any questions that you might have.

[The prepared statement of Mr. Weiner follows:]

Testimony of Bennett M. Weiner, Chief Operating Officer
BBB Wise Giving Alliance, 4200 Wilson Boulevard, Arlington, VA 22203
before the
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES
on
Assessing Veterans Charities

December 13, 2007

Mr. Chairman and Members of the Committee, I am Bennett Weiner, COO of the BBB Wise Giving Alliance. I appreciate the opportunity to appear before this Committee to share with you our experience with assessing veterans charities.

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. The Council of Better Business Bureaus has a number of consumer programs including BBB Military Line® (www.bbb.org/military), which provides consumer education and advocacy for military consumers and their families, both in their communities and online.

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.

The core of our program is the preparation of evaluative reports about nationally soliciting charities that the public has asked us about. The reports specify whether an organization meets or does not meet our *Standards for Charity Accountability*, which encompass essential aspects of charity operation: governance, finances, communications with the public, donor privacy, self-assessment and others. The resulting reports are available to the public at www.bbb.org/charity. Currently we report about 1,200 national charities.

There is <u>no charge</u> to charitable organizations for the completion of our accountability evaluations and the resulting reports and conclusions are <u>freely</u> available to the public through our website (www.bbb.org/charity) and in our quarterly publication, the *Wise Giving Guide*.

The BBB Wise Giving Alliance reports on charities that solicit nationally. In addition, about 45% of existing local Better Business Bureaus have local charity review programs

that mirror the national evaluations completed by the Alliance. The public can locate the nearest local Better Business Bureau by visiting www.bbb.org.

The 20 *Standards for Charity Accountability* used by BBBs were last revised in 2003 and were the result of a 3-year project that included significant input from small and large charities, foundation and corporate contribution executives, accountants, government regulators, and other experts in philanthropy.

Veterans Charities

For purposes of this testimony the term *veterans charities* refers to organizations that assist former members of the armed services as well as those groups that provide assistance to active duty personnel and their families.

Nonprofit organizations related to the causes of veterans and their families have long had a vital role in American society. The needs of troops returning home, which can extend far beyond their return, have always exceeded the capacity of government. The public has generally been very sympathetic to those who have served and their families, and has generously supported many of the charities formed to assist them.

The support prompted by this generous impulse, however, is not always well directed. Contributors often give without sound information about the charities that solicit them, and charities are not always as forthcoming as they should be about their operations. In addition, less-than scrupulous operators often take advantage of givers' sympathy for those who have served in the military.

This situation is of course not unique to veterans charities. Uninformed givers, non-disclosing charities and charity scams are not uncommon throughout the philanthropic sector. Our experience at the Alliance with regard to veterans charities, however, leads me to note certain facts and suggest a number of points that may help strengthen donors' giving practices and thereby promote more accountable charities.

Veterans Charities Responsiveness to BBB Wise Giving Alliance's Requests for Information

In order to evaluate national charities in relation to its *Standards for Charity Accountability,* the Alliance requests that they complete a detailed online questionnaire and file certain documents with us (such as a copy of the IRS Form 990, audited financial statements, and latest annual report). If there is no response to the first letter within about three weeks, another request is sent, once again asking for a response in three weeks. If necessary, there is a third letter enclosing a draft report that states that the charity has not provided current information. This letter says that the draft report will be distributed in two weeks from the letter's date and again invites the charity to provide information. The first and third letters are sent by certified mail.

The information we request has to do not only with a charity's finances but with its governance, the accuracy of its communications with the public, the content of its website, its respect for donor privacy—and other aspects of charity operation that our standards address.

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 our view, charities that file with us show that they are ready to go beyond what is required by government to demonstrate their commitment to transparency. Whether an Alliance evaluation concludes that a charity meets all standards or not, the fact that the information on which it was based was supplied voluntarily lends it special value.

As highlighted in an article that appeared in *The Wall Street Journal* this past Monday, December 10th, overall, 70% of all the national charities that we contact provide the requested information; 30% do not, this is up from 22% four years ago. There is no single reason that charities do not disclose to us. In some cases, charities believe that obeying the law and filing financial information with government agencies is transparency enough. Others may choose not to participate because they don't want the public to know that they don't meet BBB charity standards.

Currently, the Alliance reports on about 42 nationally soliciting veterans organizations and I am dismayed to note that for veterans organizations, the nondisclosure rate is significant higher than 30%. About 50% of the national veterans charities contacted by the Alliance do not provide us with any of the requested information and materials to complete our evaluations.

Unfortunately, most charities do not specify the reason(s) that they choose not to participate in our evaluation program.

Of course this is not a statistic with validity beyond our reporting universe, since we have not contacted all existing veterans organizations. Still, it strongly suggests that many veterans charities have a way to go in demonstrating their accountability, and that donors, often so emotionally responsive to veterans' needs, should exercise care in deciding which organizations to support.

Evaluating Veterans Charities in Relation to the 20 BBB Standards for Charity Accountability

Of the national charities that provide requested information to the BBB Wise Giving Alliance, on average, about 60-65% meet all of our standards and 35-40% do not meet one or more of our standards. This overall evaluation statistic has remained fairly consistent in recent years among the national charities that we evaluate.

With respect to just the veterans charities, the Alliance's evaluation conclusion experience is significantly different – almost the exact opposite of the preceding national charity average. About 62% of the veterans charities that provide requested information do not meet one or more of our standards, while the remaining 38% meet all of our standards.

It is difficult to ascertain for certain why this evaluation disparity exists. But we suspect that one possible factor is that a number of the recent veterans charities evaluations we have completed are about relatively new veterans organizations established within the past three years. As a result, some may be less familiar with the BBB charity standards.

In turn, the reasons that veterans charities do not meet BBB charity standards runs across the spectrum of issues covered by these guidelines. Although financial ratios get significant public attention, only about 20% of the veterans charities that provide requested information to the Alliance do not meet our financial ratio tests. Specifically, this includes the standard that calls for total program services expenses to be at least 65% of total expenses (Standard 8) and the standard that calls for total fund raising expenses not to exceed 35% of total contributions (Standard 9).

This also reflects the potential problem that financial ratios can result in a "false positive." In other words, the financial ratios may look impressive, but the charity may not meet other accountability measures. Examples of Alliance evaluation findings on veterans charities include such things as:

- Not having a board policy to review the CEO's performance once every two years.
- Not having a board approved conflict of interest policy.
- Not having a member of the governing board assigned the responsibility of serving as the organization's treasurer.
- Having more than 10% of the voting membership of the board being directly or indirectly compensated.
- Having fewer than three meetings of the governing body in the past fiscal year.
- Not having a written policy stating that, at least every two years, an appraisal be done assessing the organization's performance and effectiveness.
- Not accurately reporting the charity expenses in its audited financial statements.
- Not including all of the recommended information on the charity's website such as electronic access to the IRS Form 990.

- Not including a privacy policy on the charity's website that includes recommended basic privacy information.

The above listing of sample evaluation findings of veterans groups also underscores the fact that BBB evaluations go beyond the information included in the IRS Form 990. Access to that form alone will not enable the Alliance to complete a full evaluation in relation to all of our charity standards.

Tips for Donors to Veterans Charities

The suggestions that follow are, like all the Alliance's tips for donors, based on common sense.

1. Mistaken Identity: Watch out for name confusion. Many veterans charities include virtually the same words in different order or slightly different form.

2. Clear Program Descriptions: Look for a clear description of the organization's programs in its appeals and website. If it says it is helping veterans, does it explain how (financial assistance, shelter, counseling), and where it is doing so?

3. Telemarketing Cautions: Telemarketing can be a costly method of fund raising unless carefully managed. If called, do not hesitate to ask for written information on the charities programs and finances.

4. On-the-Spot Donation Decisions: 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.

5. Donating Used Clothing and Other Goods? Find out how the charity benefits from the collection and resale of used clothing and other in-kind gifts. Sometimes the charity receives only a small portion of the resale price of the item or may have a contractual arrangement to get a flat fee for every household pick-up, no matter what the contents.

6. Check with Outside Sources Before Giving: In addition to charity monitoring organizations, check with your state government's charity registration agency, usually a division of the attorney's general office. Also, visit www.guidetar.org to get free access to the IRS Form 990 of charities that file this form with the IRS.

In summary, while we are pleased to note that some veterans charities provide requested information and meet all of our standards, there is a larger percentage that do not meet one or more our standards. Perhaps more significantly about half of all the veterans charities we contact do not provide any of the requested information to the BBB Wise Giving Alliance. As a result, we encourage donors to exercise cautions in regard to their solicitations. Failure to disclose information, however, does nothing to enhance the confidence of donors, and seems especially egregious in organizations that purport to aid those who have given so much.

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.

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Chairman WAXMAN. Thank you very much.

Thank you very much, all of you, for your testimony.

The purpose of this hearing is to examine whether donations to veterans' charities are getting to the people who need them. So, Mr. Weiner, your view is that of all the charities, the veterans' charities seem to be the most out of line in terms of the small amount of money that is actually going to veterans' care. Is that an accurate statement?

Mr. WEINER. I don't know if I could say if they are the most out of line because we evaluate so many different types of organizations, but clearly in what we have seen there is less of a degree of cooperation with our self-regulatory process. About half of them don't even send us information on request and a higher degree of non-compliance with the standards that we have. So, yes, I would agree that is an issue that concerns us as well.

Chairman WAXMAN. Mr. Borochoff, what would you say is an appropriate proportion of the resources a charity is spending on fundraising? Would you give us a number you think is OK to spend on fundraising?

Mr. BOROCHOFF. Well, it should be $35 or less. The problem is charities are saying things. They are labeling things. They are disguising their fundraising costs and calling them programs.

Chairman WAXMAN. Well, we put together a chart based on what these veterans' charities spend on fundraising and program services, and I would like to put it on the screen. The chart is based simply on the numbers that they report on their Form 990 reports to the IRS.

Mr. Friend, in fiscal year 2006, you reported to the IRS that approximately 59 cents of every dollar donated to American Veterans Coalition was spent on fundraising costs.

Ms. Seman, according to your tax returns, approximately 71 cents of every dollar donated to Disabled Veterans Associations in fiscal year 2006 went to pay for fundraising and not for programs.

In fact, that is what you reported to the IRS, but these numbers are actually worse because your organizations count many of your fundraising materials as program activities. Mr. Borochoff mentioned that.

You call them program activities that help veterans when you send out a solicitation that includes some language about the plight of veterans or when you say that the fundraising letter is actually a charitable service because it is educating the public about the plight of veterans.

Let me give you some examples. Well, one is American Veterans Coalition, and it has information about the plight of the veterans themselves, the face of veterans in need.

So, when you report to the IRS, you report only a portion of the costs to produce this mailer under fundraising. That is allowed under the accounting rules. Am I right about this, Ms. Seman?

Ms. SEMAN. Yes, you are correct.

Chairman WAXMAN. And, Mr. Friend?

Mr. FRIEND. Yes, I agree.

Chairman WAXMAN. So, Mr. Borochoff, what do you think of these practices when they claim that some of the fundraising costs are actually services to the veterans?

Mr. BOROCHOFF. The donors don't know this is what is going on, and I think the charity ought to tell the public when they solicit money, to say that 80 percent of the money is going to pay for the solicitation that you are reading.

The accounting rules are very flexible, and they allow for a lot of different ways of reporting this information.

Chairman WAXMAN. Well, we made a chart that indicates what the actual figures would be if you claimed that these are fundraising expense and not the services for veterans.

We look at these numbers, and it is clear that the American Veterans Coalition is spending over three-quarters of the money it raises on fundraising expenses, salaries and overhead. Less than 25 cents of every dollar goes to help veterans.

The numbers are even worse for Disabled Veterans Associations. Over 90 percent of the money you raise goes to fundraisers. Less than 10 percent actually helps veterans.

Mr. Friend and Ms. Seman, how can you justify what you are doing? The money you are raising is enriching the fundraisers and yourselves, and virtually none of it is going to actually helping the veterans when you look at such a small percentage for actual services?

Mr. FRIEND. In a sense, that is true. Unfortunately, the only way a small startup charity can exist and move into the spectrum of making direct support with its own tap base is by using professional fundraisers. Their fees are exorbitant. I mean we are probably between 80 and 85 percent with any professional fundraiser that we bring into our fold.

We do want their tap base. We want to use it for traditional mail later on. We want to mail and raise money under our own guise, not with professional fundraisers, and we are trying to move into other programs so those numbers can reflect true numbers and not what you are talking about.

Chairman WAXMAN. Well, how long have you been in existence?

Mr. FRIEND. I am sorry?

Chairman WAXMAN. How long has your organization been in existence?

Mr. FRIEND. We incorporated in 2002.

Chairman WAXMAN. So, for 5 years, you used professional fundraisers.

Mr. FRIEND. That is correct.

Chairman WAXMAN. Ms. Seman, how long have you been in existence, and how can you justify this kind of expenditure, less than 10 percent going to help veterans?

Ms. SEMAN. Part of the problem we have found is these fundraisers ask for very long contracts with exclusive and non-compete clauses in them and, across the board, every telemarketer and every direct mail I researched asked us for the same thing. We get locked into these long contracts, and we can't get out, and we have no other means of raising money on our own.

Chairman WAXMAN. Well, it is not just small startup charities. Mr. Chapin's group raised, what was it, $98 million. They have been around for some time. Less than 10 percent is gong to help veterans in that organization.

So I find it unconvincing that small startups need this extra expenditure when so little is actually going to the veterans.

Mr. Davis.

Mr. DAVIS OF VIRGINIA. Thank you.

I am not sure where to start. It is not that the groups may not be trying to help veterans, but the fact is that people who are donating need to understand that their money is not going to help veterans. That is really the problem, and maybe they want to put it somewhere else where their money would go directly.

So I don't want to question anybody's motives in terms of what they are trying to do, but the people out there who are soliciting. Many of them are seniors on fixed incomes, but they just want to do something to help people who have given some to their country. They send you $10 and less than $1 is going directly to help veterans in some cases.

Ms. Seman, what is the Disabled Veterans Associations going to do in the next year to try to improve the fundraising ratios we have talked about?

Ms. SEMAN. We are still deciding what we are going to do, but we are not going to hire another professional. We are going to do it on our own.

Mr. DAVIS OF VIRGINIA. I mean your argument, as I understand, is you have a higher net by going with a professional route.

Ms. SEMAN. Right.

Mr. DAVIS OF VIRGINIA. I understand that. You want to help people. You have more money to hand out and do public good. Our job here is not just to look after the end result but also to look at the people how are donating, and that is really our concern.

Mr. Friend, what are you going to do next year?

Mr. FRIEND. We are looking into some conservative events. It wouldn't be a golf event because of inclement weather or something like that, where we would be trapped into a lot of expenses and not being able to raise the money, for instance. We want something that can be a proven winner for us.

We are raising money, starting to raise money on our own without professional fundraisers. We think that can be or that will be a big step forward. However, it is quite surprising when you look at those numbers even in-house, how much it actually costs to raise money even on your own when you take into account the printing and the envelopes.

Mr. DAVIS OF VIRGINIA. Mr. Friend, you are talking up here to someone who has been chairman of the Republican Campaign Committee in the House for two cycles and knows something about direct mail and phone solicitation and Mr. Van Hollen, who is the current Democratic Chair.

Mr. FRIEND. Well, I was speaking from my perspective.

Mr. DAVIS OF VIRGINIA. Well, it is the same. In fact, we have more restrictions.

I understand. I mean I understand the difficulty, but I think at the end of the day, what we look at is the people that you are soliciting and what they are giving and should they, in fact, know that their money is not going for the intent that it is solicited.

Let me ask this, Mr. Friend. How many other charitable organizations do you have?

Mr. FRIEND. We have three other organizations.

Mr. DAVIS OF VIRGINIA. Are they all about the same in terms of using the same outsourcing for raising money?

Mr. FRIEND. That is correct.

I am sorry. You mean professional fundraising?

Mr. DAVIS OF VIRGINIA. Yes.

Mr. FRIEND. Yes.

Mr. DAVIS OF VIRGINIA. You use the same fundraiser for all the groups?

Mr. FRIEND. No. Some, we do.

Mr. DAVIS OF VIRGINIA. In 2005, the Hartford Courant did an investigative story on veterans' charities. It is still on the Charity Navigator Web site, which is another charity watchdog group.

Your charity is mentioned first as paying staggering costs to a telemarketer that pocketed 85 percent of every dollar you raised. This is back in 2003. Is that correct?

Mr. FRIEND. Yes, I think so.

Mr. DAVIS OF VIRGINIA. What would you do to correct that? Would you change?

Mr. FRIEND. Well, we are starting to work on traditional mail, traditional and direct mail.

Mr. DAVIS OF VIRGINIA. Let me just ask this. Are you still using that same telemarketer?

Mr. FRIEND. I can't answer that accurately because I would have to go look. I don't have those numbers or those telemarketers in front of me if they are still——

Mr. DAVIS OF VIRGINIA. Mr. Borochoff, can you add? Can you shed any light on that, Mr. Borochoff?

Mr. BOROCHOFF. It is the same telemarketer.

Mr. FRIEND. Sir, what is your question?

Mr. DAVIS OF VIRGINIA. I guess my question is if you have a telemarketer that you are hiring that is taking 85 percent for every dollar?

Mr. FRIEND. Yes. Yes, we do.

Mr. DAVIS OF VIRGINIA. You are still using them?

Mr. FRIEND. Yes, we do.

Mr. DAVIS OF VIRGINIA. Do you think that is fair to the donors that are solicited?

Mr. FRIEND. I don't think it is fair at all. I think it is the only way for a startup charity to generate enough money to spread its wings and be able to fly independently of using professional fundraisers. I know.

Mr. DAVIS OF VIRGINIA. That was 2003. You are no longer a startup, and you have three other charities going.

Mr. FRIEND. No, we are not a startup. It just takes a long, quite grueling number of years to get where you are independent, a lot longer than any of us wish it would.

Mr. DAVIS OF VIRGINIA. The IRS 990 form for the American Veterans Coalition tells a sad story provided based on donations received. In 2003, it says nothing went to veterans. In 2004, 1.4 percent.

What improvements are you making to see that more of the money you raise goes to veterans programs and, in general, what

percentage of money you raised this past year do you think will go directly to veterans services, not solicitation costs?

Mr. FRIEND. I don't think our numbers are going to be that much better. They are a little better this year, but next year they should probably improve, and if they don't improve every year, quite frankly, we are in the wrong business.

Mr. DAVIS OF VIRGINIA. You can say that again. Thank you.

Chairman WAXMAN. Thank you, Mr. Davis.

Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman.

In your statement, Mr. Friend, you said that nobody is forced to contribute to your organization.

Mr. FRIEND. That is correct.

Mr. VAN HOLLEN. That, of course, is true. They want to contribute to your organization because you solicit them on the phone, telling them they are going to do good things for veterans.

In fact, the Hartford Courant that my colleague, Mr. Davis, referred to in 2005 has part of the script: the American Veterans Coalition is dedicated to helping veterans right here, fill in the name of the State, who are homeless or in desperate need. The foundation provides assistance to these veterans in the form of food, shelter, clothing, job search assistance and any other reasonable request.

That is why people are giving to you because they think the money that is going to you when they give you a dollar, that most of it is going to help veterans, and so I think a lot of them would be very surprised and extremely disturbed to find out exactly what is going on.

Now, as I understand it, you have been at this, as you described it, a business, for a very long time. Beginning in 1999, you founded a non-profit called Abundant Life Foundation in California. Is that correct?

Mr. FRIEND. That is correct.

Mr. VAN HOLLEN. When you did that, you hired a man named Mitch Gold to conduct a telemarketing fundraising for your organization. Is that correct?

Mr. FRIEND. That is also correct.

Mr. VAN HOLLEN. Mr. Gold, as I am sure you know, a notorious figure in the world of charitable organizations. In fact, in 2002, a Federal judge sentenced him to 8 years in prison for charity fraud before he was caught, he was apparently making $10 million a year, operating dozens of non-profit organizations. Those were supposed to be helping firefighters, police officer, children and veterans.

The Orange County Register, a newspaper in California, of course, characterized you as part of Mr. Gold's "money machine." Do you recall that article?

Mr. FRIEND. Of course, it is completely incorrect.

Mr. VAN HOLLEN. But you hired him. Let me just say this. They are saying here he went to prison in 2002. You moved to Washington State, as I understand it. Is that correct?

Mr. FRIEND. That is correct.

Mr. VAN HOLLEN. And began four operations, charitable operations: National Association for Disabled Police Officers, the Dis-

abled Firefighters Foundation and the Children's Cancer Assistance Program. Is that correct?

Mr. FRIEND. That is correct.

Mr. VAN HOLLEN. These groups, you have testified, operate under the same sort of approach with the telemarketers? Is that right?

Mr. FRIEND. Yes.

Mr. VAN HOLLEN. How is it that you are really being that different in the sense of Mr. Gold's kind of operation?

It sounds like you set up businesses that are very appealing to the public, charities from children's cancer on the one side to veterans, and you are raising a lot of money, but very little of that money is going, at the end of the day, to the people who all those callers, who want to help, hope it will go to.

Mr. FRIEND. I can't speak for Mitchell Gold. I wasn't a disciple of his, and a lot of the things that were written are incorrect insomuch as they say I was a pupil or he was a mentor. That is totally incorrect.

He raised money for us when we first got into this business. Unbeknownst to the way we should do it, he gave us a contract, if I recall, where he gave us so much money a week and he kept the difference. He even went so far as doing his own banking, as conducting his own banking. That is a deal-breaker for us.

If we can't control the purse strings and the banking and know where this money is going and can account for everything, we don't want anything to do with anybody in any other way, shape or fashion.

Mr. VAN HOLLEN. Let me ask you this, Mr. Friend. If you had a choice as an individual to give between two charitable organizations, one of which gave a lot more to the ultimate beneficiary than the other, you would choose the one with the ultimate gain, right?

Mr. FRIEND. I would give to the one that gave a lot more.

Mr. VAN HOLLEN. There are lots of organizations out there to help veterans, isn't that right?

Mr. FRIEND. True.

Mr. VAN HOLLEN. A lot of them give more of every dollar that is contributed to the veterans services, isn't that right?

Mr. FRIEND. That is correct.

Mr. VAN HOLLEN. So, as an individual, you would give to one of these other organizations before your organization, isn't that right?

Mr. FRIEND. At this time, I would. I hope that in the future we grow into the area where you will want to give to our organization.

Mr. VAN HOLLEN. Well, I think it is clear you would not, as an individual, trying to make sure your moneys were used to the help benefit veterans.

Mr. FRIEND. At this time.

Mr. VAN HOLLEN. Let me ask you this. Do you have any objection to disclosing publicly on a Web site or your materials how much of every dollar goes to fundraising operations and costs, including the ones Mr. Waxman raised with respect to the literature, and how much actually goes to veterans? Do you have any objection to that?

Mr. FRIEND. Well, we certainly do it over the phone. I don't know how.

Mr. VAN HOLLEN. Oh, you call over the phone and you tell people that only 15 cents.

Mr. FRIEND. No, no. If someone asks us the question.

Mr. VAN HOLLEN. I am asking you if you have any objection to putting on your Web site or on your literature that you send out exactly how much is actually going to the veterans. Do you have an objection to that?

Mr. FRIEND. I wouldn't be happy with it, but I suppose I would adhere to it.

Mr. VAN HOLLEN. Right. Why wouldn't you be happy telling people how their money is being spent?

Mr. FRIEND. Because, unfortunately, all the charities in the country do hide behind what they call joint cost allocation, and the only way you can grow to a point where you can begin to utilize that.

Mr. VAN HOLLEN. But you wouldn't mind if all charities had to disclose, you are saying, if all charities had to disclose?

Mr. FRIEND. Oh, if all charities did? Absolutely not.

Mr. VAN HOLLEN. Right, but then everybody would know that less of the money they gave to you went to veterans than other organizations, correct?

Mr. FRIEND. I think that would be all right as long as it is the same playing field for everyone.

Mr. VAN HOLLEN. I think it is important for people to know where there is money going. We want to make sure that people have confidence that when they are contributing to veterans, it is going to veterans.

Mr. FRIEND. No. I agree as long as it was the same playing field.

Mr. VAN HOLLEN. Thank you, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Van Hollen.

Mr. Burton.

Mr. BURTON. Yes, I just have a couple questions.

I was interested. This Mr. Mitch Gold, how did you meet that fellow?

Mr. FRIEND. I met him through an individual that was working at the time for Shiloh Ministries, that wanted to bring in some products from China. At the time before the advent of the Internet, it was much easier to broker and act in a broker capacity.

Mr. BURTON. Had he had any trouble with the law before he affiliated himself with you?

Mr. FRIEND. I wasn't privy to that, sir.

Mr. BURTON. Did you do any kind of a background check on him or anything?

Mr. FRIEND. No, no, I didn't. No.

Mr. BURTON. When you are talking about the kinds of money that you are talking about, it seems to me that you would want to know whether or not somebody has some kind of a problem.

Mr. FRIEND. Now, we do.

Mr. BURTON. You do now?

Mr. FRIEND. Now.

Mr. BURTON. How much did he get away with? They estimate $10 million before he went to jail?

Mr. FRIEND. Well, again, I am not privy to the background on what exactly happened to Mitch Gold. I know it was a lot, but at

that time I didn't know. I didn't have knowledge of it. That is all I can attest to.

Mr. BURTON. But when you are talking about that kind of money, I mean I had a business, and I didn't deal with anything like that, and we sure checked everybody out before I did business with them.

Mr. FRIEND. Well, again, that was when we first got into the business, and we were given so much a week.

Mr. BURTON. How about these new charities that you have? Do you check the people out that you are dealing with there?

Mr. FRIEND. Yes, we do, and I also make a point of going whenever I can, as possible, and lumping some of these vendors together. I make a point of going out and visiting their organizations, looking at the way they raise money, and I pay some pretty close scrutiny to it.

Mr. BURTON. I just want to followup with one more question, and I will yield to Mr. Shays.

That is I don't understand why all the charities don't divulge when they are soliciting money, the amount of money and the percent that is going to go to the charity involved. I think everybody ought to do that.

I know it would discourage some people from giving to some charities. I mean I saw some on this list I have given money to that I wouldn't after that. But if everybody did it, I think that the public deserves to know that.

I know it would be a difficult thing for some of you folks out there because of the margin of profit that you are making, but I think that is one of the things we ought to look at legislatively.

In the Supreme Court decision, did they say anything about, in any of those decisions, that you did not have to divulge the amount of money that was being used for overhead and the amount that was going to the charity? Was there anything in any of the decisions?

Mr. FRIEND. Is this directed to me?

Mr. BURTON. Any of you?

Mr. BOROCHOFF. Well, what is interesting about that decision, as long as you don't go out and lie and specify a certain amount, you are OK.

Mr. BURTON. What I am wondering is it has not been tested in the court that the legislative branch of Government could mandate that the percentage that is going for the charity and the percentage that is going for overhead be divulged. What I am trying to make is it has not been tested in court from what I have heard today.

Mr. BOROCHOFF. There has been like four cases, four Supreme Court cases, to my knowledge, concerning this issue, as a first amendment issue, highly controversial.

Mr. BURTON. In that first amendment issue you are talking about, did it say specifically that they did not have to be required to divulge the amount that was going for overhead and the amount that was going for the charity.

Mr. BOROCHOFF. Yes, at point of solicitation, they are not required to.

Mr. BURTON. So, they are not required to, and the Supreme Court upheld that? All right, OK.

I yield back.

Chairman WAXMAN. Thank you, Mr. Burton.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I must tell you, Mr. Friend and Ms. Seman, that this testimony has been a bit painful and, in my opinion, you give reputable charities a bad one. That is why I want to ask Ms. Carroll just a few questions about TAPS.

Ms. Carroll, it appears to be more efficient and they seem to be more efficient at fundraising. We have heard that many of these other organizations use for-profit corporate fundraisers to do direct mail and telemarketing solicitations and, as a result of those professional solicitors, keep 80 to 90 percent of the contributions. Did you hear that testimony?

Ms. CARROLL. Yes, sir.

Mr. CUMMINGS. I understand that TAPS does not currently use a for-profit fundraising company to raise its money, but you did try it at one time. Is that correct?

Ms. CARROLL. Yes.

Mr. CUMMINGS. Why did you first decide to try raising money through a for-profit direct mail campaign?

Ms. CARROLL. We were approached by the firm, and they gave a very compelling case for this being a solid way to raise money. One of our sister organizations that I mentioned in my testimony, COPS, Concerns of Police Survivors, does use that. We tried it for a year. We found the percentage far too high and terminated that agreement.

Currently, we have an in-house development director. She is the surviving sister of Captain Blake Russell, who was killed in Iraq, and not only is she now raising money for us internally, but it is also part of her healing.

Mr. CUMMINGS. She probably has a passion for it.

Ms. CARROLL. She absolutely does. When she is connecting with our donors and with our families, she is connecting from the heart.

Mr. CUMMINGS. Now what kind of promises did your fundraiser make, the telemarketing fundraiser make to you?

Ms. CARROLL. Well, that over time, as they build a house file from the direct mail, there would be quite a bit of money, revenue coming in. After seeing this in place for a period of approximately 1 year, we determined this was not an appropriate way for us to be managing, and the ratio was far, far too off, and it did damage our ratio for a period which we are very, very disturbed about.

Mr. CUMMINGS. Well, let me ask you this. How much money did you make under the telemarketer? How much money did you make?

Ms. CARROLL. If I could just defer to our CFO here.

Mr. CUMMINGS. Sure.

Ms. CARROLL. It is upsetting to say that our income was approximately $50,000 to their total of $500,000.

Mr. CUMMINGS. Wait a minute. Let me get this right. I know I didn't hear that right.

Let me get this right. They got $500,000, and you got $50,000?

Ms. CARROLL. Yes, sir, that is correct.

Mr. CUMMINGS. Jiminy Christmas.

Ms. CARROLL. And we terminated that very quickly, and it was a regrettable experience.

Mr. CUMMINGS. You did something that Ms. Seman just talked about, and she said that it was almost impossible to terminate these agreements and they had to be long range. Did you find that they were requiring long range agreements?

Ms. CARROLL. They did, and we terminated immediately upon making the board decision.

Mr. CUMMINGS. So provisions in your contract allowed you terminate?

Ms. CARROLL. Yes.

Mr. CUMMINGS. They did pretty good now in a year. Was it a year? How many years?

Ms. CARROLL. It was approximately 1 year.

Mr. CUMMINGS. In 1 year, they made $450,000.

Ms. Carroll, what methods are you using to raise now? I think you told me that a minute ago.

Ms. CARROLL. We have one of our most successful fundraisers is the Marine Corps Marathon. We have a team in which every runner honors a fallen service member. Many of those runners are themselves, surviving families. They run. This year, we raised over $200,000.

Mr. CUMMINGS. So that is a much better rate.

Ms. CARROLL. Yes. Yes, that is a wonderful rate, and the really great thing about the program is we are bringing together the families.

Mr. CUMMINGS. Last but not least, Ms. Seman and Mr. Friend, I am so glad you had an opportunity to hear that testimony. Perhaps we can improve on your performance. Perhaps we can see more money going to the appropriate folks.

You say you have no other option than to use direct mail and telemarketing, but that is not true, is it?

Ms. SEMAN. I never said I had no other option. I said I was locked into a contract for right now and that we weren't going to do that in the future. That is what I said.

Chairman WAXMAN. Mr. Cummings, I am going to have that as a question that you put out there rather than get the answer because I think it is the kind of question that we all should think about.

Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman.

Ms. Seman, you are under oath. Mr. Friend, you are under oath. All of you are under oath.

Ms. Seman, how much do you make? How much does anyone in your family make from this?

Ms. SEMAN. I make $85,000 a year; none of my family members.

Mr. SHAYS. You make $85,000 a year?

Ms. SEMAN. Yes.

Mr. SHAYS. Mr. Friend, I want to know how much you make overall from all four of your charities.

Mr. FRIEND. Myself?

Mr. SHAYS. Yes.

Mr. FRIEND. About $85,000.

Mr. SHAYS. How much does any of your family members make?

Mr. FRIEND. My wife makes about the same.

Mr. SHAYS. Not about, I want to know what she makes.

Mr. FRIEND. About $85,000. I think we made a hundred——

Mr. SHAYS. Does anybody else in your family make any money from this?

Mr. FRIEND. Yes.

Mr. SHAYS. Who else?

Mr. FRIEND. A small amount, my father-in-law works in a capacity of working in the office in regard to——

Mr. SHAYS. Anybody else in your family?

Mr. FRIEND. No.

Mr. SHAYS. Do any of you get a kickback from the firms that do it?

Mr. FRIEND. No, no.

Mr. SHAYS. Do you get a kickback from anyone?

Mr. FRIEND. No.

Mr. SHAYS. Do you make money from any other source?

Mr. FRIEND. No.

Mr. SHAYS. Ms. Seman, I don't understand why you just don't get rid of your foundation.

Ms. SEMAN. We are in the process of doing that right now.

Mr. SHAYS. Just dissolve it.

Ms. SEMAN. We are in the process.

Mr. SHAYS. Yes, yes.

Mr. Friend, I think it is just bull that you have to hire these folks to do your calls. I think it is a ripoff to the public, and I think you are in the business just to make money. I don't think you are there to help cancer patients, the police or the veterans.

You tell me how I should believe you are in the business to help people.

Mr. FRIEND. Unless our numbers can start to prove otherwise, then I would agree with you, and I think that I wouldn't stay in the business unless I felt that our numbers were going to.

Mr. SHAYS. You have been in the business too long to make that statement. You have been in the business over 5 years.

Mr. FRIEND. That is correct.

Mr. SHAYS. Yes, well, it is pretty pathetic.

Mr. Chairman.

Chairman WAXMAN. Thank you very much, Mr. Shays.

We thank all the witnesses for being here today.

We are going to have another hearing in January, and we are going to work on this issue because it is one I think we owe to our veterans and all of the people who give to charities.

Thank you for being here.

The committee stands adjourned.

[Whereupon, at 1:15 p.m., the committee was adjourned.]

ASSESSING VETERANS' CHARITIES—PART II

THURSDAY, JANUARY 17, 2008

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2154, Rayburn House Office Building, Hon. Henry A. Waxman (chairman of the committee) presiding.

Present: Representatives Waxman, Davis of Virginia, Cummings, Tierney, Watson, Lynch, Yarmuth, Braley, Norton, Van Hollen, Sarbanes, Burton, Shays, Platts, Cannon, Duncan, Issa, Bilbray, and Sali.

Staff present: Phil Schiliro, chief of staff; Phil Barnett, staff director/chief counsel; Karen Lightfoot, communications director and senior policy advisor; David Rapallo, chief investigative counsel; John Williams, deputy chief investigative counsel; Suzanne Renaud, Susanne Sachsman, and Stacia Cardille, counsels; Earley Green, chief clerk; Teresa Coufal, assistant clerk; Caren Auchman, press assistant; Ella Hoffman, press agent; Leneal Scott, information systems manager; Kerry Gutknecht and Miriam Edelman, staff assistants; Matt Siegler, special assistant; David Marin, minority staff director; Larry Halloran, minority deputy staff director; Keith Ausbrook, minority general counsel; Grace Washbourne, minority senior professional staff member; Nick Palarino, minority senior investigator and policy advisor; Patrick Lyden, minority parliamentarian and member services coordinator; Brian McNicoll, minority communications director; Benjamin Chance, minority clerk; Ali Ahmad, minority deputy press secretary; and Todd Greenwood, minority research assistant.

Chairman WAXMAN. The meeting of the committee will please come to order.

This is the second hearing our committee is holding on how veterans' charities raise and spend their money.

This issue matters a great deal. More than 4,000 Americans have been killed in Iraq and Afghanistan and thousands more are coming home with debilitating physical and psychological injuries. Our country owes these heroes honor and genuine gratitude. If these soldiers and their families face crippling financial burdens as a result of their service, we owe them generous help there, too.

Our December hearings show that countless Americans are ready and willing to help. They are selflessly donating hundreds of millions of dollars to charities that purport to help veterans. They are trying to help those who gave such tremendous sacrifice for us all. Many of the charities are doing invaluable work and spend most

of the dollars they receive directly on veterans. Other organizations, however, engage what I think is an intolerable fraud. Most of the millions they receive never reach veterans or their families. Instead, the groups waste those contributions on bloated overhead costs and self-enrichment.

We were privileged at our December hearing to receive testimony from Ed Edmundson, the father of a soldier who was seriously wounded in Iraq. He told us about the great challenges families like his face as they try to get their loved ones the care they deserve. He told us this: "My son, as well as the other thousands of injured soldiers from this war or any other war, they are not a commodity. Organizations come to us to offer assistance. We gladly welcome them to aid in our quest. But I don't think it is right that you can use these soldiers as commodities to raise funds and, as an organization, to say that you are raising funds to aid all of the thousands of soldiers and then turn around and give a small percentage of that to what you are saying that you are going to do with the contributions."

Well, Mr. Edmundson's concern is why we held our first hearing and why we are holding our hearing today. Although we had invited Roger Chapin, who has operated a number of veterans' and military charities over the past 40 years, to join us in December, he refused to attend voluntarily and he evaded service of a subpoena by Federal Marshals. I am glad Mr. Chapin reconsidered his position for this hearing. His charities raised over $168 million from 2004 to 2006. But our analysis reveals that only 25 percent of that money was spent on veterans.

During those 3 years, Mr. Chapin and his wife received over $1.5 million in compensation from his groups and received hundreds of thousands of dollars more in reimbursements. My staff prepared a memorandum that provides an analysis of the funds received by Mr. Chapin's charities and how they were used. Without objection, that memorandum and the documents it cites will be made part of the hearing record.

[The information referred to follows:]

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MEMORANDUM

January 17, 2008

To: Members of the Committee on Oversight and Government Reform

Fr: Majority Staff

Re: Additional Information about the Activities of Roger Chapin's Charitable Organizations

In preparation for today's hearing, Committee staff have reviewed documents related to two veterans' charities operated by Roger Chapin: Help Hospitalized Veterans and the Coalition to Salute America's Heroes Foundation. This memorandum summarizes what these documents reveal about how the funds raised by these organizations have been spent.

Over a three-year period from 2004 through 2006, Mr. Chapin's charities raised more than $168 million in donations on behalf of veterans. Only a fraction of this amount (approximately 25%) has been expended on goods and services for veterans. The remainder of the funds raised (nearly $125 million) was used to pay for direct mail fundraising, administrative expenses, salaries, and other expenses.

According to the documents, Mr. Chapin and his wife have been well remunerated by Mr. Chapin's charities. In 2006, Mr. Chapin and his wife received $561,971 from Help Hospitalized Veterans in salaries, bonuses, and pension contributions. Over the three-year period from 2004 through 2006, they received $1.5 million. In addition, the charities reimbursed the Chapins for over $340,000 in expenses for meals, hotels, entertainment, and other expenses during this period. In 2006, Help Hospitalized Veterans purchased a $444,600 condominium in Northern Virginia that is used by the Chapins.

Another principal beneficiary of Mr. Chapin's charities appears to be Richard Viguerie, who runs direct mail companies used by Mr. Chapin's charities. The documents indicate that Mr. Chapin's charities and Mr. Viguerie's for-profit companies are closely intertwined. From 2000 through 2005, Mr. Chapin's charities paid Mr. Viguerie's companies $14 million. Mr. Chapin has also made business loans worth nearly $1 million to Mr. Viguerie's company and pays a large share of the cost of an employee who works out of Mr. Viguerie's office.

The documents disclose other questionable payments by Mr. Chapin's veterans' charities, including a $17,000 membership in a golf club, a $135,000 loan to the executive director of Help Hospitalized Veterans, and payments from Help Hospitalized Veterans to other charities run by Mr. Chapin, such as charities for cancer, Alzheimer's, and drug-free youth.

I. DONATIONS TO VETERANS CHARITIES CONTROLLED BY ROGER CHAPIN

Roger Chapin is the president and founder of Help Hospitalized Veterans (HHV). According to a statement submitted to the Committee on December 13, 2007, HHV's "primary mission" is to "distribute therapeutic arts and craft kits and other recreational items free of charge to wounded and disabled veterans who are homebound or recovering in veterans' and other medical facilities."[1]

Mr. Chapin is also founder and president of the Coalition to Salute America's Heroes Foundation. The Coalition is a nonprofit that "provide[s] financial and in-kind assistance to wounded and disabled veterans of the Iraq and Afghanistan conflicts."[2]

From 2004 through 2006, Mr. Chapin's two organizations have received more than $168 million in donations on behalf of veterans. Table A lists the revenue for each organization from 2004 to 2006, the latest year for which data is available. Table A is based on the Internal Revenue Service Form 990 filings from each organization and excludes grants from one organization to the other.[3]

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[1] Statement Regarding Help Hospitalized Veterans, Inc., the Coalition to Salute America's Heroes Foundation, and Help Wounded Heroes, Inc. (Dec. 13, 2007) (online at www.hhv.org/ documents/Statement.pdf).

[2] *Id.* at 14.

[3] Help Hospitalized Veterans Internal Revenue Service Form 990, Tax Year Aug. 1, 2005 to July 31, 2006, line 12 and statement 9; Help Hospitalized Veterans Internal Revenue Service Form 990, Tax Year Aug. 1, 2004 to July 31, 2005, line 12 and statement 8, Help Hospitalized Veterans Internal Revenue Service Form 990, Tax Year Aug. 1, 2003 to July 31, 2004, line 12 and statement 7; Coalition to Salute America's Heroes Internal Revenue Service Form 990, Tax Year 2006, line 12; Coalition to Salute America's Heroes Internal Revenue Service Form 990, Tax Year 2005, line 12; and Coalition to Salute America's Heroes Internal Revenue Service Form 990, Tax Year 2004, line 12. (All related-party grants are reflected in the Help Hospitalized Veterans total revenue figure.).

TABLE A: TOTAL REVENUE OF VETERANS CHARITIES CONTROLLED BY ROGER CHAPIN				
	2004	**2005**	**2006**	**TOTAL**
Help Hospitalized Veterans	$32,140,626	$40,608,490	$48,322,202	**$121,071,318**
Coalition to Salute America's Heroes Foundation	$4,255,951	$16,978,918	$26,418,846	**$47,653,715**
Combined	$36,396,577	$57,587,408	$74,741,048	**$168,725,033**

As Table A demonstrates, donations to Mr. Chapin's organizations have increased sharply in recent years, most likely due to public concern about veterans returning from the Iraq war. Donations to HHV increased from about $32 million in 2004 to more than $48 million in 2006. Donations to the Coalition increased from about $4 million to more than $26 million during this time period, a six-fold increase.

II. EXPENDITURES ON GOODS AND SERVICES TO VETERANS

Based on IRS filings and audited financial statements reviewed by the Committee, it appears that Mr. Chapin's organizations spent only about 25% of the donations received from 2004 through 2006 on goods and services for veterans. Mr. Chapin's organizations appear to have spent about 75% of these donations on direct mail fundraising, administrative expenses, overhead, and compensation, pensions, and other benefits for himself and his employees.

Table B sets forth the amounts spent by Mr. Chapin's organizations on goods and services delivered to veterans from 2004 through 2006. The data in Table B excludes grants from one organization to another. Table B also counts only those expenses that actually result in tangible benefits to veterans in the form of goods or services, such as craft kits, financial grants, or the assistance of Craft Care Specialists. It does not include as a benefit to veterans the cost of direct mail, advertising, or public service announcements which HHV and the Coalition may consider "educational."

When spending on goods and services for veterans is compared to the total amount of donations received by the two organizations, it appears that the charities spend three dollars on fundraising and other administrative costs for every dollar spent on providing goods and services to veterans. From 2004 through 2006, HHV and the Coalition jointly spent approximately $44

million on goods and services to veterans. During this same period, Mr. Chapin's organizations spent over $124 million on other expenses.

TABLE B1: SPENDING ON GOODS AND SERVICES FOR VETERANS				
	2004	**2005**	**2006**	**TOTAL**
Help Hospitalized Veterans	$5,474,305	$6,365,484	$7,911,903	**$19,751,692**
Coalition to Salute America's Heroes Foundation	$1,412,629	$1,908,565	$21,066,397	**$24,387,591**
Combined	$6,886,934	$8,274,049	$28,978,300	**$44,139,283**

TABLE B2: SPENDING ON FUNDRAISING AND OTHER PURPOSES				
	2004	**2005**	**2006**	**TOTAL**
Help Hospitalized Veterans	$26,666,321	$34,243,006	$40,410,299	**$101,319,626**
Coalition to Salute America's Heroes Foundation	$2,843,322	$15,070,353	$5,352,449	**$23,266,124**
Combined	$29,509,643	$49,313,359	$45,762,748	**$124,585,750**

During his interview with Committee staff, Mr. Chapin confirmed this basic premise: that approximately three-fourths of donations do not actually result in the delivery of goods or services to veterans. He stated:

> I told you what our costs are. You know, direct mail — this is before the allocation thing, which hopefully we can get into at some point — is you know, 60, 65 percent range, the whole mix of a program, not any given mailing, but the whole mix of a program, 60, 65 percent. You put $0.10 on top of that or 10 percent on top of that for administration and overhead — this is without any, you know, allocation business — you

are into — you are pushing 75 percent. So you got $0.25 goes to the charity, you know. I will be very up front with you about that.[4]

This data and Mr. Chapin's statements to the Committee contrast sharply with characterizations made by HHV and the Coalition to the public and to donors regarding the spending percentages of these organizations. In a statement HHV submitted to the Committee on December 13, 2007, and posted on its website, HHV asserted that "HHV spends almost 67% of its funds on program services."[5] Mr. Chapin repeated this claim in testimony submitted for today's hearing.[6] In addition, the Coalition has asserted in numerous mailings and in its 2005 Annual Report that it dedicates 92% of its revenue to program services.[7]

During his interview with Committee staff, Mr. Chapin was asked why his organizations used these inflated numbers on their solicitation materials rather than noting, as he did in his interview, that three-fourths of the donations were not ultimately used for goods and services for veterans. In response, Mr. Chapin stated: "Because we wouldn't raise any money. I mean, that's a pretty straight answer."[8]

III. PAYMENTS TO THE CHAPINS

According to Mr. Chapin's IRS W-2 forms, he has received more than $4 million in compensation since he has been operating veterans' charities. In 2006, Mr. Chapin was paid $300,000 by Help Hospitalized Veterans, which included a base salary of $250,000 and a bonus of $50,000.[9] Although Mr. Chapin has not yet filed his W-2 for 2007, documents produced to the Committee indicate that Mr. Chapin's compensation for 2007 increased to $306,126, which included a bonus of $35,000.[10]

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[4] House Committee on Oversight and Government Reform, *Transcribed Interview of Roger Chapin,* 127-128 (Jan. 11, 2008).

[5] Statement Regarding Help Hospitalized Veterans, Inc., the Coalition to Salute America's Heroes Foundation, and Help Wounded Heroes, Inc. (Dec. 13, 2007) (online at www.hhv.org/ documents/Statement.pdf).

[6] House Committee on Oversight and Government Reform, *Statement of Roger Chapin* (Jan. 17, 2008).

[7] Coalition to Salute America's Heroes, *2005 Annual Report*, 9. *See, e.g.,* Coalition to Salute America's Heroes mailing to 148,273 prospective donors (Mar. 13, 2007) (Bates No. VETS 5367).

[8] House Committee on Oversight and Government Reform, *Transcribed Interview of Roger Chapin,* 180-181 (Jan. 11, 2008).

[9] Roger Chapin Compensation History (1971-2007) (as provided by Mr. Chapin's counsel); *see also* Meeting of the Board of Directors of Help Hospitalized Veterans (Oct. 22, 2005) (Bates No. VETS 10585 – 10592) ("Chapin received fifty thousand dollars ($50,000) in holiday bonus for he too had not received bonus compensation for the past two (2) years").

[10] *Id.*

Records produced to the Committee also show that Mr. Chapin's wife, Elizabeth Chapin, received a salary of $61,327 from HHV in 2006 in the position of newsletter editor.[11] According to Mr. Chapin's lawyers, Elizabeth Chapin retired from the organization in early 2007.

In addition to direct compensation, HHV provides to Mr. Chapin a generous pension plan. According to documents produced to the Committee by HHV, this defined benefit pension plan became effective in 1998 and will pay Mr. Chapin an annual retirement benefit equal to 75% of the average of his three highest consecutive years of pay.[12] Since 2000, HHV has paid almost $1 million into Mr. Chapin's retirement package, including a contribution of $153,750 in 2006.[13] Combining all salary, bonus, and pension contributions, Mr. and Mrs. Chapin received a total of $561,971 in compensation from HHV in 2006.[14]

Over the three-year period from 2004 through 2006, the combined salaries, bonuses, and pension contributions received by the Chapins equals $1,538,945.[15]

Mr. and Mrs. Chapin have also benefited from the use of a condominium in Falls Church, Virginia, that was purchased by HHV in 2006 for $444,600.[16] Mr. and Mrs. Chapin appear to be using HHV's condominium as their own. Online phone directories list Mrs. Chapin as the current resident, and the answering machine attached to that telephone number has a recording from Mrs. Chapin stating that the caller has reached Roger and Elizabeth.

In addition to compensation and housing, the Chapins were also reimbursed for hundreds of thousands of dollars worth of expenses for meals, hotels, entertainment, and other items. Although Mr. Chapin is the "volunteer president" of the Coalition to Salute America's Heroes, this organization reimbursed him for expenses totaling $273,500 from 2004 through 2006.[17] He also received $68,000 in reimbursements from HHV during this period, including one large reimbursement from HHV of $43,225 for expenses he incurred when he cancelled contracts to purchase a condominium for personal use in Northern Virginia.[18]

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[11] Elizabeth Chapin's Salary History (undated) (as provided by Mr. Chapin's counsel).

[12] Summary Plan Description of the Help Hospitalized Veterans, Inc., Defined Benefit Pension Plan (Bates No. VETS 10498-10505).

[13] Roger Chapin Compensation History (1971-2007) (as provided by Mr. Chapin's counsel).

[14] *Id.* See Chapin's Salary History (undated) (as provided by Mr. Chapin's counsel).

[15] *Id.*

[16] Renaissance 2230, A Condominium Unit Purchase Agreement (Apr. 24, 2006) (Bates No. VETS 13664).

[17] Coalition to Salute America's Heroes, Minutes of Board of Directors Meeting (Aug. 1, 2007) (Bates No. VETS 10375).

[18] Roger Chapin, Summary of Virginia Condo Deal (July 25, 2006) (Bates No. VETS 10840-10844) (Handwritten Notes).

IV. ROGER CHAPIN'S RELATIONSHIP WITH RICHARD VIGUERIE

Richard Viguerie operates several for-profit companies that provide mass mail solicitations and other fundraising services. These companies include American Target Advertising, Viguerie & Associates, and American Mailing List Corporation. Mr. Viguerie's clients include political candidates and political groups, as well as nonprofit organizations such as Help Hospitalized Veterans. According to both Mr. Chapin and Mr. Vigurie, they have a personal friendship that spans almost 40 years.[19]

Mr. Chapin is one of Mr. Viguerie's largest customers.[20] According to Internal Revenue Service Form 990s, Mr. Viguerie's companies received more than $14 million from organizations controlled by Mr. Chapin from 2000 to 2005. This $14 million was paid by HHV for various direct mail consulting services and mailing list rental fees.[21] It is unclear how much of this $14 million Mr. Viguerie received personally as compensation or profit. However, many of the expenses typically associated with mailing solicitations were paid directly by HHV, including the costs of printing, postage, and caging, which is the collection of donated funds.

During his interview with Committee staff, Mr. Chapin likened Mr. Viguerie to a "Mississippi riverboat gambler" because Mr. Viguerie often takes heavy losses on work for other clients.[22] Mr. Chapin explained that Mr. Viguerie's business requires a lot of "operating capital" and that he is "always tight for money."[23] As a result, Mr. Chapin used funds donated to HHV to loan Mr. Viguerie's company nearly $1 million from 2003 to 2005 in order to provide Mr. Viguerie with "operating capital" that he did not have.[24] During his interview with Committee

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[19] House Committee on Oversight and Government Reform, *Transcribed Interview of Roger Chapin,* 146 (Jan. 11, 2008); House Committee on Oversight and Government Reform, *Transcribed Interview of Richard Viguerie,* 9 (Jan. 7, 2008).

[20] House Committee on Oversight and Government Reform, *Transcribed Interview of Roger Chapin,* 200 (Jan. 11, 2008).

[21] Help Hospitalized Veterans, Internal Revenue Service Form 990, Tax Year Aug. 1, 2005 to July 31, 2004, Schedule A, Part II-A; Help Hospitalized Veterans, Internal Revenue Service Form 990, Tax Year Aug. 1, 2004 to July 31, 2005, Schedule A, Part II; Help Hospitalized Veterans, Internal Revenue Service Form 990, Tax Year Aug. 1, 2003 to July 31, 2004, Schedule A, Part II; Help Hospitalized Veterans, Internal Revenue Service Form 990, Tax Year Aug. 1, 2002 to July 31, 2003, Schedule A, Part II; Help Hospitalized Veterans, Internal Revenue Service Form 990, Tax Year Aug. 1, 2001 to July 31, 2002, Schedule A, Part II; and Help Hospitalized Veterans, Internal Revenue Service Form 990, Tax Year Aug. 1, 2000 to July 31, 2001, Schedule A, Part II. This includes payments to American Target Advertising and Viguerie & Associates.

[22] House Committee on Oversight and Government Reform, *Transcribed Interview of Roger Chapin,* 66 and 160-161 (Jan. 11, 2008).

[23] *Id.* at 165.

staff, Mr. Viguerie explained that he was unable to obtain these loans from a commercial lender.[25] According to the terms of the loan agreements, Mr. Viguerie repaid these loans out of the funds raised through future mailings.[26]

Mr. Viguerie also receives the financial benefit of having Mr. Chapin share the cost of an employee. This employee formerly worked for Mr. Viguerie at American Target Advertising and was responsible for the direct mail campaigns for Mr. Chapin's group, HHV. Several years ago, HHV began paying a portion of her salary, although her duties never changed. This employee continues to work at Mr. Viguerie's offices, and she continues to manage American Target Advertising employees.[27]

Both Mr. and Mrs. Chapin have regularly used funds raised by HHV to purchase gifts for Mr. and Mrs. Viguerie, including $168 worth of wine for Mr. Viguerie's birthday, $65 worth of flowers for Mr. and Mrs. Viguerie's anniversary, and a $71 Christmas gift purchased from Neiman Marcus for Mr. Viguerie's wife.[28]

V. OTHER EXPENDITURES

Documents provided to the Committee by Mr. Chapin raise questions about the propriety of other expenses paid for with donations that were intended to assist veterans. Some of those expenses include the following:

- **Country Club Membership:** Minutes from a meeting of HHV's board in 2001 state that HHV agreed to pay $17,000 to purchase a corporate membership to the Cross Creek Golf Club in Temecula, California.[29]

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[24] *Id.* at 160-163. *See also* Loan Agreement (Sept. 19, 2003) (Bates No. VETS 1131); Amendment to Loan Agreement (Apr. 2, 2004) (Bates No. VETS 1130); and Memorandum to Roger Chapin from Richard A. Viguerie regarding Loan from HHV to ATA (Jan. 6. 2005) (Bates No. VETS 1129).

[25] House Committee on Oversight and Government Reform, *Transcribed Interview of Richard Viguerie,* 115 (Jan. 7, 2008).

[26] Loan Agreement (Sept. 19, 2003) Bates No. VETS 1131; Amendment to Loan Agreement (Apr. 2, 2004) (Bates No. VETS 1130); Memorandum to Roger Chapin from Richard A. Viguerie regarding Loan from HHV to ATA (Jan. 6. 2005) (Bates No. VETS 1129).

[27] House Committee on Oversight and Government Reform, *Transcribed Interview of Roger Chapin,* 164-167 (Jan. 11, 2008); House Committee on Oversight and Government Reform, *Transcribed Interview of Richard Viguerie,* 117-120 (Jan. 7, 2008).

[28] Elizabeth Chapin Reimburse for Misc. Gifts (Jan. 20, 2006) (Bates No. VETS 12763-12774).

[29] Help Hospitalized Veterans, Inc., Consent Minutes of the Board of Directors (Sept. 18, 2001) (Bates No. VETS 10478).

- **Personal Loan for Divorce Settlement:** Minutes from an HHV board meeting in 2003 state that the board approved a loan for $135,000 to the executive director of HHV, Mike Lynch, for the purpose of buying out his wife's share of their home as part of their divorce settlement.[30]

- **Real Estate Speculation:** Minutes from an HHV board meeting in 2001 state that Mr. Chapin urged the board to purchase as an investment property 60 acres of land in Riverside County, California, which HHV subsequently did.[31] In June 2005, Mr. Chapin reported that HHV had sold a separate 22.5 acre tract at a profit.[32]

- **Related Party Transactions:** Mr. Chapin has also used contributions to HHV to fund his other charitable projects, regardless of their affiliation with veterans issues. In 2001, for example, Mr. Chapin used $500,000 of HHV contributions to assist his organization Conquer Cancer and Alzheimer's Now.[33]

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[30] Help Hospitalized Veterans, Meeting of the Board of Directors (July 28, 2003) (Bates No. VETS 10483-10486).

[31] Help Hospitalized Veterans, Meeting of the Board of Directors (Oct. 20, 2001) (Bates No. VETS 10475-10476).

[32] Help Hospitalized Veterans, Meeting of the Board of Directors (June 24, 2005) (Bates No. VETS 10535-10537).

[33] Help Hospitalized Veterans, Inc., Financial Statements for the Year Ended July 31, 2002 (Bates No. VETS 809-827).

Chairman WAXMAN. Mr. Chapin believes there is another side to this story, so it is important that we have an opportunity to share his perspective with us. I look forward to his testimony and the testimony of all of our witnesses on this very important issue.

Our actions, not our words, are the true measure of our commitment to our veterans. And this committee will continue to try to honor their service through fair and thorough oversight. My colleague and friend, Tom Davis, has done exactly that, and I want to recognize him for his statement.

[The prepared statement of Chairman Henry A. Waxman follows:]

Opening Statement of Rep. Henry A. Waxman
Chairman, Committee on Oversight and Government Reform
Assessing Veterans' Charities - Part II
January 17, 2008

This is the second hearing our Committee is holding on how veterans' charities raise and spend their money.

This issue matters a great deal. Over 4,000 Americans have been killed in Iraq and Afghanistan and thousands more are coming home with debilitating physical and psychological injuries. Our country owes these heroes honor and genuine gratitude. And if these soldiers and their families face crippling financial burdens as a result of their service, we owe them generous help there too.

Our December hearing showed that countless Americans are ready and willing to help. They are selflessly donating hundreds of millions of dollars to charities that purport to help veterans. They are trying to help those who gave such tremendous sacrifice for all of us.

Many of the charities are doing invaluable work and spend most of the dollars they receive directly on veterans. Other organizations, however, engage in what I think is an intolerable fraud.

Most of the millions they receive never reach veterans or their families. Instead, the groups waste the contributions on bloated overhead costs and self-enrichment.

We were privileged in our December hearing to receive testimony from Ed Edmundson, the father of a soldier who was seriously wounded in Iraq. He told us about the great challenges families like his face as they try to get their loved ones the care they deserve. And he also told us this:

> My son, as well as the other thousands of injured soldiers from this war or any other war, they are not a commodity. Organizations come to us to offer assistance. We gladly welcome them to aid in our quest. ... But I don't think its right that you can use these soldiers as commodities to raise funds and, as an organization, to say that you're raising funds to aid all of the thousands of soldiers ... and then turn around and give a small percentage of that to what you're saying that you're going to do with the contributions.

Mr. Edmundson's concern is why we held our first hearing and why we are here today. Although we had invited Roger Chapin, who has operated a number of veterans' and military charities over the past 40 years, to join us in December, he refused to attend voluntarily and evaded service of a subpoena by federal marshals.

I am glad Mr. Chapin reconsidered his position for this hearing. His charities raised over $168 million from 2004 to 2006, but our analysis reveals that only 25% of that money was spent on veterans. During those three years, Mr. Chapin and his wife received over $1.5 million in compensation from his groups and received hundreds of thousands of dollars more in reimbursements.

My staff prepared a memorandum that provides an analysis of the funds received by Mr. Chapin's charities and how they were used. Without objection, that memorandum and the documents it cites will be made part of the hearing record.

Mr. Chapin believes there is another side to this story, so it is important that he have an opportunity to share his perspective with us. I look forward to his testimony and to the testimony of all our witnesses on this very important issue.

Our actions, not our words, are the true measure of our commitment to our veterans and this Committee will continue to try to honor their service through fair and thorough oversight. My colleague and friend, Tom Davis, has done exactly that and I want to recognize him for his statement.

Mr. DAVIS OF VIRGINIA. Thank you, Mr. Chairman.

Members of the committee understand the great needs of our Nation's wounded veterans. We have heard first-hand accounts of the pain and the suffering endured by hundreds of individual service members and their families, too often trapped in bureaucracy, mired in disjointed administrative processes and inertia.

We have seen a stubborn failure to acknowledge and effectively treat traumatic brain injuries and post-traumatic stress disorder. We have been to Walter Reed and met America's heroes and their families trying to heal and go home.

For many veterans, an important part of their journey back involves critical help provided by charities. Those charities are supported by millions of generous, patriotic Americans. So this committee's effort to assess the reach and effectiveness of veterans' charities is a legitimate and timely exercise of our oversight responsibilities.

While it is well-settled law that charitable solicitations merit broad protection from government interference under the first amendment, it is just as clear Article I of the Constitution charges us to guard the integrity of commerce and protect the general welfare. There should be no doubt our investigation is a sincere effort to understand what can be done by Congress, by States and individuals to protect donors from wasteful, fraudulent and abusive charities that exploit public support for veterans and siphon precious resources from truly worthy causes.

At our first hearing in December, we learned about Federal and State oversight of charities, and we discussed some of the standards developed by private watchdogs and others to assess charitable operations and help donors make informed choices about how to best help veterans. At that time, I said there is no per se test, no magic ratio of program expenditures to fundraising costs that automatically distinguishes good charities from bad ones.

Other factors have to be considered—transparency, governance, track record. But we have to be concerned about complex business models and business practices that consistently direct as much of the money raised to insiders and captive well-paid vendors as to veterans. Wrapping a commercial activity in the flag and parking it behind the first amendment can't shield sharp practices indefinitely from responsible public scrutiny. Sooner or later donors will see through flowery direct mail rhetoric to the base realities of exploitative self-serving charities. We just want to make sure well-meaning contributors have the tools to do so.

Today the committee looks specifically at the management and governance of charities operated by Mr. Roger Chapin. His biggest charity, Help Hospitalized Vets, has been praised by some, criticized by others. He was the focus of a series of articles in Forbes magazine that questioned whether fund transfers across the network of veterans' charities and advocacy arms were being used to disguise high salaries, illegitimate expenses and other fiscal trickery.

After some initial difficulties in scheduling his appearance, Mr. Chapin has agreed to testify and has provided substantial documentation in response to the committee's request. We appreciate

his cooperation and hope to learn in more detail how he runs his veterans' charities.

Testimony by direct mail vendors and others will also help us understand the operational realities and legal principles that sustain this important segment of our national support systems for veterans.

Without question, veterans' charities, including Mr. Chapin's, have provided help of inestimable value to American heroes. Now we ask him and others to help us be sure no one is taking advantage of the generosity of Americans who also care deeply about our Nation's wounded. Thank you very much.

[The prepared statement of Hon. Tom Davis follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

TOM DAVIS, VIRGINIA
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6143

Majority (202) 225–5051
Minority (202) 225–5074

Statement of Rep. Tom Davis
Ranking Republican Member
Committee on Oversight and Government Reform
"Assessing Veteran's Charities: Part Two"
Thursday, January 17, 2008

Mr. Chairman, the Members of this Committee understand the great needs of our nation's wounded veterans. We have heard first hand accounts of the pain and suffering endured by hundreds of individual service members and their families too often trapped in bureaucracy mired in disjointed administrative processes and inertia. We've seen a stubborn failure to acknowledge and effectively treat Traumatic Brain Injuries and Post Traumatic Stress Disorder. We've been to Walter Reed and met America's heroes, and their families, trying to heal and go home.

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Wrapping a commercial activity in the flag, and parking it behind the First Amendment, cannot shield sharp practices indefinitely from responsible public scrutiny. Sooner or later, donors will see through flowery direct-mail rhetoric to the baser realities of exploitative, self-serving charities. We just want to make sure well-meaning contributors have the tools to do so.

Today the Committee looks specifically at the management and governance of charities operated by Mr. Roger Chapin. His biggest charity, *Help Hospitalized Vets*, has been praised by some, criticized by others. He was the focus of a series of articles in *Forbes* magazine that question whether fund transfers across his network of veterans' charities and advocacy arms were being used to disguise high salaries, illegitimate expense and other fiscal trickery. After some initial difficulties in scheduling his appearance, Mr. Chapin agreed to testify and has provided substantial documentation in response to the Committee's request. We appreciate his cooperation and hope to learn in more detail how he runs his veterans' charities. Testimony by direct-mail vendors and others will also help us understand the operational realities and legal principles that sustain this important segment of our national support system for veterans.

Without question, veterans' charities, including Mr. Chapin's, have provided help of inestimable value to wounded American heroes. Now we ask him and others to help us be sure no one is taking advantage of the generosity of Americans who also care deeply about our nation's wounded.

Chairman WAXMAN. Thank you very much, Mr. Davis.

I wanted to give Members a chance to make an opening statement before we hear from our witnesses. On this side, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I join my colleagues in thanking you and our ranking member for holding this hearing. Those of us, and I am sure most Members of Congress do have occasion to visit with our veterans and to also to go to the various hospitals and we also have opportunities to have them come into our offices and talk about the issues that concern them.

I find it very difficult to understand why it is that folks can raise money for these veterans, these men and women who have given their blood, sweat and tears, and in some instances, in the long run, their lives, trying to lift up our country, and when the American people come forward and say that we want to be supportive of them, that anyone would do anything that would cause a reasonable amount of those funds that should flow to them not to.

So it is our duty as the Congress to look into this matter. I am sitting here because I am very, very curious as to what the counterargument is to the article that appeared in the Washington Post this morning, written by Philip Rucker, that says between 1997 and 2005, the Chapin charity paid $3.8 million in salary and benefits to Chapin and his wife, and spent more than $200 million on fundraising and public education campaigns.

The public records also show that the charity awarded at least $19 million in contracts during that period to companies owned by Richard Viguerie, who is with us, a prominent conservative political commentator and advertising consultant based in Virginia.

So today we take a moment to try to figure this out, not to accuse anybody of wrongdoing if they haven't done wrong, but simply to try to figure out, how do you take the American people's generosity and make sure that it gets to the very people who have given so much and continue to give, and make sure that nobody is getting a part of that money, an unreasonable part of that money that they should not be getting. Hopefully from this hearing, Mr. Chairman, we will be able to figure out how, if necessary, to create or revise the laws of this Nation so that these things do not happen.

I think that if true, we have a lot of work to do, and it is very, very disturbing, as it should be, for every single American. I think it is un-American if one takes that money and takes an unreasonable amount of it and steers it in another direction when our veterans sit waiting and hoping that someone will not only recognize them but do them right.

With that, Mr. Chairman, I yield back.

Chairman WAXMAN. Thank you, Mr. Cummings.

Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman.

There are thousands of veterans coming home who will need our assistance. Ultimately, we are all accountable to our country's wounded veterans and their families. Whether we are in Government, business or charities, or just private citizens, we are responsible for Americans who defend and protect us, particularly those who have been maimed and wounded in service to our country.

The Department of Defense and the Department of Veterans Affairs need to continue with their major overhaul of the services provided to our wounded and veterans, and our committee will continue its comprehensive oversight of these departments that ensure that these much needed changes are made.

But our society is also in need of other venues of giving and caring for veterans. I know there is a common expectation that charities, by their very altruistic nature, will function at a high level of effectiveness in providing services and use donations efficiently.

This committee is learning this is not always the case. At our first hearing on veterans' charities, it was disconcerting to hear the amount of donations that were recycled into fundraising costs versus used to provide services to veterans these charities were claiming to help. This practice does a great disservice to Americans who think their pennies and dollars are providing aid and comfort to our Nation's veterans. It is appalling to use veterans as poster children to keep poorly run charities in business, while claiming to provide substantial services to this large and needy population. If charities are failing or are not providing proper assistance, then it is our role to identify and make transparent to the public those charities who are not reputable.

Today we will hear Mr. Roger Chapin, whose veterans' charities have been negatively rated by some charity watchdog groups, and whose practices have been the subject of negative investigation reports in Forbes magazine. But Mr. Chapin's veterans' charities have collected and millions and millions of dollars over the years, the vast majority of which are not reaching veterans or their families. That fact alone merits his appearance before this committee.

The U.S. Supreme Court has restricted the ability of States and the Federal Government to require charities to divulge fundraising costs to donors or to limit the percentage charities may spend on fundraising. The court noted that for many charities the process of raising money is often intertwined with advocacy and education, so fundraising should be considered a form of free speech protected by the first amendment.

Some causes are hard to raise money for, but groups like veterans, policemen and firemen are the subject of the most instances of charity fraud and broad direct solicitation, because it is easy to exploit feelings of patriotism and community to solicit money for those hard-to-say-no-to heroes. I question the content of some direct mail appeals and the costs associated with direct mailings. I question the promises and allusions to programs made by charities in direct mail solicitations that are not kept, and language that is purposely confusing.

I question the use of sweepstakes and free trinkets as a proper use of donations to secure more donations. I question repeated mailings directed to our seniors on limited incomes, exploiting their patriotism and generosity. I question the reasoning behind the number of mailings sent to the same people, month after month after month.

I look forward to hearing from Mr. Richard Viguerie and Mr. Geoffrey Peters, whose direct mail companies have contracts with Mr. Chapin's charities. It is important to understand the nature of

the direct mail business, what contracts contain, who drives mail content, and why fundraising costs are so high.

I have specific questions about the management practices of the Chapin veterans' charities, Help Hospitalized Veterans, the Coalition to Salute American Heroes Foundation and Help Wounded Heroes. Internal Revenue Service 990 forms and board of director minutes from these charities indicate that over the years, Mr. Chapin and his wife have received millions of dollars in salaries supplemented by large expense accounts. I question the merit of Mr. Chapin's high salary and lack of adequate documentation for expenses paid by the donors in the name of veterans.

I question the movement of funds and loans between these charities. It disguises real fundraising costs in an effort to achieve higher ratings by charity watchdog groups, ultimately deceiving donors.

I look forward to working with my colleagues on this committee on a bipartisan basis and in the Congress to see what might be done to stop waste, abuse and fraud by charities so that Americans will continue to give with the confidence their donations actually make a difference.

Mr. Chairman, again, and Mr. Ranking Member, thank you for holding this hearing.

Chairman WAXMAN. Thank you very much, Mr. Shays.

Ms. Watson.

Ms. WATSON. Thank you so much, Mr. Chairman. As usual, you are right on point for these issues that are so critical.

Mr. Chairman, Americans have given millions of dollars to help thousands of veterans wounded in Iraq and Afghanistan. Americans are known as a giving people who will open up their hearts and wallets for just causes. It is therefore all the more disconcerting when we learn that some philanthropic groups spent relatively little money on the wounded while collecting millions.

According to an article in last December's Washington Post, the American Institute on Philanthropy reported that 20 to 29 military charities that were studied were managing their resources poorly, paying high overhead costs and direct mail campaigns and excessive salaries. The Institute gave Fs to 12 of the 29 military charities reviewed and Ds to 8. That is nearly a 70 percent failure rate.

According to the same article, one of the most egregious failures is Help Hospitalized Veterans, founded in 1971 by Roger Chapin, who belatedly has decided to cooperate with the committee and present his testimony today. And I am very pleased that Mr. Chapin has come forth.

Mr. Chapin, as president of Help Hospitalized Veterans, we understand you received $426,000 in salary and benefits, and your wife received an additional $113,000. Mr. Chairman, I don't want to begrudge anyone earning a livable wage or profiting from their endeavors, but profiting in excess on the backs of those who are in need does not strike me as very American or at least the way Americans view themselves. Such practices do not benefit veterans, veterans' organizations, nor the public at large and don't speak well of us as a society.

So I look forward to your testimony, Mr. Chapin. But what I have read about these charities appears to me to represent a pat-

tern of decades of abuse, maybe not in law, but in the spirit of charitable enterprises.

Thank you again, Mr. Chairman, and I yield my remaining time.

Chairman WAXMAN. Thank you, Ms. Watson.

Mr. Bilbray.

Mr. BILBRAY. Mr. Chairman, I thank you for holding this hearing.

As you know, San Diego County is ground center when it comes down to veterans and active duty military. And this issue is obviously a very important issue to the community of San Diego.

The fact is that Mr. Chapin served for 6 years as one of my constituents during my previous stint in Congress. Though I have no personal knowledge of his involvement with veterans' organizations of any kind, I did have the opportunity to work professionally with him on an issue that I think you agree strongly on, Mr. Chairman, and that was to perpetuate a national program of health prevention. Because of my previous personal relationship with Mr. Chapin I will not be asking him any questions today.

But I do appreciate the fact that this hearing is being held and that we get these issues. At that, I will yield back, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Bilbray.

Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman. I want to thank the chairman and the ranking member for their persistence in investigating these questionable fundraising practices, especially given the fact that Mr. Chapin resisted the first subpoena.

No. 1, I think that it is disgraceful that anyone might capitalize on the good will and the support of the American people to support our men and women in uniform for their own personal benefit. As have many of the members on this committee, I have just come back from my seventh trip to Iraq. I have been in Afghanistan quite a few times as well. To see the sacrifice of our men and women in uniform close up and on a daily basis, having been to Walter Reed Army Medical Hospital far too many times to visit our soldiers, it is disgraceful that anyone would capitalize on those circumstances and on the goodwill of the American people to rally behind our troops for ulterior motives.

I think it is a disservice to the memory of those who have made the ultimate sacrifice on behalf of our country, both in Iraq and Afghanistan. I think it is a disservice to those brave Americans who continue their brave service. I think it is a disservice as well, and most dangerously, to the legitimate veterans' support organizations that are out there who are legitimate, who are operating transparently, and who are trying to do their very best on behalf of our veterans. Because I fear that when the facts of these irregularities come out and the circumstances that we are investigating today, that Americans might grow hesitant or reluctant to support certain charities, even though their programs are up to snuff and are legitimate and are intended and used for the best interests of veterans and their families.

So Mr. Chairman, since Mr. Chapin resisted the last subpoena, I am eager to hear his testimony, as you said, to hear his side of the story. I yield back.

Chairman WAXMAN. Thank you very much, Mr. Lynch.

Mr. Sali.

Mr. SALI. Nothing at this time, Mr. Chairman.

Chairman WAXMAN. Mr. Burton.

Mr. BURTON. I have no questions.

Chairman WAXMAN. Opening statement?

Mr. BURTON. No opening statement.

Chairman WAXMAN. Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. Let me thank you and Mr. Davis for bring us together again around a very, very important issue.

The American people are a very generous people. And they are willing to give to help those in need, and I think the American people are especially concerned about our veterans and those who have served our country overseas and their families, who have made sacrifices, many of whom return here wounded and deserve all the support that we can possibly give them.

And I hope out of these hearings two things will emerge. One is, we need to make sure that the American people have confidence that when they are giving to organizations, non-profits, that serve our veterans, that their money really is going to benefit the veterans, and that the money is not going instead to benefit just those organizations and the people who are involved in raising the money. Because having that confidence is very important. We want the American people to continue to give and support our veterans, and they need to have a confidence that when they make that contribution, it is in fact going to the people that they want to support, the veterans.

Of course out of that we are also helping the veterans, because the whole purpose of making those contributions is to help those who we intend to help. I do think that we need to do a lot more to protect the public that wants to give and at the same time protect our veterans in that process and make sure that they get the benefit of what the American people want to give them.

So I really hope that both in terms of the education process that these hearings provide, but also if we can look at other measures that we might take to make sure that people have to fully disclose how much of what they raise goes to the veterans, and how much goes simply to finance the operations of the non-profit and to benefit those who are running the non-profit instead of the veterans, so that the American people can make sound choices about how best to help our veterans, as we go forward.

So I thank you, Mr. Chairman, for holding these hearings.

Chairman WAXMAN. Thank you very much, Mr. Van Hollen.

Mr. Tierney.

Mr. TIERNEY. I have no opening statement, Mr. Chairman. I think we should proceed and I appreciate the work that you are doing here.

Chairman WAXMAN. Thank you.

Mr. Yarmuth.

Mr. YARMUTH. Thank you, Mr. Chairman.

I would just like to reinforce the comments that have been made concerning our resolve to make sure that veterans are paid all the respect that they deserve and they are not exploited. I have been in the private sector running businesses and I have been involved

with a lot of legitimate non-profit organizations. Some clearly operate as public services and some clearly operate as businesses. Unfortunately, we have seen too many instances here where organizations look a lot like businesses and are using our veterans as basically a raw material and a marketing tool.

And I think that is what we are all concerned about, uncovering and correcting if that is the problem. So I thank you for this hearing and I look forward to the testimony of the witnesses. I yield back.

Chairman WAXMAN. Thank you, Mr. Yarmuth.

Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

I know we are all anxious about whether there needs to be stricter regulation of charities to see how they spend their money. I would just say this. I think that any charity has a duty and obligation, they have a trust that is being placed in them when they go out and they make their pitch. But it seems to me that charities that serve our veterans have an extra obligation because there is a deeper trust placed in them, a broader trust than with respect to just about any other charitable endeavor.

So the standard, the expectation is even higher in this arena. And I think that is why we are here today for this hearing.

I look forward to hearing this testimony and asking the questions that need to be asked.

Chairman WAXMAN. Thank you very much.

Mr. Issa, your opening statement?

Mr. ISSA. Thank you, Mr. Chairman. I will be very brief.

One is an administrative matter that I hope to air, in the spirit of doing better in the future. Mr. Chairman, there is a developing pattern that I object to, that we think we are ready for a hearing, but in fact rather than 3 days before the hearing receiving the scope and the intention, which obviously the people testifying today have to be equally informed of why we brought them here and what we expect, the Members on the dais need it.

So once again, we received a draft supplement last night and to this moment have not, even though it is in the record, have not received our official copy of that statement. It is an administrative matter. I realize that although your leadership is critical, that it is a staff matter, that in the future, I will have to object if we don't have legitimate statements from the majority 3 days before. Otherwise, I will have to ask, at least attempt, to postpone hearings until we have that.

And I would hope that now is the right time to say it for future hearings, because I want these hearings like this one, which is very bipartisan, to be about getting to the meat of it. And 3 days is not a lot to ask for to make sure our staff is prepared as much or more than anyone else here on the dais.

Chairman WAXMAN. Thank you, Mr. Issa. I will take your concerns into consideration.

Mr. ISSA. I appreciate that, Mr. Chairman.

Chairman WAXMAN. I have been informed that there was a distribution of the memo 3 days in advance. Was that to Members? Well, rather than——

Mr. ISSA. We will deal with this offline.

Chairman WAXMAN. You raise a good point, and we will try to make sure that we do better.

Mr. ISSA. And then in order to get to our panel, I just want to add one thing, that between the first go-round on this, in which I spoke, like many of us here on the dais, very strongly as a veteran about how bad it is that you are using people who have been injured in their service to our country as a way to often line the pockets of individuals who have no interest in that, I would hope when we conclude this that we also expand this. Because ever since the first hearing, my office has been widely informed of other abuses, abuses very similar to the veterans' ones, dealing with the homeless, dealing with food banks, and dealing with environmental groups.

I would hope that we use this as a springboard for a broader reform of the whole charitable giving, versus the lining of pockets of those who solicit. I know that is a bipartisan effort that we can do, and I would, once again, hope that we would do it. I look forward to completing this cycle though, because we need to get to the bottom of it and find real solutions so that fundraisers not prey upon our veterans.

With that, I yield back and thank the chairman for this hearing.

Chairman WAXMAN. Thank you, Mr. Issa.

We have before us Roger Chapin, from San Diego, CA, who operates several different veterans' charitable organizations.

Richard Viguerie is president of American Target Advertising, a direct mail business located in Manassas, VA.

Geoffrey W. Peters is president of Creative Direct Response, a direct mail business, located in Bowie, MD.

Belinda J. Johns, senior assistant attorney general for the State of California. She heads the Charitable Trust Section of the California Attorney General's office.

We are pleased to welcome each of you to this hearing today. Your prepared statements will be made part of the record in its entirety. What I would like to ask each of you to do, because it is the practice of this committee that all witnesses testify under oath, is if you would please rise and raise your right hands.

[Witnesses sworn.]

Chairman WAXMAN. The record will indicate that each of the witnesses answered in the affirmative.

As I indicated, the statements will be in the record in full if you submit it to us. For your oral presentation, we are going to limit the presentation to 5 minutes. We will have a timer. It will be green during the 5-minute period and it will turn yellow in the last minute, and then red when the 5-minutes are up. When the red appears, we would like you to conclude your statement.

Mr. Chapin, there is a button on the base of the mic that is in front of you to turn it on, and I would like to hear from you first.

STATEMENTS OF ROGER CHAPIN, PRESIDENT, HELP HOSPITALIZED VETERANS, INC. AND COALITION TO SALUTE AMERICA'S HEROES FOUNDATION; RICHARD A. VIGUERIE, CHAIRMAN, AMERICAN TARGET ADVERTISING, INC.; GEOFFREY W. PETERS, CHAIRMAN, CREATIVE DIRECT RESPONSE; AND BELINDA J. JOHNS, SENIOR ASSISTANT ATTORNEY GENERAL, CHARITABLE TRUSTS SECTION, CALIFORNIA ATTORNEY GENERAL'S OFFICE

STATEMENT OF ROGER CHAPIN

Mr. CHAPIN. Mr. Chairman, Representative Davis, members of the committee. On November 26th, the committee sent us a letter requesting the voluntary production of thousands of documents, and inviting me to testify at a hearing 16 days later, on December 13th. I was consumed with our third Road to Recovery Conference in early December, an inspiring event where we invite severely wounded heroes from the War on Terror and their families to Walt Disney World at our expense.

Because of the conference, because my wife was recovering from back surgery, because we had moved out of our home for scheduled renovations and because I did not have time to prepare, I declined the committee's invitation to appear. I have written a personal letter of apology to Mr. Waxman and Mr. Davis for the inconvenience I caused the committee. I have done what I can to make it clear that so long as I have adequate time to prepare, I have no problem cooperating with the committee.

I voluntarily appeared for a transcribed interview with the committee staff that took all day Friday. I am proud to report that Help Hospitalized Veterans [HHV], which I founded in 1971, has generated $470 million in donations and distributed $362 million worth of products and services based on their market value. This represents 77 percent of total donations, proof positive that HHV does right by its donors, as long as they are hospitalized vets. HHV has distributed 23 million craft kits and millions of greeting cards signed by donors helping boost the morale of hospitalized veterans.

Charity Navigator, the leading internet charity rating service, gave HHV two stars, the same as numerous well-respected charities, including the American Cancer Society, American Diabetes Association, National Wildlife Federation, the Boy Scouts, the YMCA, VFW and Paralyzed Veterans of America. Special Olympics only got one star. You might say HHV is in very good company.

The Coalition to Salute America's Heroes has distributed over 3,000 $500 Christmas gift checks to needy, disabled War on Terror veterans and their families, in addition to helping over 6,000 families with direct emergency cash assistance, hosting over 1,200 disabled veterans and their family members in our life-changing 4-day all-expense-paid Road to Recovery conferences at Disney World, providing six nearly cost-free homes to catastrophically disabled vets, assisting hundreds in finding jobs, furnishing counseling to many more, and picking up the travel expenses of many families visiting their wounded loved ones in military hospitals.

The bottom line on direct mail is that if you disregard allocations for educational and programmatic content, direct mail generally nets us approximately 35 cents on the dollar and administration

costs generally average another 10 percent. That is true for my charities, and it is true for the thousands of charities in the United States that raise $60 billion annually by direct mail, although most other charities have higher direct mail costs than we do. The same numbers apply to political fundraising by direct mail, and also to State lotteries who raise tens of millions of dollars.

Throughout my life, I have endeavored to do well for my family while I try and do some good in this world. I have been working for HHV for 21 years, 8 of those as a volunteer, before HHV's board paid me more than $74,000 a year. In 1993, the first year I made over $100,000 in salary, I was 60 years old and I had no retirement plan. I am grateful that HHV's board voted for a retirement plan in 1998, benefiting me and other full-time employees. Because I was 66 when the plan began, HHV had to make very high annual contributions to fund my retirement benefits. I am grateful for the board's generosity, but I still make less than the average of non-profit executives of similar-sized organizations.

Before closing, I have one request. I would hope that we can work together in helping to ensure that Congress finally fulfills its solemn obligation to over 300,000 veterans of the War on Terror who are afflicted with PTSD and/or TBI. By the Pentagon's own admission, government hospitals are woefully ill-equipped to treat them, yet the vast majority are still denied the opportunity to seek necessary therapy in the private sector at government expense. I consider this to be a national scandal of the worst sort. I know, Mr. Chairman, that you and the committee have held hearings designed to focus attention on this problem, but Congress still has not appropriated the funds necessary to provide the necessary care.

Thank you, and I look forward to a full and fair opportunity to answer your questions.

[The prepared statement of Mr. Chapin follows:]

STATEMENT OF ROGER CHAPIN

I am pleased to testify before the House Committee on Oversight and Government Reform. As you know, I am passionate about veterans' issues, having been involved with veterans' charities for the last four decades. I am eager to share the significant contributions to the veterans' community of three charities—Help Hospitalized Veterans, Inc., the Coalition to Salute America's Heroes Foundation, and Help Wounded Heroes, Inc. There is much to tell. Before doing so, however, a few words about my absence from the Committee's December 13, 2007 hearing are in order.

As you know, with just sixteen days notice, the Committee invited me as President of Help Hospitalized Veterans to testify at last month's hearing. The timing of the hearing was unfortunate—I had been traveling in Florida for the Coalition to Salute America's Heroes Foundation Third Annual Road to Recovery Conference, my wife was recuperating from surgery, and we were renovating our house in San Diego. I nevertheless promptly hired counsel to represent the organizations and began collecting documents that the Committee requested, but I expected that my testimony would be continued. When I learned that it would not be continued, there simply was inadequate time to prepare for the hearing. I therefore declined the invitation for the reasons articulated to you in the letter dated December 10 from the organization's counsel. I was simply unable in the limited time provided to review the many thousands of pages of documents produced to the Committee and prepare to cover decades of effort in the charitable arena and adequately represent these charities in an important legislative hearing. I know that you subsequently issued a subpoena to compel my attendance and that service was not effectuated because I was traveling when the process server came to my home on December 11 and 12. I regret any inconvenience this might have caused the Committee.

I am happy to assist the Committee in understanding veterans' charities, as evidenced by my presence here today and my cooperation in producing 13,800 plus pages of documents throughout. That said, I would like to discuss the three charities with which I currently work.

I. HELP HOSPITALIZED VETERANS, INC.

A. Help Hospitalized Veterans Has Provided Hundreds of Millions of Dollars Worth of Products and Services to Hospitalized and Homebound Veterans, VA Hospitals, and Military Medical Facilities.

Help Hospitalized Veterans, Inc. ("HHV"), is a non-profit entity organized and operated pursuant to § 501(c)(3) of the Internal Revenue Code exclusively for charitable and educational purposes, under the direction of a five-member board of directors. Its primary mission is to distribute therapeutic arts and crafts kits and other recreational items free of charge to wounded and disabled veterans recovering in veterans' and other military medical facilities.

I founded HHV on April 14, 1971. It is incorporated in the State of California and has its principal place of business in Winchester, California. HHV presently provides craft kits and other products to 288 veterans and military medical facilities throughout the world. From inception through fiscal year 2007 (July 31, 2007), HHV has received $470.7 million in cash

contributions and donated a total of 22.8 million craft kits. Assuming that on average each kit requires 2.5 hours to complete, HHV's kits translate into 57 million hours of entertainment, therapeutic, and rehabilitative value. The total retail value of the kits (including postage) and its other donated goods—excluding gifts-in-kind (which themselves total $58.3 million), total $362.6 million in retail value. In fiscal year 2007 alone, HHV provided 800,014 craft kits to hospitalized veterans and 39,003 other gifts (i.e., computers, WebTV and Internet systems, flags, models, craft kits, wood kits, leather kits, etc.) to homebound veterans—all free of charge.

HHV's craft kits are recognized as a crucial component of veterans' rehabilitation and recovery. As former Secretary of Veterans Affairs Anthony J. Principi stated:

> At VA, we are very grateful to HHV for providing programs that have proven therapeutic value and play a very important role in veteran rehabilitation. I truly believe these products are beneficial to recovering service men and women.

See Letter from Secretary of Veterans Affairs Anthony J. Principi to Col. Stephen McGuire, USAF, Army Reg'l Med. Ctr. (Landstuhl, Germany), at 1 (Apr. 30, 2004).

The craft kits help restore coordination and motor skills to wounded and disabled veterans whose function is impaired. They provide much-needed diversion and entertainment to veterans who are confined in hospitals for extended periods of time. They provide a sense of accomplishment to veterans and reaffirm their ability to accomplish meaningful tasks. Many VA physicians prescribe HHV's craft kits as an integral part of veterans' rehabilitation regimens. The most popular kits are the leatherworking kits, allowing veterans to craft moccasins, wheelchair pouches, eyeglass holders, wallets, and purses, as well as the plastic and metal model kits, through which veterans build model stock car racers, tanks, military aircraft, and soldiers. Today we offer some 350 different kits.

HHV also employs 51 Craft Care Specialists ("CCSs") to work in VA and military Hospitals to assist veterans in selecting and completing their craft kits. A CCS is a key member of a hospitalized veteran's interdisciplinary therapeutic team. He or she maintains a close working relationship with the veteran's medical caregivers to assist them in assessing the veteran's condition, participate in developing the veteran's program for rehabilitation, recommend crafts kits appropriate for the veteran's condition and skill level, help the veteran to complete craft kits, and modify the kits as necessary to conform to the veteran's abilities. CCSs often develop close ties with the veterans they serve, providing meaningful interaction and boosting their morale. They also conduct arts and crafts workshops.

Health Care Data, Inc. ("HCD") studied the efficacy of HHV's craft kits in 13 VA hospitals and state veterans' homes from August 1996 through September 1999. It concluded that the kits and CCSs enjoy "a positive response rate of 98.6%" by hospitalized veterans. It further found that after using the craft kits 48% of veterans showed functional improvement, 45% had improved attention spans, and 51% had better motivation.

In addition, HHV operates a Volunteer Recruitment Program that, in calendar year 2006 alone, was responsible for providing the VA with 469 regularly scheduled volunteers who

provided over 94,000 hours of service (with an estimated value of over $1.6 million), according to statistics provided by the VA's Director of Volunteer Service. Many of these volunteers are recruited through our direct mail programs. While the VA has yet to report its official statistics for this year, HHV estimates that the number of volunteers and volunteer hours for which it was responsible increased by 10-to-15%. Due to its extraordinary efforts, the VA appointed HHV to the Executive Committee of its Voluntary Service; HHV also is a member of the Service's National Advisory Committee.

HHV participates in or co-sponsors several other programs to ease veterans' recoveries. Since its inception, HHV has provided a total of over $750,000 to co-sponsor the National Veterans Creative Arts Festival, $250,000 to co-sponsor the National Veterans Golden Age Games, and $10,000 to co-sponsor the TEE Golf Tournament for blinded veterans. It also has provided over a half million dollars to fund performances at VA hospitals by the entertainment group "Re-Creations, USA." In addition, over the past two years HHV has donated $400,000 each year to the Wounded Warrior Ministry ("Chaplain's Closet") program at the Army Regional Medical Center in Landstuhl, Germany, which provides clothing, toiletries, and shoes to American soldiers injured in combat in Iraq and Afghanistan.

B. Hospitalized Veterans and VA Hospital Staff Are Deeply Appreciative of HHV's Charitable Works.

Thousands of hospitalized veterans have taken the time to thank HHV for its craft kits, and the following excerpts come directly from thank you letters the organization received:

- "I would like to thank you for the many projects that I receive thru Help Hospitalized Veterans programs. It has helped me develop new hobbies to keep my mind busy and off my problems. . . . Without this program I would have more problems with my anxiety and depression."

- "[HHV's program] helps very much in my recovery and treatment from the therapeutic nature of the craft kits and other services . . . For people as myself who is lonely [sic], the program is a very important part of my program and recovery and staying sober which is the goal in my life."

- "[HHV's programs] are super! In particular, the craft kits are awesome. They have help me [sic] recapture my love for creativity and making neat stuff." (emphasis in original)

- "I am disabled and I have found that by doing a craft kit my mind isn't dwelling on the pain that I still have."

- "[Craft kits] have been a vital part of my rehab therapy. It can get very depressing and boring day after day but the crafts give me something to look forward to."

- "I would like to thank everyone involved with Help Hospitalized Veterans for the great work you've done in providing me and my fellow Vets with these great programs."

- "I want to say 'God Bless Help Hospitalized Veterans.' Thank you for remembering our vets."

The staff of VA and other military and veterans' hospitals also has expressed their appreciation for HHV's craft kits.

- "I can tell you first hand the value of the donated craft kits to our veterans. Not only do these craft kits provide[] beneficial and therapeutic interventions to our hospitalized veterans, they seem to be especially touched by the fact that these kits have been donated to them by individuals throughout the country."

- "I just want to sing my praises for the many wonderful things that HHV does for veterans and their families. . . I can't begin to tell you how having craft kits available for our veterans to occupy their time while here is so very beneficial and has such a healing impact."

- The Director of the Medical Center in Battle Creek Michigan emphasizes that "[t]he therapeutic value for our veteran population" of HHV's craft kits "is immeasurable."

- "Since receiving your craft kits over the years I have noticed a tremendous positive change in our Veterans. Help Hospitalized Veterans ha[s] improved the quality of our Veterans."

- "I would like to express my gratitude for the generosity of those that contribute to HHV Program. This program helps in so many ways! Not only does it give each patient something to get up for or look forward to doing in their day in the hospital, it's also a form of therapy."

- "Thank you very much for your very essential support to our facility. HHV makes a significant difference in the lives of our veterans!"

C. HHV Has Received Many Awards and Recognitions for its Programs and Services.

The testimonials above speak to the quality of services HHV provides, as do the more than 140 awards and recognitions bestowed upon the organization over the years. VA medical centers across the country have awarded HHV more than 100 certificates of appreciation, and the VA has awarded the organization its Secretary's Award on 14 occasions. On 4 occasions mayors of San Diego (Maureen O'Connor, Pete Wilson, and Susan Golding) and the mayor of Temecula, California (Steven Ford) have issued proclamations concerning the organization. The organization received special recognition on its 25th anniversary from the White House, United States Senators Alan Simpson and Bob Dole, the Secretary of Veterans Affairs, and Health Care Data Corporation. It received a 30th anniversary plaque from the American Veterans Award Show.

The American Legion Ladies Auxiliary awarded HHV both the President's Award and the President's Appreciation Plaque. The organization has also received recognition awards, appreciations, or commendations from the Department of Defense, Disabled American Veterans, VA, and VA Voluntary Service. Other special awards include The Boy Scouts of America's Award of Excellence, the Hobby Industry Association's President's Award, the Chapel of Four Chaplains' Humanitarian Award, the VA Medical Center of San Diego's Outstanding Service Award, and the Ernest Borgnine Spirit Award.

HHV has also been a strong supporter of the National Veterans Creative Arts Festival, the annual art show which is "the culmination of talent competitions in art, creative writing, dance, drama and music for veterans treated in the Department of Veterans Affairs (VA) national health care system,"[1] and the National Veterans Golden Age Games, the "premier senior adaptive rehabilitation program in the United States[] and . . . only national multi-event sports and recreational seniors' competition program designed to improve the quality of life for all older veterans."[2] HHV has received 7 different awards for its support of the National Veterans Creative Arts Festival, including the Gold Medal Sponsorship Appreciation Plaque, and it has received 3 different awards for its sponsorship of the National Veterans Golden Age Games, including the Silver Medal Sponsorship Glass Plaque Statuette.

D. HHV Uses the Funds It Raises Efficiently.

HHV dedicates a high percentage of its revenues to charitable causes. In the tax year ending July 31, 2006, HHV received a total of $70.5 million in revenues, including $48.5 million in cash donations and approximately $22 million in gifts-in-kind. *See* VETS001018.[3] Of this, it dedicated almost $47.2 million in cash and gifts-in-kind to program services—including approximately $8 million to arts and crafts kits, $37.6 million to veterans' awareness programs, and $1.6 million to Craft Care Specialists, *see* VETS001021—and only $19 million to fundraising, *see* VETS001018. Thus, fundraising consumes only about 27% of HHV's revenues, while HHV spends almost 67% of its funds on program services such as providing crafts kits and other products to hospitalized veterans, co-sponsoring programs for veterans, hiring craft care specialists to work with veterans, raising awareness of veterans' issues, encouraging the public to volunteer at VA facilities, and fostering the development of pen-pal relationships with veterans.

HHV's fundraising costs are well within the Better Business Bureau's Wise Giving Alliance Standards for Charity Accountability ("BBB Standards"), which are intended "to ensure that the charity spends its funds honestly, prudently, and in accordance with statements made in

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1 2008 National Veterans Creative Arts Festival Fact Sheet, www1.va.gov/vetevent/caf/2008/ Default.cfm.

2 2007 National Veterans Golden Age Games Fact Sheet, www1.va.gov/vetevent/gag/2007/Default.cfm.

3 All references to "VETS" numbers are to the voluntary document production HHV tendered in response to the Committee's November 26, 2007 and December 13, 2007 requests.

its fund raising appeals."[4] The BBB Standards direct charities to "[s]pend at least 65% of [their] total expenses on program activities." Based on the data in HHV's Form 990 for Fiscal Year 2006, HHV satisfies this benchmark, with approximately 67% of its expenses funding program activities. The BBB likewise recommends that charities not spend "more than 35% of related contributions on fund raising." Again, HHV easily satisfies this requirement because only 27% of its revenues are dedicated to fundraising expenses. The BBB presently is reviewing HHV's financial paperwork to certify that HHV complies with these standards.

HHV has excelled under other entities' evaluative guidelines as well. Charity Navigator ("CN"), for example, is "the nation's largest and most-utilized evaluator of charities."[5] CN studies how responsibly charities function on a day-to-day basis, and how well positioned they are to sustain their programs over time. Under CN's strict criteria, HHV was ranked as highly (2 stars) as numerous other well-respected, *bona fida* charities including the American Cancer Society, the American Heart Association, the Boy Scouts of America, the National Wildlife Federation, and the Paralyzed Veterans of America. HHV was ranked higher than household-name charities like Special Olympics, YWCA of the USA, Covenant House, and Arthritis Foundation. Thus, HHV does not use an unusually disproportionate or high share of its revenues for fundraising.

HHV is proud that its fundraising costs and program expenses satisfy the evaluative guidelines of groups such as the BBB and CN, but it nevertheless understands that its real value as a non-profit organization is properly measured by the quality program services it provides to our disabled and hospitalized veterans. Its value, like the value of any charity, cannot be measured simply by mathematical calculations like fundraising expenses as a percentage of contributions, or program expenses as a percentage of total expenses. As the Supreme Court has recognized, a variety of factors (i.e., the organization's age, size, charitable mission, and popularity) effect how "efficiently" a charity operates,[6] and it would therefore violate the First Amendment to conclude that an organization is not fulfilling its charitable purpose based solely upon statistics.[7]

E. HHV's Fundraising Costs Are Properly Accounted For Under AICPA Standards and Generally Accepted Accounting Principles.

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4 www.give.org/standards/newcbbbstds.asp.

5 *See* www.charitynavigator.org/index.cfm?bay=content.view&cpid=628.

6 *See Riley v. Nat'l Fed. of the Blind of N.C., Inc.*, 487 U.S. 781, 793 (1988) (small and unpopular charities have higher fundraising expenses); *Secretary of State of Maryland v. Joseph H. Munson Co., Inc.*, 467 U.S. 947, 966 (1984) (unpopular organizations or organizations committed to the dissemination, discussion, and advocacy of public issues have higher fundraising costs); *Village of Schaumburg v. Citizens for a Better Envir.*, 444 U.S. 620, 635-36 (1980) (organizations seeking to disseminate information and advocate positions of public concerns have higher nonprogram-related expenses).

7 *See Riley*, 487 U.S. 781; *Munson*, 467 U.S. 947; *Village of Schaumburg*, 444 U.S. 620.

HHV classifies a portion of the expenses it incurs in its voluminous mailings as "fundraising" costs and the rest of those expenses as either "program-related" or "management/general" costs. The procedure HHV uses to allocate its direct-mail expenses among these categories is not only consistent with, but is affirmatively mandated by, Generally Accepted Accounting Principles ("GAAP")—specifically American Institute of Certified Public Accounts ("AICPA") Statement of Position 98-2. *See* Am. Inst. of Certified Pub. Accountants, *Statement of Position 98-2: Accounting for Costs of Activities of Not-for-Profit Organizations and State and Local Governmental Entities That Include Fund Raising* (Mar. 11, 1998) ("SOP 98-2,"); *see also* David J. Harr, Ph.D., CPA & Robert H. Frank, M.S., CPA, *A Guide to Implementation of the New Standard for Costs of Activities That Include Fundraising*, Philanthropy Monthly (May 1998).

SOP 98-2 sets forth the procedure for properly accounting for so-called "joint activities," in which a non-profit entity performs an act, such as sending out a direct mailing, that is intended to both raise funds and motivate direct action on the part of the public to further the entity's goals (i.e., encourage the public to volunteer at VA hospitals or to send cards and letters to veterans thanking them). Under the AICPA's standards, if a joint activity meets certain criteria regarding its purpose, intended audience, and content, then its cost "should be allocated between fund raising and the appropriate program or management and general function." Statement 98-2, at 11. The AICPA further directs non-profits to specify in the notes accompanying their financial statements the portion of their total joint activity costs that they "allocated to each functional expense category." *Id.* at 20. The Internal Revenue Service Form 990 expressly incorporates SOP 98-2, containing a subsection of Part II entitled "joint costs" in which the charity must affirm that it is following SOP 98-2's allocation principles and identify the aggregate amount of its joint costs that were allocated to program services, fundraising, and management and general.[8]

HHV's public filings and financial statements comply fully with the AICPA's rules and GAAP. Most of its mailings not only attempted to raise funds, but also sought to educate members of the public about the plight of hospitalized veterans and encourage them to take direct action by volunteering at VA hospitals and writing to them. For example, although a mailing from July 6, 2002 solicited funds to provide additional craft kits for hospitalized veterans, it went on to provide extensive information about volunteering at VA hospitals. It stated:

> The Department of Veterans Affairs nationwide will have nearly 64,000 patients in its medical centers and nursing homes tonight and over a quarter of a million

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[8] The IRS recently proposed modifying the Form 990 to eliminate this subsection, but its proposal met significant criticism. Among the critics is the American Institute of Philanthropy ("AIP") which testified before the Committee on December 13, 2007. In the letter from its president, AIP stated that elimination of the SOP 98-2 reporting requirement was a "glaring change" that could have "sweeping and long-lasting effects." *See* Daniel Borochoff Letter to Internal Revenue Service (July 20, 2007).

veterans will visit VA Outpatient Centers this week alone. These are our nation's veterans who have served us by protecting our freedom.

You are invited to become a part of the VA health care team as a Volunteer at a Veterans Affairs (VA) Medical Center near you.

Each year thousands of people like yourself are providing millions of hours of health care service to our veterans. Without the help of volunteers, the VA could not provide the quality of health care it offers America's 30,000,000 veterans.

The gift of giving can make a real difference to our veteran patients.

Your skilled hands and warm heart are needed by our patients to heal, progress, and be comfortable. Through the partnership of dedicated employees and caring volunteers their needs are being met.

As a VA volunteer you can experience meaningful assignments throughout the Medical Center, as well as in satellite and community outreach locations at times convenient for you.

Careful attention is given to matching the skills and abilities of the volunteer to the varied needs of our medical centers.

The Medical Center provides complete training, uniforms, career exploration, meals and health screenings.

VA staff appreciate volunteer contributions and express their gratitude through a variety of recognition awards.

And most of all, you have the opportunity to make a difference in the lives of our nation's hospitalized veterans. Other benefits derived from volunteering are the many opportunities to use skills, network with health care professionals, socialize and become a member of the largest single health care 'team' in the world.

Men and women from teens to nineties are volunteer partners on the health care team. Some bring skills and knowledge, while others bring a desire to explore and learn. Many come with a gift for working directly with patients while others bring dependability to assignments behind the scenes.

All come bearing the greatest gift of all—themselves.

Please call HHV at (888) 567-VETS and find out how you can start helping as a volunteer or use our e-mail address of hhv@hhv.org.

These appeals have produced substantial results. As mentioned, HHV's Volunteer Recruitment Program was responsible for providing the Department of Veterans' Affairs with

469 regularly scheduled volunteers who provided over 94,000 hours of service in calendar year 2006 alone.

The same mailing also included extensive information about corresponding with veterans in hospitals:

> Over the years, many pen-pal relationships have begun as a result of our Correspondence/Postcard Program. More importantly, through these HHV programs, veterans are reminded that our nation appreciates them and their tremendous sacrifices.
>
> If you would like to brighten the day in the life of a hospitalized veteran, please contact HHV. Or you can simply respond to the postcard you may receive from a hospitalized veteran.
>
> Through our Correspondence Program, you can send your encouragement to veterans like Richard Lunsford and Dick Pecha.
>
> Vietnam era veteran Richard Lunsford received a response to a thank you note he had written to a supporter of hospitalized veterans. "What makes this note especially touching is that Mr. Lunsford was scheduled for brain surgery the following morning after receiving Mrs. Caldwell's card," wrote Recreation Therapist, Lynne Smith. "She had no knowledge of his physical situation. He felt very comforted by this timely message. Both Richard and I were moved by her kindness in taking time at this busy time of year to write someone she did not know."
>
> Dick Pecha is wheelchair-bound. One day after Dick received an HHV Craft Kit, he proceeded to write a thank you card to the donor. He noticed that the address of the donor was nearby, so he decided he wanted to personally thank the donor and hand-deliver the thank-you card. Using his wheelchair, Dick took a bus to the donor's house and wheeled himself to the front door. A frail lady answered the door. Dick introduced himself and showed her the card, saying, "I just wanted to thank you personally." The lady was surprised, shocked and thrilled and the smile on her face was priceless. Dicks says it makes him feel like he was 10 feet tall. Whenever he's feeling down, he thinks of that moment and her smile and it lifts his spirits.
>
> Please remember, we encourage you to correspond with our hospitalized veterans. These heroes need to know they have not been forgotten by their fellow Americans.

VETS002988. HHV repeated messages such as these in many of its mailings.[9]

Because mailings such as the one above requests a donation and contains communications advocating direct action, HHV's public filings and financial statements account for a mailing's expense as part fundraising expense and part program expense, as SOP 98-2 requires. HHV further identifies the breakdown detailing exactly how the cost of its joint activities is allocated among its functional categories. *See, e.g.*, VETS001045. Thus, HHV accurately has disclosed its actual fundraising costs. Entities that challenge HHV's accounting methodology, such as Daniel Borochoff's American Institute of Philanthropy, do so only by disregarding generally accepted accounting principles to which HHV is legally and ethically bound to adhere. Moreover, it actually misrepresents an organization's operations to not allocate to program expenses the portions of direct mail (i.e., joint costs) that are in fact program expenses.

HHV classifies 60% of the cost of its mailings as "fundraising," and the remaining 40% as "program-related," "management," and "general." It classifies a much higher percentage of its joint activity costs as fundraising than other major veterans' charities. According to public filings, in the year ending August 31, 2005, the Veterans of Foreign Wars ("VFW") acknowledged 42.06% of its joint-activity costs as fundraising. In the year ending September 30, 2006, the Paralyzed Veterans of America characterized 50.48% of the cost of its outreach efforts as fundraising. For the year ending December 31, 2006, the Disabled American Veterans ("DAV") allocated 45% of its joint costs as fundraising. Thus, HHV acts conservatively, allocating a higher percentage of its joint activity costs to "fundraising," 60%, than many other veterans' groups, which further demonstrates that it is implementing SOP 98-2 legitimately and in good faith.[10]

F. My Compensation is Comparable to that Received by Executives of Similar Charities and Consistent with Nonprofit Good Governance Requirements.

I founded HHV, and I currently am its president and one of its directors. I have headed the organization for 36 years, and my salary has grown from when HHV first started. For the tax year ending July 31, 2006, HHV paid me a $250,000 base salary and a $50,000 performance-

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9 *See, e.g.*, VETS002547, VETS002562, VETS002568, VETS002575, VETS002582, VETS002588, VETS002625, VETS002637, VETS002643, VETS002664, VETS002670, VETS002684, VETS002703, VETS002717, VETS002720, VETS002732, VETS002781, VETS002803, VETS002806, VETS002823, VETS002855, VETS002860, VETS002881, VETS002904, VETS002974, VETS003002, VETS003009, VETS003017, VETS003025, VETS003033, VETS003041, VETS003048.

10 The economics of direct mail fundraising in non-profit charities is not unlike the economics of political direct mail. "[Political] direct mail can cost from 50 cents to 90 cents for every dollar it brings in." M.A. Engle, "Can New Technology Beat the Old Campaign Finance System" Capital Eye Newsletter (Spring 2001), www.opensecrets.org/newsletter/ce75/technology.asp.

based bonus[11] (collectively referred to as "total cash compensation"), and made $126,434 in contributions to HHV's retirement fund. *See* VETS001023. I do not receive any additional payments for my service on HHV's Board of Directors.

Neither my salary nor my retirement contributions are excessive. My total cash compensation is comparable to executives of other non-profits. The *Chronicle of Philanthropy* conducted a survey in 2006 of 400 non-profit organizations, to which 249 groups responded, concerning executive compensation. *See* Noelle Barton & Peter Panepento, *Executive Pay Rises 4.6%*, Chron. Philanthropy, at 1 (Sept. 20, 2007). The survey revealed that the median total cash compensation of the groups' chief executives was over $315,000, *see id.*, which exceeds my annual compensation of $300,000. My total cash compensation also is fully consistent with all applicable IRS requirements. *See, e.g.*, 26 U.S.C. § 4958(c)(1)(A).

In May 2005, HHV commissioned an independent study by Intecap to determine the reasonableness of the salaries of HHV's top executives, including myself. Intecap concluded, "when compared to executives at both for-profit and non-profit organizations, it is apparent that the compensation paid to Mr. Chapin . . . falls within an acceptable range. . . . Mr. Chapin's compensation as a percent of operating expenses is near the middle of the range for executives at like-sized for-profit and non-profit organizations." Intecap, *Compensation Study* 16 (May 15, 2005).

The contributions to HHV's retirement fund are higher than typically would be expected because, although I have served as HHV's President for 36 years, the Board did not establish a retirement plan for me until the early 1990's. The current retirement plan was not created until 1999. According to HHV's actuary, had HHV's Board began funding my retirement plan when I became President in 1971, my annual contribution for 2006 would have been only $45,284. But the retirement plan was not established at that time so HHV, in effect, has to "catch up" for the decades in which no retirement program was funded.

My total salary, even including bonus and retirement contributions, is not a drain on HHV's resources; it represents less than 1% of HHV's $70.5 million in revenues. *See* VETS001018. Charity Navigator's 2007 study of over five thousand of the nation's largest charities reveals that "CEO compensation accounts for . . . 3.37% of the average organization's spending." Charity Navigator, *2007 CEO Compensation Study* (Aug. 1, 2007). My total cash compensation, in contrast, constituted only .62% of HHV's expenditures. Thus, there is no valid legal or empirical basis for attacking my compensation package.

II. COALITION TO SALUTE AMERICA'S HEROES FOUNDATION

The Coalition to Salute America's Heroes Foundation ("Coalition") is a four-year-old non-profit entity organized and operated pursuant to § 501(c)(3) of the Internal Revenue Code exclusively for charitable and educational purposes, under the control of a five-member board of

[11] The bonus was actually for two-years—2005 and 2006.

directors (two seats recently became vacant and a search for replacements is underway). Its primary mission is to provide financial and in-kind assistance to wounded and disabled veterans of the Iraq and Afghanistan conflicts.

A. The Coalition Has Provided Much-Needed Financial Assistance To Wounded and Disabled Veterans in Dire Financial Straits.

I founded the Coalition in 2004. It is incorporated in the District of Columbia and has its principal place of business in Ossining, New York. Since its inception, the Coalition has provided over $11,000,000 in cash and other assistance to over 9,000 severely wounded and disabled veterans to assist with expenses such as mortgage payments, new homes and refurbishing existing homes, rent, car payments, utility bills, telephone bills, and holiday gift checks at $500 each for seriously wounded veterans and their families.

The Coalition has also provided financial support for the veterans' families, sponsored four Road to Recovery Conferences to assist disabled veterans and their families in beginning the process of rebuilding their lives. The Conference offers information regarding veterans' benefits, services, counseling, insurance, healthcare, financial support, career counseling and employment opportunities. Artists such as Toby Keith, Lee Ann Womack and Gary Sinise have surprised attendees with free exclusive concerts. The Coalition also offers Camp C.O.P.E. for the children of severely wounded veterans to aid them in adjusting to their parents' new disabilities.

The Coalition coordinates several other programs, as well. Its Family Support Network pays for veterans' families to visit them in VA and military hospitals and provides computers and Internet service so that hospitalized veterans and their families can keep in touch. Its Wounded Hero Career Network offers disabled veterans career counseling, job search assistance, and online training. In 2006, the Coalition received a gift-in-kind of 1.5 million EZ Score calling cards from HHV, which allowed servicemen and servicewomen free worldwide access to sports scores by providing a toll-free number printed on the card. Two-thirds of the cards were delivered to the USO and included in care packages to overseas troops, and one-third of the cards were delivered to the armed services directly. The Coalition also has a program to employ veterans—they work from home making "thank you" calls to our donors. At present, 40 families are participating; another 70 families are applying. In 2007, the Coalition received a "Best in America" seal of approval from the Independent Charities of America.

B. Veterans Deeply Appreciate the Coalition's Help.

Veterans are extremely grateful for the Coalition's assistance. One sergeant wrote, "I'll never forget the help I received. For this soldier, it's all of you who are the heroes of this great country." An Air Force veteran who was injured in Iraq by an IED stated, "I will never, ever be able to repay you for what you have done." Another Army sergeant explained:

> On November 28, 2004, while on patrol in Iraq I was wounded by an improvised explosive device (IED.). I lost some of the use of my lower left leg and have partial paralysis. After retiring, my wife and I soon discovered that we couldn't

> make ends meet on the pension I was receiving. I sold personal belongings on E-Bay and tried to find work. For the first time in my life I had bill collectors calling me. I felt incredible shame and anger that I wasn't able to provide for my family and I was afraid of losing everything I had worked for. We have three boys: Alex 11, Hunter 5, and Reece 3. . . .
>
> The day I called the Coalition to Salute America's Heroes it was the best move I have made for my family. I called and spoke with [a veterans' care employee]. She was patient and very understanding and she made me feel better when I spoke with her. She told me not to feel embarrassed and that they are there to help soldiers and Marines who are in financial trouble after being wounded or hurt. And she came through on that promise—the Coalition has given us the chance to keep our home. . . . I will never forget the help I received. I was just doing what I was asked to do; all of you did more than you were asked.

Another disabled veteran added, "We have been having a hard time for awhile now, and getting the Christmas check almost made me cry because of the generosity of this organization and the constant support."

C. The Coalition Operates Extremely Efficiently and Accounts for Its Finances Consistent with GAAP and AICPA Principles.

The Coalition dedicates a high percentage of its revenues to its charitable purposes. In calendar year 2006, the Coalition received a total of $26.4 million in revenues, including $5.4 million in cash donations and approximately $21 million in gifts-in-kind. *See* VETS000695. Of this, it dedicated $24.5 million to program services—including approximately $1.2 million for conferences and seminars, $2.6 million for public awareness, and $20.6 million for direct cash grants and gifts-in-kind to veterans, *see* VETS000697—and only $625,000 to fundraising, *see* VETS000696. Thus, fundraising consumes only a tiny fraction of the Coalition's revenues, while it spends nearly all of its resources on program services such as providing cash payments to veterans in danger of losing their homes or having utility services cut off, sponsoring the Road to Recovery Conference and Camp C.O.P.E., coordinating the Family Support Network and Wounded Hero Career Network, raising awareness of veterans' issues, and encouraging the public to volunteer at VA facilities.

In 2007, the Coalition initiated direct mail efforts on its own behalf. Its financial statements and filings for that year will fully comply with generally accepted accounting principles, including AICPA Statement of Position 98-2. *See* SOP 98-2; *see also* Harr & Frank, *supra* at 98. Most of the Coalition's mailings contain express "calls to action" to encourage members of the public to assist wounded and disabled veterans in a variety of ways. For example, one recent newsletter available on the Coalition's website states:

> You can help spread the word about how Americans can help our severely wounded troops by: (1) putting a Coalition magnet on your car or refrigerator to alert others about the need to support wounded troops, (2) speaking out about the plight of our wounded troops at local clubs, church, and neighborhood meetings,

(3) calling into talk radio programs and encouraging others to support our troops, (4) wearing a Coalition bracelet, lapel pin, baseball cap, or other item to publicly show your support, (5) holding an event in your community to raise awareness, such as other CSAH supporters have done in their "Swim the Straits" and "Trail to Recovery" events (6) encouraging business associates to provide support for our troops, and advocating for our wounded troops and their families at Chamber of Commerce meetings and other business events (7) writing or calling your elected officials to educate them about the challenges facing our wounded troops. You can write your two Senators at: U.S. Senate, Washington, DC, 20510 and U.S. House of Representatives, Washington, DC, 20515, and call them at (202) 225-3121 or (202) 224-3121. You can also help our wounded troops and their families by contributing goods and services. If you have something that you no longer want, whether it's a car, furniture, or other item in good condition, we probably know a wounded hero who can use it. For more information call CSAH at (888) 447-2588 or e-mail us at info@saluteheroes.org.

You can also help in the physical, mental and emotional recovery of our severely wounded veterans by: (1) volunteering to run errands for a wounded soldier or his/her spouse, (2) taking a wounded soldier to a movie, baseball game, or other event to help them get reinvolved in their community, (3) mentoring or tutor wounded troops who need to develop new skills for job training, (4) contacting your local veterans hospital and offer to volunteer your time. (5) organizing a Chamber of Commerce or other community civic organization breakfast or luncheon. (6) Volunteering at one of our events such as the Annual Road to Recovery Conference and Tribute (7) providing housing for families of wounded soldiers who are recuperating or rehabilitating far from home (8) providing labor for our Homes for Heroes Program. You can also help by identifying wounded troops in your community who need additional help. Then recommend they visit our website at www.saluteheroes.org, e-mail us at info@saluteheroes.org or call us at (888) 447-2588. You can also help our severely wounded servicemen and women by volunteering at a Veterans Affairs (VA) Medical Center near you.

Thus, both GAAP and AICPA standards permit the Coalition to allocate the costs of outreach efforts such as these between "fundraising" and "program activities" classifications.

I founded the Coalition, and I serve as its president and on its board. I receive no compensation for my positions. The only funds I have received from the Coalition were audited reimbursements for documented, out-of-pocket expenses I incurred on the Coalition's behalf.

III. HELP WOUNDED HEROES, INC.

Help Wounded Heroes, Inc. ("HWH"), is a non-profit entity organized and operated pursuant to § 501(c)(4) of the Internal Revenue Code exclusively for the promotion of social

welfare, under the direction of a three-member board of directors.[12] Its primary mission is to lobby Congress and influence public policy to provide greater governmental support for our nation's veterans, particularly those who have been wounded or disabled in the War on Terror.

I founded HWH in 2006. It is incorporated in the District of Columbia and does not yet have a principal place of business. Since its inception, HWH has conducted only a few direct-mail test solicitations. It provided key input to congressional staff that led to H.R. 2855, the Wounded Heroes' Bill of Rights Act, which Congressman Ciro D. Rodriguez (D-Tex.) introduced into the House of Representatives. The legislation, which has been referred to the House Subcommittee on Military Personnel, would provide emergency assistance for severely wounded members of the Armed Forces and require improved screening for traumatic brain injury in returning servicemembers. In the tax year ending July 31, 2006, HWH received $395,504 in contributions and spent $36,421 on program services and $542,717 on fundraising (after allocating the costs of one of its mailings under AICPA SOP 98-2). *See* VETS000764.

CONCLUSION

I am proud of my involvement with HHV, the Coalition, and HWH, and I stand by their records of performance. HHV is a *bona fide*, well-respected charity that has contributed hundreds of millions of dollars worth of goods and services to hospitalized veterans. Its fundraising expenses, accounting methods, and executive salaries are comparable to other nonprofits in this field. The Coalition, while much newer, already has provided thousands of veterans with assistance in paying their mortgages, car loans, and utility bills, in addition to providing non-cash charitable support. It, too, has an exemplary financial statement. Although HWH is still in its nascent stages, it already has made legislative progress through the introduction of the Wounded Heroes' Bill of Rights Act in the House of Representatives.

These charities have by no means solved every problem that disabled veterans face—approximately 300,000 veterans with PTSD and TBI are not receiving adequate treatment, and the complications of their unaddressed conditions will only magnify over time. But HHV, the Coalition, and HWH are providing disabled veterans the resources that they can, and I am proud to play a part in their charitable works.

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[12] The December 10, 2007 letter to the Committee contained a typographical error, erroneously stating that HWH was a § 501(c)(3) entity.

Chairman WAXMAN. Thank you very much, Mr. Chapin.

Mr. Viguerie.

STATEMENT OF RICHARD VIGUERIE

Mr. VIGUERIE. Chairman Waxman, Ranking Member Davis, and Members of the committee. I am here today at your so-called invitation. I must say this is the first invitation I have ever received from Members of Congress that wasn't for one of your fundraising events.

In 1960, just 5 years before I started my marketing agency, I estimate there were only about 60,000 donors to the Kennedy/Nixon Presidential campaigns. Americans received their news and information from very limited sources who controlled, filtered and limited what Americans knew about what really happens in Washington.

Applying commercial marketing principles to cause-related fundraising, I pioneered direct mail for political and ideological causes. JFK's late son's magazine, George, credited this as one of the defining political moments of the 20th century.

I developed ways to communicate with, involve and raise money from millions of everyday citizen supporters, rather than the few traditional fat cat donors. Today, the Democratic Congressional Campaign Committee, chaired by Congressman Van Hollen of this committee, markets its lists of 282,000 names. So he is a beneficiary of what I pioneered. I estimate over 8 million people will make a contribution in this Presidential election cycle to some campaign or political cause.

The Founding Fathers added the first amendment to our Constitution because it is inevitable that political elites will seek to silence their critics and competitors in the marketplace of ideas. This hearing is one of those attempts.

Four times in the past 27 years, the U.S. Supreme Court has ruled that charitable fundraising with high cost is fully protected by the first amendment and is not fraud. However, Mr. Chairman, at the December 13th hearing on veterans' charities, you defamed certain charities for their high fundraising costs by calling that fraud. That hearing was based on the false premise that the sole purpose of a charitable solicitation is to raise money. Charities' advertising mailings do far more than just solicit and dole out money.

I remember all too well, Mr. Chairman, that many Vietnam veterans were spit on when they returned to the United States. However, hundreds of millions of advertising mail, which includes the American flag, car magnets, Support Our Troops car ribbons, bumper stickers, decals, etc., has helped veterans of the unpopular Iraq war be received back home very differently than returning veterans from the unpopular Vietnam war.

Rather than providing enough Federal funds for our veterans, too many Members of Congress have spent billions on earmarks and pet projects in their districts. That abuse of congressional power is a major reason why veterans and their families are getting the short end of the stick.

But that is not the only abuse of power I want to discuss today. Today is just the beginning of a very public national airing about issues that Congress for too long has swept under the rug. It is a

debate about hypocrisy, legal fraud and quid pro quo money-laundering, or call it what you will, and political fundraising conducted by Members of Congress. Americans are angry because of the abuse of power by Congress and other elites in Washington. Your ratings are at their lowest level because now more than ever Americans have access to information from the new and alternative media about what really goes on in Washington.

Some of the most effective and most outspoken critics of Congress are charities and other non-profit organizations. Many of the landmark first amendment cases, such as the *NAACP* v. *Alabama,* and *New York Times* v. *Sullivan,* involve attempts by the government to intimidate and silence non-profits because they are such effective critics of government. This committee is investigating charities that have received bad grades from one individual whose methods are not accepted by other charity rating systems nor the standards of the American Institute of Certified Public Accountants.

Also surprisingly, even shocking, he does not grade nor evaluate the effectiveness of a charity. Members of Congress aren't required by law to hire independent certified public accountants and file detailed reports about your own cost of fundraising under American Institute of Certified Public Accountant rules. But charities must. Your contracts with fundraisers aren't regulated by State attorney generals [sic], but charities are. Nor are your contracts on file for public inspection. But the contracts for charities are.

And charities can't strong-arm lobbyists and corporate PACs in exchange for access, influence and legislative favors. In other words, the playing field is not level. I say, level the playing field. Whatever charities must do to report and comply with the law, Members of Congress should do the same.

Mr. Chairman, over the past 10 years, your own personal campaign committee has raised money ostensibly for your own re-election, yet you have passed through almost exactly 50 percent to other political candidates and committees. Fifty percent over 10 years looks less like a campaign than a money-laundering enterprise.

You also formed this thing called LA-PAC to solicit and pass through even more money. You give that money to candidates with whom your donors may disagree on issues important to the donors and candidates to whom the donors would not have made a contribution. That sounds like what is called bait and switch in a commercial context. Any way you look at it, it appears wrong and unseemly.

There are a host of rotten issues in congressional fundraising, yet this committee is not merely chilling first amendment rights of non-profits and other citizen-backed organizations, but is attempting censorship in direct contravention with what the U.S. Supreme Court has said repeatedly. There are plenty of outstanding or very influential charities with high fundraising costs.

Mr. Chairman, your agenda here is political, anti-competitive, unconstitutional, and if I may be frank, mean. You grab cheap headlines at the expense and in defamation of some very worthy charities. You have caused harm for the unconstitutional purpose of limiting the amount of information that the public receives.

Chairman WAXMAN. Mr. Viguerie, your time has expired. You ought to complete your remarks.

Mr. VIGUERIE. I have one paragraph. What you have said and what you are trying to do has and will continue to result in harm to, not help for, veterans. As part of that process, you are abusing the powers of this institution. Shame on you, Mr. Chairman. And shame on any member of this committee who would participate in such an agenda.

[The prepared statement of Mr. Viguerie follows:]

Statement of Richard A. Viguerie,
Chairman, American Target Advertising, Inc.

House Committee on Oversight Hearing on
Costs of Veterans' Charities Fundraising
January 17, 2008

Chairman Waxman, Ranking Member Davis, and Members of the Committee:

I am here today at your so-called "invitation." I must say, this is the first invitation I've ever received from Members of Congress that wasn't for one of your fundraising events.

In 1960, just five years before I started my marketing agency, I estimate there were only about 60,000 donors to the Kennedy-Nixon presidential campaigns. There were only three television networks, almost no talk radio, and no Internet, so Americans received their news and information from very limited sources who controlled, filtered and limited what Americans knew about what really happens in Washington.

Applying commercial marketing principles to cause-related fundraising, I pioneered direct mail for political and ideological causes. My methods allowed political and nonprofit causes to bypass the filter of the limited news outlets to communicate **directly** with American citizens. JFK's late son's magazine, *George*, credited this as one of the defining political moments of the 20th Century.

I developed ways to communicate with, **involve**, and raise money from millions of every-day citizen supporters rather than the fewer traditional fat cat donors. Because what I had done was revolutionary and not understood, I was criticized by the news media and my opponents for high fundraising costs. But that changed substantially on one night -- when Ronald Reagan was elected President. Soon after that, liberal causes, senatorial and House campaign committees, and even Members of Congress were copying my methods. I explain this in my book, *America's Right Turn: How Conservatives Used New and Alternative Media to Take Power.*

Compared to 1960 (when the Kennedy-Nixon campaigns combined had only about 60,000 donors), today the Democratic National Committee has a list of over a million supporters that it markets to the public. The Hillary Clinton supporter list is over 1.8 million names. The Republican Congressional Campaign Committee markets 474,553 names, and the Democratic Congressional Campaign Committee (DCCC) markets its list of 282,566 names. Congressman Van Hollen of this very Oversight Committee, of course, chairs the Democratic Congressional Campaign Committee, so he is a beneficiary of what I pioneered. I estimate over 8,000,000 people will make a contribution in this election cycle to some campaign or political cause.

The Founding Fathers in their great wisdom added the First Amendment to our Constitution because it is inevitable that political elites will seek to silence their critics and competitors in the marketplace of ideas. This is often done in subtle ways, which is referred to as "chilling" First Amendment rights.

In my 46 years in marketing I have seen many attempts to silence critics of government. Politicians too often use the power of government to limit and exclude competition for donor dollars by rigging the rules in your own favor. Although most of you don't even read the bills, you often vote for and pass unconstitutional legislation. And politicians all too often abuse your bully pulpit to cause harm to other speakers for your own power and gain.

We filed an Objection to your so-called "invitation," which is explained a bit more fully in the Appendix to my Statement. That Objection explains that government investigations should be limited or stopped based on the **likelihood** that they would chill the exercise of First Amendment rights. That Objection also describes how four times in the past 27 years the United States Supreme Court has already ruled that high-costing charitable fundraising communications are fully protected by the First Amendment. Here's a repeated quote from those decisions:

> "Prior authorities . . . clearly establish that charitable appeals for funds . . . involve a variety of speech interests – communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes – that are within the protection of the First Amendment . . . [and] that without solicitation the flow of such information and advocacy would likely cease."

Mr. Chairman, at the December 13 hearing on veterans' charities you defamed certain charities for their high fundraising costs by calling that fraud. I say "defamed" not just based on what an ideologically diverse set of Supreme Court justices has said about high-costing fundraising. You were legally wrong, and you distorted and misrepresented certain important facts.

In fact, your defamatory remarks are a perfect example why the Founders added the First Amendment. Politicians cannot be trusted with power over speech and press rights.

No charity wants high fundraising costs. However, the Supreme Court and other courts have recognized what this Committee failed to: there are plenty of reasons why some charities have high-costing fundraising. Those reasons are diverse and too many to explain in this brief statement. But the fact is, Mr. Chairman, besides explaining that those communications are fully protected by the First Amendment, the Supreme Court described why the high costs of fundraising are not just legitimate, but often are necessary.

In fact, the December 13 hearing was based on the false premise that the **sole purpose** of a charitable solicitation is to raise money. Charities that use direct mail, for example, necessarily have higher costs of fundraising because direct mail is often more expensive than some other communications media. But direct mail is the second most widely used form of advertising for one important reason: **it works**.

Charities' solicitations -- what they say, and how they say it -- do more than just solicit and dole out funds. In the case of veterans' charities, there are veterans and their families who are falling through the cracks right under the watch of this Government Oversight Committee. One of the biggest impediments to faster and better help for these veterans and their families, though, is that people in the general public think that the government is helping veterans enough when it's not.

I remember all too well, Mr. Chairman, that many Vietnam veterans were treated poorly, even spit on when they returned to the United States. However, in good part because of what veterans'

charities told the American public in their solicitation communications, over time and with significant expense explaining the plights and sacrifices of veterans, the American public came to learn about the wrongs that were inflicted on our veterans. Veterans' charities favorably changed the public's perception; Congress did not bring about that change. In fact, since Congress is a reactionary body, and too often a slow one at that, the best chance for veterans' to receive better treatment from the government is for many veterans' charities to inform the general public about their issues, which in turn may help ultimately persuade Members of Congress to take action.

Veterans' charities, through their fundraising solicitations, have long addressed causes and issues that were far less popular and understood compared to now. In other words, the degree of change in the public's perception about veterans and their needs would not have occurred without **multiple** veterans' charities communicating to **new and differing audiences, and to people with differing views.** Those solicitation communications influence the public's perception **often in competing ways, providing alternative information, and suggesting new and alternative approaches**, about the wide variety of issues that affect veterans.

Americans in the post-9-11 era generally feel differently about veterans than they did back in the 1960s and 1970s. But more still needs to be done because Congress and the rest of the federal government are stuck in pre-9-11 treatment of veterans. The calamities at Walter Reed Medical Hospital just up the road a few miles, right under the nose of this Committee on Government Oversight, is just one example of how the federal government has failed our veterans. Veterans' charities were not just talking about, but doing something about, many of those types of problems long before Congress ever got around to addressing the problems seriously, and **still** not enough is being done.

Veterans' charities have helped, and continue to help, expose the **failure** of our federal government to adequately care for our wounded and disabled veterans and their families. Mr. Chairman, your defamation of those charities appears to be an attempt to divert attention from **a national disgrace that is a direct result** of the irresponsible conduct of the federal government, including the Congress. Rather than providing enough federal funds for our veterans, too many Members of Congress have spent billions on earmarks and pet projects in their districts. That

abuse of congressional power is the main reason why veterans and their families are getting the short end of the stick.

But that's not the only abuse of power I want to discuss today.

Mr. Chairman, your lawyers Susanne Sachsman and John Williams told my legal counsel interesting things about how this Committee perceives its power, and how some of you just don't think the Constitution applies to what you do. For example, your lawyers say that because I am here at your so-called "invitation," I have no rights of due process. Yet the Committee has demonstrated in rather intimidating fashion that appearing and testifying in response to your Committee's so-called "invitation" is not voluntary, but compulsory. Your invitations are, as might be described in *The Godfather* movie, "offers that can't be refused," and are an attempt to evade constitutional and procedural safeguards for witnesses.

I'm not surprised by that type of Washington arrogance in defiance of the Constitution. Congress rigs the rules to protect its own members, but seems to have no problem violating the constitutional rights of citizens. Mr. Chairman, when you were in the minority in 1998 you submitted a report, which is cited in the Appendix to my statement, criticizing then-Chairman Burton for his investigations of actual government corruption involving political fundraising and money laundering. Those were matters not protected by the First Amendment and involved actual government activity, so this Government Oversight Committee had jurisdiction. Now that you are in the majority, and these hearings prove it, you abuse the investigation powers by violating the First Amendment, disregarding procedural protections, defaming good charities, and, in violation of what the Supreme Court has said are the parameters of congressional investigations, exercising your powers irresponsibly and without due regard for the rights of affected parties.

Today, however, is just the beginning of a very public national airing about issues that Congress for too long has swept under the rug. It is a debate about "legal" fraud and *quid pro quo*, money laundering or call-it-what-you-will, in political fundraising conducted by Members of Congress.

You might try to control and limit what I say here today about fundraising, but you cannot limit and control what I and thousands of others in the new and alternative media outside these halls will say and write in the coming weeks and months to expose the abuses of power, the "legal" bribery and graft, and the corruption that takes place on a daily basis right here on Capitol Hill.

This is a debate that needs to take place before the 2008 elections when people are focused on change. Americans are angry – progressives are angry with the Democratic Party; conservatives are angry with the Republican Party – because of the abuse of power by Congress and other elites in Washington. And I, being more knowledgeable about fundraising practices than most people, will make it my mission to alert the public about the "legal" fraud and *quid pro quo* that takes place in congressional fundraising.

Congressional approval ratings are at an all-time low for one very big reason: no longer do you control the message. That horse has left the barn, and I'm proud to have been a part of that process. Your ratings are at their lowest level because now more than ever American citizens have access to information about what really goes on in Washington.

Some of the most effective and most outspoken critics of Congress are charities and other nonprofit organizations. And even charities that don't expressly criticize the government often provide news and information that puts Congress and other government bodies and individuals in an unfavorable light. Many of the landmark First Amendment cases, such as *NAACP versus Alabama* and *New York Times versus Sullivan*, involve attempts by the government to intimidate and silence nonprofits because they are such effective critics of government.

This Committee is investigating charities that have received bad grades from **one individual** whose methods are not accepted by other charity ratings systems, and are inconsistent with rules established by the American Institute of Certified Public Accountants. That one person's ratings are not based on what the charities do to help veterans, nor on their net results such as how many veterans are helped, but on their costs of fundraising. Based on Congress' approval ratings in the teens these days, though, if Americans were giving out grades for results, Congress should be

placed in remedial education, and many Members would even be expelled from school for bad conduct.

For over 40 years I've done both political and charitable fundraising, and I can tell the American public that the rules, regulations and disclosure requirements for charitable fundraising are much more comprehensive, burdensome, and even restrictive than for political fundraising. Mr. Chairman and Members of the Committee, you aren't required by law to hire independent certified public accountants and file detailed reports about your own costs of fundraising under American Institute of Certified Public Accountant rules, but charities must. Your contracts with fundraisers aren't regulated by state attorney generals, or on file for public inspection, but the contracts for charities are.

And there are even more important distinctions. For example, charities can't strong-arm lobbyists and corporate PACs for contributions in exchange for access, influence and legislative favors. In other words, the playing field is not level.

I say, **level** the playing field. Whatever charities must do to report and comply with the law, Members of Congress should do the same. In fact, if Members of Congress were subject to the same laws and rules with which charities already must comply, many of you would be legally barred from soliciting contributions at all. And the public would know a heck of a lot more about your own fundraising practices.

I offered to have one of the country's foremost experts on the laws and constitutional aspects of fundraising testify, but the Committee declined. Apparently, Mr. Chairman, you don't want to be bothered with constitutional concerns in pursuit of your agenda. The Appendix to my statement addresses just some of the constitutional issues, but also the wasteful if not fraudulent diversion of hundreds of millions of donor dollars by state regulators, the failures of the current state charitable solicitation regulatory system, and the fact that state charity regulators are the single most consistent violators of the laws governing charitable solicitation, and even violate federal law. These written comments and much more information about corrupt government practices in fundraising will also be widely disseminated using the new and alternative media.

We'll see if this Committee is more interested in violating the First Amendment rights of charities than conducting an investigation into the violations of law by state regulators, and how they divert untold millions of donor dollars on a so-called disclosure system that doesn't work well at all for donors **or** charities.

Mr. Chairman, over the past ten years your own personal campaign committee has raised money ostensibly for your own reelection, yet you have "passed through" almost exactly **50 percent** to other political candidates and committees. This election cycle you have increased that to 70 percent. A *Los Angeles Times* article said you set up your fundraising apparatus so you could bypass others with more seniority and experience, in other words, to help you secure your committee chairmanship. 50 percent over ten years looks less like campaign committee than a money laundering enterprise! And that's just your own campaign committee. You also formed this thing called LA PAC to solicit and pass through even more money.

Do you tell your donors that fifty cents of every dollar they give to your campaign actually goes to someone else's campaigns, such as Members of Congress or other political candidates with whom the donor may disagree on issues important to the donor, and candidates to whom the donor would not have made a contribution? That sounds like what is called "bait-and-switch" in a commercial context. I wonder whether omitting these material facts in your solicitations is a violation of law state or common law in the jurisdictions in which you solicit and operate.

Or maybe it's a way for you to act as a conduit for wealthy donors, including the corporate PACs from which you get the vast majority of your funds. I wonder if that is done to evade the Federal Election Commission's campaign contribution limits, because that would be one way to do it without being easily detected. Isn't that correct, Mr. Chairman? Any way you look at it, it appears wrong and unseemly.

But this is not just about you. Both Republican and Democratic parties dole out committee assignments based partly on who can bring in the most money, not just based on who's best for the job. There are a host of rotten issues in congressional fundraising. Yet this Committee is not

merely chilling First Amendment rights of nonprofit and other citizen-backed organizations, but appears to be attempting censor some in direct contravention of what the United States Supreme Court has already said about costs of charitable fundraising.

You used the last hearing on veterans' charities to bully well-meaning but relatively inexperienced people. That's certainly not the first time Congress has done that. But I know much more about this subject matter than most folks, and I'm not going to let you deceive the public.

There are plenty of outstanding or very influential charities with high-costing fundraising. For example, last year Congresswoman Watson of this Committee introduced House Resolution 208 praising Operation Smile, yet that charity received a grade of "D" from this fellow who testified at the December 13 hearing. Mothers Against Drunk Driving, one of the most effective nonprofits formed in the past 30 years, also received a grade of "D." I could go on and on.

But these hearings aren't about getting to the truth, are they?

Some of you on this Committee criticized veterans' charities, maybe because you had a purely visceral reaction to the costs of fundraising without knowing all that's involved in charitable fundraising, or got counsel from others with an agenda. I myself have been a critic of certain inefficiencies in the nonprofit sector, but I know more about these issues than perhaps most people. Some of you, on the other hand, have an agenda that does not comport with the Constitution. The facts, however, when fully disclosed, will refute and expose that agenda.

Mr. Chairman, you grabbed cheap headlines at the expense and in defamation of some very worthy charities. You have caused harm for the unconstitutional purpose of limiting the amount of information that competition within the nonprofit sector brings about. You are trying to limit which charities may solicit funds knowing full well, as the Supreme Court has said repeatedly because it is a fact, that without such funds, "the flow of information and advocacy will . . . cease."

What you have said, and what you are trying to do will result in harm to, not help for, veterans. Not only that, but the public wants a level playing field in which Members of Congress and state charity regulators are playing by the rules, not making them up to their own advantage, and then still violating them.

APPENDIX

I. The United States Supreme Court Has Already Ruled That High-Costing Charitable Fundraising Is Fully Protected by the First Amendment and Is Not Fraud

The central focus of the December 13, 2007 hearing on veterans' charities has been the subject of four United States Supreme Court opinions in the past 27 years.[1] The presentations, charts and graphs employed at that hearing focused on costs of fundraising and overhead.

The most recent Supreme Court case on charitable solicitation, *Illinois ex rel. Madigan v. Telemarketing Associates, Inc.*, involved a veterans' charity that contracted to pay 85 percent of the gross fundraising proceeds to a telemarketing agency. Relying on well-settled precedent, Justice Ruth Bader Ginsburg noted that high-costing fundraising is not fraud. The concurring opinion written by Justice Scalia would give even more breathing room to charities in what they and their paid agents may say in the conduct of their solicitations.

Justice William Brennan wrote the majority opinion in *Riley v. National Federation of the Blind*, and explained just some of the reasons why charities may have high-costing fundraising, why the First Amendment protects high-costing fundraising, and why exacting standards of review must apply to attempts by the government to regulate fundraising. He wrote:

> Prior authorities . . . clearly establish that charitable appeals for funds . . . involve a variety of speech interests – communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes – that are within the protection of the First Amendment . . . [and] that without solicitation the flow of such information and advocacy would likely cease.

Riley, at 796, quoting *Schaumburg*, 444 U.S., at 632, and *Munson*, 467 U.S., at 959-960.

Justice Brennan's opinion applies directly to the attempt by the Committee to defame charities based on their high fundraising costs. For example:

[1] *Illinois ex rel. Madigan v. Telemarketing Associates, Inc.*, 538 U.S. 600 (2003); *Riley v. National Federation of the Blind*, 487 U.S. 781 (1988); *Secretary of State v. Munson*, 467 U.S. 947 (1984); and *Schaumburg v. Citizens for Better Environment*, 444 U.S. 620 (1980).

> The very purpose of the First Amendment is to foreclose public authority from assuming guardianship of the public mind through regulating the press, speech and religion. (Cites omitted.) To this end, the government, **even with the purest of motives**, may not substitute its judgment as to how best to speak for that of speakers and listeners; free and robust debate cannot thrive if directed by the government.

Riley, 487 U.S., at 791. As to just some of the reasons why high-costing fundraising is fully protected by the First Amendment, Justice Brennan wrote:

> [T]here are several reasons why a charity might reject the State's overarching measure of a fundraising drive's legitimacy – the percentage of gross receipts remitted to the charity. For example, a charity might choose a particular type of fundraising drive, or a particular solicitor, expecting to receive a large sum as measured by total dollars rather than the percentage of dollars remitted. Or, a solicitation may be designed to sacrifice short-term gains to achieve long-term, collateral, or noncash benefits.

Id., at 791 – 792.

The principal, if not entire, focus of the December 13 hearing, therefore, was on matters already resolved by an ideologically diverse set of justices on the Supreme Court.

II. Legislators Often Seek to Chill First Amendment Rights of, or Silence, Nonprofit Organizations

One of the landmark First Amendment cases involved criticisms of a government official by the Committee to Defend Martin Luther King and the Struggle for Freedoms in the South. The Supreme Court's opinion expresses many points relevant to the need to protect charitable communications from unconstitutional government intrusion.

"The general proposition that freedom of expression upon public questions is secured by the First Amendment has long been settled by our decisions." *New York Times v. Sullivan*, 376 US 254, 269 (1964). The "debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *Id.*, at 270. "The constitutional protection does not turn upon 'the truth, popularity, or social utility of the ideas and beliefs which are offered.'" *Id.*, at 271.

III. Chairman Waxman Has Abused His Investigative Authority and Violated the Constitution in His Conduct of the Hearings on Veterans Charities

The investigative powers of Congress are not unlimited. Indeed, the hearings on veterans' charities are good example of how they can be abused in what Chairman Waxman described when he was in the minority as a "pattern of 'accuse first, investigate later.'"[2]

[2] *Additional and Minority Views*, Investigation of Political Fundraising Improprieties and Possible Violations of Law, 105 H. Rpt. 829, Vol. 4, (Nov. 5, 1998) (hereinafter, the "Minority Report").

American Target Advertising, Inc. (ATA) filed an Objection with the Committee on December 24, 2007. The indiscriminate and blanket Request for information shows, on its face, that the Committee's Request for information is not targeted, but is merely a "fishing expedition."

The face of the Request does not state the purpose of the Request. It is apparent, though, that the Request does not constitute a legitimate exercise of congressional power under Article I of the United States Constitution. The investigative powers of Congress and government in general are not absolute. Government subpoenas and investigations, or parts thereof, should be quashed based on the **likelihood** that First Amendment rights would be violated by compelled disclosure.[3]

Even outside areas protected by the First Amendment, government investigations may be limited. The Supreme Court has stated with regard to administrative subpoenas that, "[p]ersons from whom [the administrator] seeks relevant information are not required to submit to the demand, if in any respect it is unreasonable or overreaches the authority Congress has given." *Oklahoma Press Publishing v. Walling News Printing*, 327 U.S. 186, 216 (1946).

With regard to congressional subpoenas, the courts presume "that the committees of Congress will exercise their powers responsibly and with due regard for the rights of affected parties." *Ashland Oil, Inc. v. FTC*, 409 F.Supp. 297 (D.D.C.), *aff'd*, 548 F.2d 997 (D.C. Cir. 1976).

In this matter, the Committee has made a *prima facie* demonstration that it is not just targeting First Amendment rights, which are beyond the Committee's authority to regulate, but is acting unreasonably, irresponsibly and in violation of the rights of the affected parties.

In the 1998 Minority Report referenced in Footnote 2, then Ranking Minority Member Waxman made plenty of complaints about evasion of procedural safeguards, less for witnesses, and mainly for the minority status of Members on the Committee **at that time**. ("The best investigations have gone to great lengths . . . to protect the rights of minority members."[4])

The Minority Report recognized that abandoning procedural safeguards resulted in the trampling of the rights of individuals. It complains that the Committee's "investigations could be triggered by legal political conduct . . . probed broadly, even indiscriminately, on the ground that some people actually turn out to be guilty . . . and merely being investigated could ruin honest and dishonest alike."

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[3] "It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other forms of government action that] were thought likely to produce upon the particular constitutional rights there." *NAACP v. Alabama*, 357 U.S. 449, 462 (1958). "We think that the production order, in the respects here drawn in question, must be regarded as entailing **the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association**." *Id.* (emphasis added).

[4] Minority Report.

The Minority Report said the investigations "were used by Committee staff to conduct a wide-ranging fishing expedition rather than pursue legitimate legislative leads." And the Minority Report noted the exorbitant costs for the witnesses to comply with production of documents, hire lawyers, etc.

IV. State Charity Regulators Fail Donors by Diverting More Donor Money Than All Solicitation Fraud, Fail Charities and Violate Solicitation Laws

In a rather telling disregard for the law and constitutional rights, at the December 13 hearing the state regulator witness from Pennsylvania called the Supreme Court decisions protecting charitable fundraising an "impediment."

Recent decisions among the federal circuit courts demonstrate that the constitutional protections for charitable solicitation may be even greater than expressed by the Supreme Court thus far in their limited contexts.[5] For example, in 2000 the 10th Circuit relying on well-settled Supreme Court precedent declared unconstitutional **on its face** the Utah charitable solicitations statute that gave the licensor discretion in the registration process.[6] Most states still employ similar unconstitutional discretion in defiance of this precedent.[7]

There are over 1.5 million 501(c)(3) and 501(c)(4) nonprofits that are eligible to solicit contributions. At the December 13 hearing, the Pennsylvania regulator's office was complimented as the "best" state charity regulator, but that witness said only 10,000 charities register with her office. If that office is the best, then the numbers suggest that state charity regulators have set a new standard for futility.

ATA's October 3 letter to the National Association of State Charity Officers (NASCO), the umbrella group of state regulators, explains that state charity regulators themselves are the single most consistent violators of the laws governing charitable solicitation. The letter also describes that state regulators divert more donor contributions annually than all solicitation fraud combined. They have refused to implement a system that would allow **more charities to register**, provide **better disclosure**, and divert less donor money than their futile and outdated disclosure system by **hundreds of millions of dollars annually**. That letter is posted at GrassrootsFreedom.com.[8]

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[5] *American Civil Liberties Union v. City of Las Vegas*, Nos. 05-15667 and 05-15767 (11th Cir. Oct. 20, 2006) (regulation of solicitation is targeted at the content of speech, and thus subject to the strictest scrutiny); *American Charities for Reasonable Fundraising Regulation v. Pinellas County*, 221 F.3d 1211 (11th Cir. 2000) (on due process grounds, county may not regulate fundraisers in an extraterritorial manner, and the burden is on the regulator to prove he may require registration).

[6] *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir. 2000).

[7] The Model Charitable Solicitation Act prepared by the National Association of State Charity Officers (NASCO) still contains many unconstitutional provisions in contravention of Supreme Court and federal circuit court decisions, indicating that NASCO actively promotes violations of constitutional and other federal rights. The continued violation of rights under color of state law is a violation of 42 U.S.C. 1983.

[8] http://www.grassrootsfreedom.com/gw3/articles-news/articles.php?CMSCategoryID=23

The regulators are not subject to any real oversight. ATA's October 3 letter to NASCO describes attempts by some state regulators to hide their violations of law. Therefore, ATA wrote NASCO an October 8 letter asking for information such as any statistics they may have about solicitation fraud, copies of the minutes of their closed meetings, etc. That letter states in part:

> In litigation brought by American Target Advertising, Inc. against the State of Utah, the United States District Court judge asked Utah to provide evidence relevant to (a) the substantial state interest underlying these solicitation licensing laws to overcome the First Amendment thresholds, and (b) whether the laws are narrowly tailored to that state interest. Utah stated it "was unable to find statistics or other data demonstrating how much Utahns lose to fraudulent solicitations. Nor was [Utah] able to find such data on a nationwide basis."

Given that state charity regulators are **the only repository** of information about solicitation fraud, Utah's statement is a **startling admission**.

NASCO has yet to provide a written response to ATA's letters. If the Committee wants more and better disclosure, ATA has urged the Committee to investigate the state charity regulators, the matters raised in ATA's letters to NASCO, and other violations of federal laws by the regulators.[9]

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[9] ATA's October 3 letter to NASCO identifies just some of the state and federal laws being violated by state charity regulators, including the Federal Privacy Act.

Chairman WAXMAN. Mr. Peters.

STATEMENT OF GEOFFREY W. PETERS

Mr. PETERS. Thank you, Mr. Chairman, Mr. Davis, who happens to be my Representative, and also members of the committee.

When Mr. Williams contacted me and invited me to testify, I asked what information I could provide that would be of use to the committee. Mr. Williams indicated perhaps information concerning costs of fundraising. A number of you have asked about that. Mr. Sarbanes and Mr. Issa in particular have mentioned that they are concerned about the possibility for how regulation might be formulated.

Let me start by giving you a hypothetical. Which charity deserves our support? The one that raises $100,000, spends 90 percent of it feeding the poor, has 10 percent administration cost, and overhead and fundraising cost, and feeds 90 people, or the one that raises $100,000, spends 25 percent on fundraising and administration, but manages through innovative management and creativity of its staff, to feed 180 people?

Clearly, if your goal is to have an effect, the second charity is more effective than the first, yet it has a higher cost of fundraising ratio. Cost of fundraising ratio has been looked at within our industry for decades. Scholars have looked at it, people within the industry have looked at it, State regulators have focused upon it, and we have had four Supreme Court decisions on it.

One of the things that I can tell you from the literature is that costs of fundraising ratio as a measure of the effectiveness or as the measure of an efficiency of the charity have been widely debunked by nearly everybody in the industry.

Let me give you another example. Mothers Against Drunk Driving is a charity that sends out millions of direct mail letters every year. Every year those direct mail letters include an appeal for funds, yet they get joint costs allocated and, contrary to what Mr. Shays implied, having to do with shuffling money, that joint cost allocation under the accounting rules that the charity is required to abide by, yet allocated in part to public education and in part to fundraising. Does that make sense?

Well, if you ask the people from Mothers Against Drunk Driving, which reporters have done and regulators have done, their response is, those letters save lives. They remind people in their daily life at home, when they are sitting down to dinner with their teenagers, don't drink and drive.

So how should we account for that? If we don't account for that was part of their mission fulfillment, how do we account for it? And won't that charity that uses those letters that way end up receiving a poor rating from Mr. Borochoff and AIP because he doesn't allow for joint cost allocation in his rating system?

Ms. Watson, you mentioned that you relied on Mr. Borochoff's study when you read the Washington Post article. Let me ask you what you think of Harvard University, one of our great educational institutions, but an institution which has a huge endowment? Should other charities be denied the opportunity to raise money for an endowment because Mr. Borochoff says that charities that have

reserves should be downgraded in their grade that they receive? It doesn't make sense.

Mr. Borochoff's rating system that then goes after all of these charities that receive failing grades is not only not agreed to by most of the industry, it is not even agreed to by all the other charity watchdog groups. If you try to do a study of this, which has been done by the National Association of Non-Profit Agencies, that study shows that the ratings systems are inconsistent. So who should we follow?

If you are the manager of a charity, should you follow GAAP guidelines in doing your accounting? Or should you follow the charity watchdog's that make up their own way of looking at things?

I would hope that the committee is interested more in public policy and in legislative opportunities than they are in going after Mr. Borochoff's failing grade charities. If so, I would be delighted to answer questions about what recommendations we might have for legislation that could be helpful to the charitable community and the veterans, and to, as Mr. Issa suggested, members of other charitable communities, including cancer victims and unwed mothers and the homeless and so forth.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Peters follows:]

Statement of Geoffrey W. Peters
House Committee on Oversight and Government Reform
Hearings to Assess Veterans' Charities – January 17, 2008

Good Morning and thank you for your invitation to provide testimony concerning direct response fundraising and charities in general, and veterans charities in particular.

When Mr. Williams contacted me on Monday to invite me to testify today and then when we spoke on Tuesday, I asked what information I could provide that would be of use to the committee. Mr. Williams indicated that information on the costs of fundraising would be helpful and so I will address that complex issue briefly in these opening remarks.

Introduction

The so called "cost of fundraising ratio" is commonly a calculation of the percentage of funds spent by a charity on fundraising as a proportion of either income or total expenditures. This ratio is often used, or I should say misused, to evaluate the charity in some manner. Most frequently it is said that "good charities" have a high percentage of funds spent on programs as opposed to fundraising and administration and "bad charities" have low percentages spent on programs. Some refer to this as a measure of the "efficiency" of a charity. In the testimony of Mr. Borochoff before this committee he places great emphasis on this ratio and gives a failing grade to charities that do not meet his standards in this regard. Thus his reports are often not only wrong they are frequently misleading.

The focus on this measure is misplaced and more frequently than not leads to erroneous conclusions. This is not just my opinion, it is the opinion of nearly every major organization representing nonprofits in the charitable sector and is the opinion of nearly every serious scholar who has done research into the topic. It also happens to be the opinion of the Supreme Court of the United States.

Let me be clear. If a donor asks for information regarding a charity's expenditures and what the money they spend is used for – the donor should always be given a clear, accurate and transparent answer. If a charity or its staff are engaged in improper or illegal activity – they should be held legally accountable for that activity. It benefits no legitimate charity to have real fraud occur within our community as it damages the reputations of all charities and the public confidence in our sector when real fraud occurs. As Ms. Johns can testify, I have taught sessions on how to detect charitable fraud for the National Association of State Charity Officials and I support any efforts that this Committee can make to provide the necessary finances to assist state and federal officials to detect and prosecute fraud.

However, let me also be clear that fundraising cost ratios are neither a useful measure of charity efficiency nor do "poor" ratios signify fraud.

In theory the fundraising ratio is an attractive device for evaluating charitable operations and fundraising. It is deceptively simple and convenient to those who have a "one size fits all" view of how one might evaluate the work of nonprofits and charitable fundraising. However, in practice it is not a reliable assessment of a nonprofit's effectiveness or integrity. Rather, it is an invitation, at a minimum, to confusion and error and, at worst, to manipulate data for illegitimate ends all disguised as an invitingly simple percentage figure.

Reports of charitable fraud incite tremendous public outrage. In response government regulators and prosecutors as well as private sector "watchdog" organizations seek to separate the "good" nonprofits from mismanaged nonprofits and outright scams. Both often fail to understand the complexities and unreliability of fundraising ratios.

In addition to the problems with defining a measure that might be consistent, nearly every study done of this by charity experts, economists, legal scholars, and fundraising experts has concluded that such a measure is useless at best and misleading at worst. I won't bore you with a long list of citations to the research but I enclose my sources in my written statement for your review.[1]

For decades those of us who work in the charitable sector have seen the fundraising ratio mislead the public, become misused for political and public relations purposes,[2] and have generally found it to be a vexatious concept. This is primarily because there is no demonstrably rational, objective basis upon which to calculate the fundraising ratio so that it lives up to its promise of being a unitary measure of fraud or efficiency for most nonprofits under most circumstances.[3]

Economist Richard Steinberg who has extensively studied costs of fundraising notes:

> The costs of efficient fundraising are highly idiosyncratic, varying with organizational age, mission, press coverage, competition from other fundseekers, scale, experience, perceived levels of need, the economic well-being of potential donors and a variety of other factors. Charities situated in favorable fundraising environments may be highly inefficient and still secure low fundraising shares, whereas charities advocating unpopular causes or prospecting for new donors will have high fundraising shares (perhaps exceeding 100%) even if they operate at the limits of efficiency.[4]

And the Supreme Court, in a decision that has been reaffirmed on multiple occasions over the past two decades, has indicated that the fundraising ratio has little value as an indicator of fraud.[5]

The "cost of fundraising" or fundraising ratio purports to be the percentage or ratio of every charitable donation raised that was spent on fundraising expenses. In other words, it seeks to reduce a nonprofit's "efficiency" to a simple percentage. Thus, fundraising ratios are attractive to the government regulators and watchdogs that calculate them according to their own rules and use them to rate nonprofits, with little or no explanation, understanding, or context.

Many potential donors do not understand the lack of scientific or economic basis inherent in fundraising ratios and thus reports of such by government agencies[6] and watchdogs may be influential. And a fundraising ratio can grievously damage a nonprofit's reputation when it is calculated without regard to the proper context.

No one, not fundraising experts, government regulators, tax authorities, consumer advocates, nor Attorneys General, has defined the fundraising ratio in a uniform fashion or in such a way as to make it a useful or reliable indicia of fraud or philanthropic efficiency. The problems associated with calculating a fundraising ratio are legion:[7]

- What is the proper time period over which data is gathered? One month? One quarter? One year? Several years? The length of a particular campaign?

- Should the numerator include or exclude "joint expenses" involving fundraising but which also advance the mission of the organization?
- Is the denominator the total of the nonprofit's expenses (as is done in Illinois) or the total revenue?
- How does one account for the residual value of byproducts of the solicitation? For example, what is the value of a deferred gift? What is the value of having identified a significant donor who will give over a period of many years? What is the value of recruiting an unskilled but loyal volunteer? What is the value of recruiting petition signers who choose not to donate?
- How does the nonprofit's commitment to building financial reserves factor into the fundraising ratio?
- How does one properly account for investments made in building a list of future donors – are these expenses or capital investment activities?
- Should the denominator be focused upon expenses or funds raised by any method or only by that particular campaign?
- Should the results of different methods of fundraising (e.g. telemarketing, direct mail, direct response TV, direct response radio, telethons, radio-thons, special events, corporate giving, foundation giving, government grants, major donor giving, lapsed donor renewal, membership recruitment and renewal, new donor acquisition, e-mail solicitation, etc.) each be measured independently for its own fundraising ratio or should the nonprofit be measured on its combined overall efforts?

A. What is the proper time period over which data are gathered and reported?

Consider a hypothetical nonprofit that begins a program of soliciting contributions through direct mail. Generally it must begin with a "prospect mailing" in which the nonprofit sends letters out to people who have not previously supported the nonprofit. Viewed alone, these campaigns have a very high cost. Often, they lose money.[8] The purpose of the prospect mailing is to identify donors willing to contribute in the future to the nonprofit's cause.

Once these new donors are identified, the nonprofit continues to solicit additional donations from these newly found supporters over a period of years, thereby recouping the initial cost and producing a net gain.

At some point in time, some of those donors will stop giving, and these "lapsed donors" must be replaced by prospecting for new donors, which begins the cycle again.[9]

How would the fundraising ratio be properly calculated?[10] Would one look at simply the first prospect mailing? If so, it is quite likely that the fundraising ratio will be "too high." This would stop the campaign before it starts.[11] Moreover, this would be misleading.

The whole point of the prospect mailing was to identify long term donors. Wouldn't it be less misleading if some of the long term value these donors will provide to the nonprofit could be included in the fundraising ratio calculation?

This then leads to the question – over what time period should this cost (investment) vs. revenue (return on investment) be calculated? – one quarter? – one year? – the estimated period during which the donor will continue to donate?

What about an analysis of a whole campaign? There are two immediate problems with this approach. First, it is unlikely that regulators would consider a fundraising ratio reported at the end of a multi-year campaign to be timely and useful information. Second, there is no accepted industry definition of "campaign." When does one campaign begin and another end?

Choosing any period can skew the results depending upon the fundraising activities in which the charity may be engaged, which is why this measure is simply not useful. If, for example the charity is just commencing a major fundraising drive, then the fundraising ratio for that year may be significantly higher than for the subsequent years when that first year's investment produces a return. Yet U.S. accounting rules prohibit nonprofits from amortizing the investment in creating a mailing list so as to properly match expense (investment) and revenue (return on investment).[12]

Thus, a start-up charity may not amortize or allocate the fundraising expense to the same periods in which the income is realized, but rather must suffer from a very high initial cost of fundraising as the charity makes significant investments in its future.

Once new donors are identified, their names and addresses often go onto a general mailing list that is used for other fundraising purposes including appeals for special projects, capital campaigns for new buildings, seeking gifts through wills and bequests, quarterly newsletters that may include an incidental opportunity to donate, and any number of other communications.

Even if the fundraising ratio of a campaign is calculated by the charity, it is often based only on the immediate results and not the value of having identified donors who may, for example, leave bequests. There is no logical time period during which such a calculation can be made.

Sometimes charities have multiple distinct charitable missions or programs, each of which has "earmarked" fundraising. Should each one have a different calculated fundraising ratio? If not, doesn't that mean that the "campaign" is effectively indefinite since the other missions will continue even if one is completed?

There is no agreed upon definition of the fundraising ratio in part because there is no agreement on any particular time period over which the calculation should be made.

B. What expenses and income are properly allocated to the fundraising ratio's numerator and denominator?

Assuming that the measuring period problem could be solved, there's still a problem of classifying what goes into the numerator and what goes into the denominator in order to calculate the fundraising ratio.

Each state tends to formulate its own methodology, some of which are vague. West Virginia requires nonprofits to calculate their "fund-raising percentage" by dividing "fund-raising

expenses" by "income derived from fundraising."[13] Missouri requires nonprofits to report the "percentage of funds directly spent on fund-raising or directly allocated for fund-raising activities"[14] And Utah requires nonprofits to report "fundraising costs as a percentage of contributions" using data from the nonprofit's most recent Form 990.[15]

1. The Numerator: Solicitation expenses

Presumably the numerator is the amount of money spent soliciting donations or "fundraising." Money spent advancing the charitable mission should not be included.[16] Of course, this seems a simple distinction in theory; but in reality it is quite nettlesome. In many instances, the act of solicitation advances the charitable mission.[17]

Consider a nonprofit dedicated to women's health. A particular mass mailing might remind women to conduct a periodic breast self-examination. In part to defray the costs of the mailing and also to advance other aspects of the organization's mission, the letters might also include a solicitation for donations. The act of solicitation is inextricably bound up with the nonprofit's mission.[18]

Should the cost of these "educational" mailings be included in the fundraising ratio numerator or not? Apparently Illinois thinks they should not because their calculation of fundraising costs do not account for these activities.[19]

If the calculation of the numerator in the fundraising ratio is based on mission related expenses then the calculation depends upon a precise definition of the charity's mission. Is it the mission as set forth in the organization's articles of incorporation? Is it the mission as enunciated in its application for tax exemption and upon which exemption was granted? Is it the mission as stated in its informational tax return on IRS Form 990? Is it the nonprofit's current mission statement? Or is it the content and tenor of a specific appeal?

2. The Denominator: The amount raised

Calculating the denominator in the fundraising ratio, the amount of money raised, presents difficulties as well. Of course, determining the value of cash, checks, securities and even donated property such as works of art is straightforward. But the eleemosynary act takes many forms. How are donated services valued? The tax rules place a particular value on them only if they are derived from special skills while unskilled labor is assigned no value at all. Will state attorneys general and local regulators and charity watchdogs follow this rule?

There are, of course the same definitional problems as previously discussed. What is to be included in the denominator? Are funds raised only from a particular medium (e.g. telemarketing or a special event) to be included in both the numerator and denominator? Or, should one include all funds raised from all types of public solicitations in the denominator? Or, instead, should one include all revenue regardless of source (including government grants, service income, bequests, etc.) thereby lowering the fundraising ratio as a result of, for example, revenue from patients or government grants?

What about the value of future donations from new donors identified in prospecting campaigns? What about pledges and other promises to give (e.g. "I've left some money for your organization in my will")? They are not normally considered current income under U.S. accounting rules. Should charities avoid soliciting such gifts because the costs of solicitation will be recorded immediately while the substantial benefits may not occur until a later time period, thereby subjecting the charity to allegations of fraud? What if the nonprofit knows from years of experience that it can expect a certain percentage of pledges to be honored? What happens if pledges are honored or dishonored at an unusual rate in a particular year and the fundraising ratio reported earlier turns out to be in error?

C. Characterization of reserves

Assuming that one could resolve the measuring period problems and the numerator/denominator problems, there's still the difficulty of how to account for nonprofits that build reserves. Many nonprofits make it a priority to save a certain percentage of their income to build an endowment, to create a "rainy day" fund, to build new facilities, or to advance some other legitimate purpose. Most applaud this approach and view it as responsible management. Where would our major universities in the United States be if they were not permitted to collect and maintain endowments?

Others find the practice irresponsible and claim the nonprofit is not advancing its mission as aggressively as possible and is essentially "making a profit" from its charitable solicitations.[20] Will the federal authorities, fifty state regulators and hundreds if not thousands of local regulators view the practice in a consistent way?

Worth magazine listed one charity as one of the best nonprofits in the US. The authors went out of their way to explain that "'the conservation groups' ratios are skewed because they are forced to report land acquisitions as a capital cost rather than a program expense."[21] Retained earnings from other nonprofits would not necessarily be handled this way. Should such variations in accounting and reporting rules, which have a powerful effect on a nonprofit's fundraising ratio, become the basis for decisions about whether that charity is worthwhile or not?

Conclusion

Many years ago when I first started working in this field I attended a conference of charities that do international relief work. A panel consisting of the representative of a watchdog organization and the editor of Money magazine presented their findings which had been published and widely circulated about the "most efficient charity in the United States." Clearly the goal was to get the public to donate to the most "efficient" organizations rather than others. They then announced that one organization had a 99+% efficiency and named the group because 99% of all donated funds were used for programs.

I was surrounded by experts in international relief work and they all started to laugh. I inquired why. They told me that the charity in question was known for taking millions of dollars of gifts in kind ranging from Pop-tarts to outdated books on accounting written in English and shipping them to port cities in Africa where the materials would be unloaded and distributed to whoever

was present and wished to avail themselves of these materials. The books were not used in education, they were burned to provide heat and the Pop-tarts and other excess inventory junk food was consumed by whoever stopped by to get them.

The charity achieved its efficiency by delivering millions of dollars of donated goods that were of marginal utility and spending next to nothing on staff and infrastructure.

The experts I was sitting with told me that real efforts to solve the problems of poverty and hunger in Africa were not focused on port cities but inland and involved having charity staff who could work on problems of sustainable agriculture, irrigation, construction of homes and schools and the like. Thus, those organizations had staff and trucks and equipment and expenses that required a certain amount of administrative overhead and as a result they were viewed on this measure as less efficient.

Just this month a wonderful and widely acclaimed new book was published called "Forces for Good: The Six Practices of High-Impact Nonprofits."[22] The authors extensively studied nonprofits that are making real differences in the world by accomplishing their mission. They describe in detail why program service and fundraising cost ratios are simply not useful.

> The problem with using these metrics is that they fall into the trap of measuring financial inputs or ratios as a proxy for success, rather than measuring impact, or the amount of change accomplished with that investment. Worse yet, they assume that nonprofits can implement programs without any infrastructure or support. They may encourage donors to support groups that spend too little on people, IT systems, or management, which can lead to weak organizations at best, or accounting trickery at worst.
>
> The nonprofits we identified [as high impact nonprofits], however, don't spend too much time worrying about these metrics. They spend what they need to sustain their impact.
>
> . . .
>
> In the business world, it is widely recognized that having a superior company enables success. It takes money to make money. But in the social sector, the idea still remains difficult for donors to grasp.[23]

The authors go on to list six myths about nonprofits that need to be dispelled.

> Myth 5: High ratings on conventional metrics. When we looked at traditional measures of nonprofit efficiency, such as ratings on Charity Navigator, many of these [high-impact] groups didn't score so well. A few garnered only one or two stars out of a total of five. These ratings Web sites can tell you which groups have the lowest overhead ratios, but they can't tell you which have had the most impact.

The most extensive database on nonprofits and their reported annual financial results in the United States has been compiled and published on the Internet as "Guidestar."[24] The chief executive of Guidestar's parent nonprofit organization has spent a great deal of time thinking

about the various ratios that can be calculated to measure the performance of nonprofits. He says:

> In the final analysis the worthiness of a charity is a function of the unique value set of the individual donor. Some donors like large, endowed institutions that work on a long-term society need. Others like fast growing, cash-poor organizations that attend to acute needs. There are scores of potential models for assessing the value of a charity. In our opinion, "efficiency" per se, based upon certain financial ratios is probably not a good measure unless you are looking at a single organization's financial progress over time or at a group of very similar peer organizations. If you are looking at ratios as an indicator of worthiness, remember that the age, growth rate, dependence upon donations from the public (as opposed to foundation or government grants or earned revenue), and type of work (research, education, direct service, resource pass-through, etc.) will likely all have far more to do with the reported ratio than the fundamental operating efficiency of the organization.[25]

With all due respect, I would hope that this Committee will not add weight to the myths about the nonprofit sector which not only mislead the public but discourage them from participating by volunteering, donating and generally supporting worthwhile missions. We have too many headline seekers posing as leaders both within our own nonprofit community and in the political community as well.

As Einstein famously said: "Everything should be as simple as possible, but not simpler." Please do not allow yourselves or others to think that these simple metrics of cost of fundraising ratio or program services ratio are useful or valuable measures of anything. Look instead at the work that is really done by the organizations you are studying and let their work inform your judgment of their worth.

ENDNOTES

[1] The problems with using this crude measure are revealed in numerous scholarly studies of the matter. See, generally, Espinoza, Straining the Quality of Mercy: Abandoning the Quest for Informed Charitable Giving, 64 Southern California Law Review 633 (1991); Frumkin & Kim, Strategic Positioning and the Financing of Nonprofit Organizations: Is Efficiency Rewarded in the Contributions Marketplace?, 61 Public Administration Review 266-275 (2001); Greenlee & Gordon, The Impact of Professional Solicitors on Fund-Raising in Charitable Organizations, 27 Nonprofit and Voluntary Sector Quarterly 277-299 (1998); R. Rettig, Cancer Crusade: The Story of the National Cancer Act of 1971 (1977); Rose-Ackerman, Charitable Giving and "Excessive Fundraising", Quarterly Journal of Economics 97 (1982); Sargeant, Using Donor Lifetime Value to Inform Fundraising Strategy, 12 Nonprofit Management and Leadership (2001); Smallwood & Levis, The Realities of Fund-Raising Costs and Accountability, The Philanthropy Monthly (September 1977) (also found at http://www.nonprofits.org/misc/fps/realities.html); Steinberg, Should Donors Care About Fundraising? in S. Rose-Ackerman, ed., The Economics of Nonprofit Institutions 347-364 (1986); Steinberg, Economic Perspectives on Regulation of Charitable Solicitation, 39 Case Western Reserve Law Review 775 (1988); Steinberg, Profits and Incentive Compensation in Nonprofit Firms, 1 Nonprofit Management and Leadership 137-151 (Winter 1990); Steinberg, The Economics of Fundraising, in D. Burlingame & L. Hulse (Eds.), Taking Fund Raising Seriously, 239-256 (1991); Steinberg, On the Regulation of Fundraising, in D. Burlingame (Ed.), Critical Issues in Fundraising 234-246 (1997); Titus, Heinzelmann & Boyle, Victimization of Persons by Fraud, 41 Crime and Delinquency 54-72 (1995); Watkins, Discussion on the Cyber-Accountability List-Serv, archived at cyb-acc@CharityChannel.com., #2002-140 (Aug. 24, 2002), Are ratios useful? For donors? For the community? (found at http://www.nonprofit-info.org/npofaq/11/14.html)(1996).

[2] Former California Attorney General Lungren issued a Press Release prior to Christmas in 1994 (Attorney General of California, Press Release 94-120) and a report Attorney General's Report on Charitable Solicitation by Commercial Fundraisers (1994) in which at least one charity, Christian Appalachian Project, was castigated for an excessively high fundraising ratio. Unfortunately, the report did not differentiate between full fledged fundraising campaign and small feasibility test conducted to determine whether a campaign was viable. In this case the charity conducted a small feasibility test of telemarketing to lapsed direct mail donors. The costs were, as might be expected, high because it was a small test. However the charity's annual report filed with the California Attorney General in that year showed its *overall* cost of fundraising *for the year* was a mere 18% of income.
The Attorney General of New York issues a similar report each year. See, Spitzer, Pennies for Charity – Where Your Money Goes (December 2002).

[3] [F]actors other than honesty and efficiency … drive the fundraising cost ratio. For example:

- It could be a start-up charity without a donor base
- It could be an organization with an unpopular mission, such as a home for unwed mothers, where many people must be contacted in order to find a few concerned donors who are not deterred by social stigma
- It might be a national charity that is supported by a small but loyal group of donors who are scattered across the country and make relatively small donations per capita.
- It could be an organization that is precluded from using a fund raising method that tends to deflate the fund raising cost ratio, such as the use of volunteers to solicit door-to-door or special events to raise funds locally. ...

Even if it were feasible for an organization to use a fund raising method that will deflate the fund raising cost ratio, it may still be a responsible decision to use a method that boosts the ratio. For example, a cause-oriented group may need to maximize the number of adherents in order to further its program mission. For that group, it may be worth it to use direct mail even at a loss in order to find more adherents."

Miller, Suggestions to Improve Private Standard Setting for Charities: The NCIB Proposals, Philanthropy Monthly 14 (Nov. 1987).

[4] Steinberg, On the Regulation of Fundraising, in D. Burlingame (ed.), Critical Issues in Fundraising, 234-246 (1997) (parenthetical in original).

[5] Riley v. National Federation of the Blind of North Carolina, Inc., 487 U.S. 781 (1988).

[6] Some state regulators publish fundraising ratio data on state managed websites. See, e.g., Kansas' "Charity Check" website http://www.kscharitycheck.org/search.asp where fundraising ratio is based upon the ratio of "fundraising expenses" to "gross receipts." See also, http://web.dos.state.pa.us/charities/dsf/explain.cgi which

explains the calculation done by Pennyslvania. Charity Navigator, one of several "watchdog" groups, measures amongst other things "fundraising efficiency" based on the percentage of total contributed revenue expended on fundraising. See, http://www.charitynavigator.org/index.cfm/bay/content.view/catid/2/cpid/35.htm.

[7] "[T]here is no uniform method for measuring fund-raising expenses. Indeed, there is disagreement within the nonprofit field over the definition of fund raising, including when and how to allocate costs between program and fund-raising activities." Hopkins, A Struggle for Balance, Advancing Philanthropy 26-31 (Fall 1995).

[8] "[A] solicitation may be designed to sacrifice short-term gains in order to achieve long-term, collateral, or non-cash benefits." Riley, 487 U.S. at 792. "Experienced fundraisers seem to agree that direct-mail prospecting is considered effective if it breaks even (e.g., Bergen, 1991; Bush, 1991; Warwick, 1994)." Greenlee & Gordon, The Impact of Professional Solicitors on Fund-Raising in Charitable Organizations, 27 Nonprofit and Voluntary Sector Quarterly 277, 284 (1998).

[9] "One third to one half of first-time donors will never make a second gift. The pool of previous donors (the 'house list') also suffers from attrition or what Rosso (1991) calls 'the transiency factor.' According to Royer (1989), 60% of gifts to many charities come from people aged 60-76. As these donors die, lose interest, and so forth, the charity must find replacement donors. Accordingly, prospecting tends to be an ongoing process, but, for established organizations, the high cost is masked by the efficiency of resolicitations of the house list." Greenlee & Gordon, The Impact of Professional Solicitors on Fund-Raising in Charitable Organizations, 27 Nonprofit and Voluntary Sector Quarterly 277, 284-85 (1998).

[10] Many contracts for fundraising services are based on flat fees for particular services rather than percentages. Therefore the fundraising ratio cannot be determined merely by reference to a commission set in the contract. Instead, revenues or expenses and costs of fundraising for like periods must be compared after the fact.

[11] The nonprofit, fearing a reputation-damaging fraud investigation, would likely be too afraid to even begin a direct mail campaign. Even if it did begin, the nonprofit might face a fraud investigation just after the prospect mailing which would prevent the nonprofit from ever recovering the investment it made in the prospecting.

[12] Instead of treating the ongoing operational investment in building a mailing list just as any other asset that might be purchased and then expensed over a number of years, U.S. accounting rules require treating such operational investments as expenses in the year made despite the fact that revenue associated with those expenses will occur later. See, American Institute of Certified Public Accountants, Audit and Accounting Guide for Nonprofit Organizations ¶ 13.06 (2002). By contrast, other countries such as Germany, the Netherlands, France, etc. allow nonprofits to amortize investments in mailing lists just as investment in any other asset may be amortized.

[13] See http://www.wvsos.com/forms/charity/chr1.pdf at page 4.

[14] See http://www.ago.state.mo.us/charities/charityannualreport.pdf at page 1.

[15] See http://www.commerce.utah.gov/dcp/downloads/permitapps/charitableorganization.pdf at page 4.) Although, for Utah, a nonprofit can rely on the Form 990 instructions for a degree of certainty in calculating his fundraising ratio, Missouri and West Virginia give very little guidance on how they expect the fundraising ratio to be calculated.

[16] The American Institute of Certified Public Accountants, Accounting for Costs of Materials and Activities of Not-for-Profit Organizations and State and Local Government Entities that Include Fundraising, Statement of Position 98-2 ("SOP 98-2") regarding accounting for expenses that are allocable between fundraising and program services specifically provides the rules for this. In order for a charity to receive a "clean" audit opinion, they must follow these rules despite the fact that organizations such as the American Institute of Philanthropy disregards these official rules when doing its ratio calculations.

[17] "Campaigns may directly accomplish the charitable mission as a side effect of fund raising. For example, political fund raising may also raise the candidate's profile, and fund drives for Mothers Against Drunk Driving (MADD) may educate the public about the dangers of drunk driving while also raising money." Steinberg, The Economics of Fundraising, in D. Burlingame & L. Hulse (Eds.), Taking Fund Raising Seriously 239-256 (1991). See also, Secretary of State of Maryland v. Joseph H. Munson Co., Inc., 467 U.S. 947, 961 (1984) and Riley v. National Federation of the Blind of North Carolina, Inc., 487 U.S. 781, 798 (1988).

[18] Economist Richard Steinberg suggests:

> Even if public education is not one of the charity's goals, the public is educated about the charity through the solicitation process, and this information is not valueless. ... Solicitation expenditures may provide socially valuable information even when they result in a decrease in donations. The information contained in solicitation literature may convince a donor who was otherwise predisposed to contribute that his interests would be better served by spending his money elsewhere. Thus, the 'public education' defense extends far beyond those charities which explicitly count advocacy or education among their goals.

Steinberg, Regulation of Charity Fundraising: Unintended Consequences, Working Paper, Indianapolis: IUPUI Dept. of Economics (1991).

[19] The Supreme Court of Illinois has already discussed this very problem in Ryan v. Telemarketing Associates, Inc., 198 Ill. 2d 345, 359-60 (2002).

> [H]igh solicitation costs, and a solicitor's high rate of retaining receipts, can be attributable to a number of factors. Certain types of fund-raising eampaigns, for examplc include a wide range of activities that must be paid for. The present case illustrates this point. ... [The] contracts [attached to the Complaint] show that, in exchange for its fee, Telemarketing agreed to supply and pay the salaries of all marketing personnel, as well as pay all costs for an office and phones. In addition, Telemarketing agreed to be responsible for producing, publishing, editing and paying all costs for the annual publication of more than 2,000 copies of an advertising magazine that would "increase community awareness of [VietNow]." The contract required Telemarketing to conduct "an efficient and professional marketing program, promote goodwill on behalf of [VietNow], and enhance good public relations." ... Defendants in this case were contracted to perform a wide range of activates on behalf of VietNow, all of which were to be paid for out of [Telemarketing's contractual portion of] the solicited funds."

[20] The American Institute of Philanthropy, which earlier testified before this eommittee, "*reduces* the grade of any group that has available assets equal to three to five years of operating expenses." See, http://www.charitywatch.org/criteria.html.

[21] Yaqub, America's Top 100 Charities, Worth, December 2002.

[22] L. Crutchfield & H. Grant, Forces for Good: The Six Practices of High-Impact Nonprofits, Jossey-Bass 2008.

[23] Id. at 200, 203.

[24] This can be found at http://www.guidestar.org and was compiled by Philanthropic Research, Inc. a nonprofit organization. A discussion of fundraising cost ratios and their calculation and usefulness can be found on the "Guidestar" website at http://www.guidestar.org/news/features/ratios.stm.

[25] Found at http://societytalk.guardian.co.uk/WebX?14@189.mim4cojfuLb.0@.ee902fb/3.

Chairman WAXMAN. Thank you Mr. Peters. Ms. Johns.

STATEMENT OF BELINDA J. JOHNS

Ms. JOHNS. Good morning, Chairman Waxman, and distinguished members of the committee. Thank you for inviting me here to speak.

The California Attorney General represents the public beneficiaries of charity, who cannot sue in their own right. He has broad supervisory and investigative powers over the activities of charitable organizations and their fundraisers. The Charitable Trusts Section carries out this oversight role. Our mandate is to detect fiscal abuse and mismanagement that results in a loss of charitable assets and to take the necessary action to return diverted assets to charity.

We are divided into two parts: the Registry of Charitable Trusts and the Legal and Audit Unit. The Registry is responsible for administering California's registration and reporting law, and for responding to the high volume of complaints and inquiries received from this sector and from members of the public.

The Registry's three auditors review and investigate complaints and provide audit support to our attorneys. The legal and audit unit, 11 attorneys and 7 auditors State-wide, carries out the enforcement component of the Attorney General's jurisdiction. We conduct audits and investigations into allegations of fiscal abuse, fraud, diversion, mismanagement of assets with regard to both charitable organizations and fundraising professionals, whether registered or unregistered. Based on the results of those inquiries, we take corrective action to recover diverted charitable assets, remove trustees and board members, restrain solicitation activity, involuntarily dissolve corporations and restore assets to charity.

Cases relevant to this inquiry include our civil prosecution of Mitch Gold, a series of cases which eradicated storefront solicitation, a criminal case filed against an executive director who embezzled funds from a small veterans' charity.

We face three major challenges. One is our limited ability to address compliance because our registry is still paper-based. We are in the final phase of an automation project, which when completed will allow us to more comprehensively supervise and systematically address compliance. For example, we have over 92,000 registrants. We estimate 50,000 of them are delinquent. Another 90,000 which have incorporated in California are not registered, and we think at least half of them should be.

Our second challenge is related to the first. Case selection is primarily complaint-driven. Once we are automated, we will be able to track abuses in a more sophisticated fashion and target specific issues.

Our third challenge is to protect charitable assets effectively given our limited staff and budget resources, a challenge faced by many State charity offices. We encourage compliance by offering guidance on our Web site and in community outreach. We offer charities the opportunity to take corrective action before we take legal action. We form relationships with other government agencies so that we can triage complaints and refer them to other agencies that may be able to more effectively deal with them.

We participate in multi-agency task forces and multi-State litigation in order to extend our enforcement capability. We publish guidance to assist donors in gathering the information they need to make wise giving choices.

Our ability to address high fundraising costs is limited by the Supreme Court cases that have been discussed. Our response was to amend our supervision act to require fundraising professionals to register and file annual reports. We post them on our Web site. We publish an annual report summarizing their content. We have also added provisions that require specific contract terms and prohibit non-voidable contracts.

With regard to addressing fundraising abuse, we primarily rely upon complaints. Our guide to charitable giving includes a primer to help donors find relevant information on the 990, and a checklist of questions donors can ask and factors they may consider to assure their contributions are used in the way they intend.

Problem areas in solicitation in our experience include telemarketing and direct mail appeal, because of misrepresentations. Again, donors are the first level of defense, because if they are educated, they can make wise choices and they can refuse to give to organizations that do not fit the profile they set.

We have found no mechanism to quantify fraud in this area. Fraudulent schemes will not necessarily come to our attention, and if they do, it is after the fact and generally after the assets are lost. For these reasons, donors must be vigilant and willing to take the time to assure they know who will benefit from their contribution and how it will be used.

The bottom line is that, in order to minimize waste and diversion, donors, members of board of directors and State charity regulators all have a role in controlling abuses in the solicitation of contributions and in the operation of the charities themselves.

Thank you.

[The prepared statement of Ms. Johns follows:]

U.S. House of Representatives
Committee on Oversight and Government Reform
January 17, 2008 - 10:00 a.m.
2154 Rayburn House Office Building

Testimony of Belinda J. Johns
Senior Assistant Attorney General
Charitable Trusts Section
California Attorney General's Office

Assessing Veterans' Charities

Good morning, Chairman Waxman and distinguished members of the U.S. House of Representatives Committee on Oversight and Government Reform.

My name is Belinda Johns. I am the Senior Assistant Attorney General in charge of the Charitable Trusts Section of the California Attorney General's Office. Thank you for the opportunity to appear before you today and for your leadership on this important issue.

The California Attorney General has broad supervisory and investigative powers over the activities of charitable organizations and their fundraisers. Pursuant to our Supervision Act[1], all charitable organizations incorporated or operating in California and fundraising professionals

[1]"The Supervision of Trustees and Fundraisers for Charitable Purposes Act," Government

soliciting in California are required to register and report annually to the Attorney General's Registry of Charitable Trusts.

The Charitable Trusts Section carries out this oversight role for the Attorney General. Our mandate is to detect fiscal abuse and mismanagement that results in a loss of charitable assets and to take the action necessary to return the diverted assets to charity. The Section is divided in two parts: the Registry and the Legal and Audit Unit.

The Registry's 6 analysts and 5 staff persons are responsible for administering the registration and reporting requirements, as well as a separate registration process for charitable organizations authorized to conduct raffles.[2] Staff is also responsible for the analysis of annual reports filed by fundraisers, analysis of waiver requests for corporations that wish to dissolve, and response to the high volume of inquiries received from both the charitable sector and members of the public. The Registry's 3 auditors are responsible for intake, review and

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Code section 12580 et seq., enacted in 1955.

[2]Hospitals, healthcare service plans, educational institutions, political action committees, federally-chartered entities (such as American Red Cross) and religious corporations are exempt from registration and reporting. The Attorney General retains jurisdiction over the activities of these entities, with the exception of religious corporations, over which he has minimal jurisdiction.

investigation of complaints, and provide audit support to Section attorneys.

The Legal and Audit Unit, composed of 11 attorneys and 7 auditors statewide, is responsible for carrying out the enforcement component of the Attorney General's jurisdiction. That jurisdiction extends to enforcement of the Nonprofit Corporation Law, trust law, and portions of the Unfair Business Practices Act which govern solicitation for charitable purposes.[3] Audits and investigations are conducted into allegations of fiscal abuse, fraud, diversion and mismanagement of assets, with regard to both charitable organizations and fundraising professionals, both registered and unregistered. Based on the results of those inquiries, legal staff takes corrective action to recover charitable assets, remove trustees and board members, involuntarily dissolve corporations, and restore assets to charities.

Cases of note which are relevant to this inquiry include:

- our civil prosecution of Mitch Gold,
- a series of cases which eradicated storefront solicitation for sham veterans charities,
- a multi-state action filed against a large direct mailer and its captive charities,
- a criminal case filed against an executive director who embezzled funds from a small veterans charity in Northern California, and
- involuntary dissolution of two car-donation scams.

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[3]Corporations Code section 5000 et seq., California Probate Code and Business and Professions Code sections 17200 and 17500 et seq., respectively.

Section attorneys are also responsible for reviewing and approving transfers of the assets of nonprofit hospitals, and reviewing specific transactions such as mergers and sales of assets.

Our Section faces three major challenges. The first, which will soon be resolved, is our limited ability to address compliance because our Registry is paper-based. We are in the final phase of an automation project, however, which, once completed, will allow us to more comprehensively supervise registrants and obtain compliance with the Act. As an example, we currently have over 92,000 registrants, and estimate that 50,000 of them are delinquent in reporting. Another 90,000 have incorporated as public benefit corporations in California but are not registered. And while many of this latter group may be exempt from registration, or never received assets, we estimate that at least half should be registered and reporting to the Registry.

Our second challenge is related to the first. Case selection is primarily complaint-driven at this time. Once the Registry is automated, we will be able to track abuses in a more sophisticated fashion and to target specific issues, like excess compensation, for review and correction.

Our third challenge is to effectively protect charitable assets given our limited staff and budget resources. Our response to this latter challenge is multi-pronged: We encourage compliance by offering guidance on our website and offering charities the opportunity to take corrective action before we take legal action We have also formed relationships with other

government agencies, both state and federal. In this regard, we *triage* each complaint we receive to determine which agency may most expeditiously address the issues raised. We have also participated in multi-agency task forces and multi-state litigation as a way of extending our enforcement capability. And last, but not least, we publish guidance to assist donors in gathering the information they need to make wise giving choices.

Our ability to address high fundraising costs is limited by the holdings in a line of cases decided by the U.S. Supreme Court in the late 1980's[4]. The California Attorney General's response to this line of cases was to amend the Act[5] to require fundraising professionals to register and file annual financial reports. These reports are available for review on our website and we publish an annual report summarizing their content.

With regard to addressing fundraising abuses, we rely primarily upon complaints received, generally from donors and law enforcement. Donors are often not aware that they have been victims of unscrupulous charities or fundraisers, however, because, unlike consumers who purchase and expect delivery of a product, donors are expecting to receive only a receipt or canceled check confirming the gift. To help donors make wise giving decisions, we publish and post on our website a guide to charitable giving. The guide includes a primer to help donors find relevant information on the Form 990 and a checklist of questions donors can ask and factors that

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[4]Culminating in *Riley v. National Federation of the Blind*, 487 U.S. 781 (1988).

[5]Section 12599, enacted in 1989 for commercial fundraisers, and section 12599.1 and 12599.2, in 1998, for fundraising counsel and commercial co-venturers.

should be considered to assure that contributions are used in the way they intend. Separate chapters discuss public safety fundraising appeals and victimization of senior citizens.

Problem areas in solicitation, in our experience, include telemarketing and direct mail appeals, primarily because of misrepresentations. Again, donors are the first level of defense against this type of abuse because they can refuse to give. If , before making a donation, donors review the financial information filed by both charities and their fundraisers, they are less likely to make gifts to charities that have high ratios of fundraising or administrative expense. And while state charity offices cannot set limits on these expenses, there are resources available to donors to help them make that decision.

In our guide, we urge donors to ask some threshold questions before writing a check:

- Is the charity effective in achieving its stated mission?
- Is the charity spending its funds prudently?
- Are the charity's solicitation and informational materials accurate, truthful and not misleading?
- Is the charity's board of directors active, independent and free of self-dealing?
- How much of your charity dollar do you want the charity to devote to program services?

Asking these questions and using the 20-point checklist in the guide will provide donors with information needed to make informed decision.

We have found no mechanism to quantify fraud in this area. Nor will fraudulent schemes necessarily come to the attention of state charity officials. For these reasons, donors must be vigilant and willing to take the time to assure they know who will benefit from their contribution and how that contribution will be used.

The bottom line is that both donors and state charity regulators have roles in controlling abuses in the solicitation of charitable contributions and in the operation of the charities themselves.

Again, thank you for providing me the opportunity to appear before you today. I welcome any questions you may have at this time.

Chairman WAXMAN. Thank you very much, Ms. Johns.

I will now proceed to questions by members of the committee who will have 5 minutes each. I will start out with my questions first.

Mr. Chapin, in your written testimony, you stated your groups use most of their contributions to provide services to veterans. You say Help Hospitalized Veterans uses two-thirds of its funds to serve veterans. You claim that the Coalition to Salute America's Heroes uses more than 90 percent of its budget to help veterans.

That sounds pretty good, but it is not true. It is not accurate. The committee staff examined your group's financial statements and found that if you removed all the grants from one group to the other, and if you don't count your mass mailings as a service to veterans, your numbers are actually much, much lower.

Here is what we found. And let me put up a chart. In the last 3 years, 2004, 2005 and 2006, your two groups combined received donations of $168 million, but only a quarter of these revenues went to providing actual goods and services for veterans. That means only one out of every four dollars you received ended up directly assisting veterans. That is a very different story than what you said in your testimony.

But it does match what you told our committee staff when you met with them last week during your interview. Last week you confirmed that three-fourths of the donations do not result in the delivery of goods or services to veterans.

I want to quote from what you said: "I told you what our costs are. Direct mail is, you know, 65 percent range, not any given mailing, but the whole mix of a program, 60, 65 percent. You put 10 percent on top of that for administration and overhead, this is without any, you know, allocation business, you are pushing 75 percent, so you got 25 cents goes to charity. I will be very up-front with you about that." That is what you said to our interviewers.

So last week you told the committee that you were pushing 75 percent and only 25 cents goes to the charity. But today, in your written testimony, you are saying you use more than two-thirds and more than 90 percent to help veterans. Which is it?

Mr. CHAPIN. So, what is your question, Mr. Chairman?

Chairman WAXMAN. Well, you said in your testimony that 90 percent and 75 percent actually goes to help veterans. But in your interview and according to the records of your company, it looks like 75 percent actually goes to fundraising and only 25 percent to veterans. Which is which?

Mr. CHAPIN. Well, the difference has to do with the allocations. I mentioned in my prepared remarks this morning that if you disregard allocations, only about 25 percent of the donor dollar actually goes to the cause. I was very forthright in acknowledging that to you. That is if you disregard allocations. If you consider allocations, which—let's look at the——

Chairman WAXMAN. What do you mean by allocations?

Mr. CHAPIN. Well, the American Institute of Certified Public Accountants, sir, has set forth the ground rules by which charities must report. We don't make the rules, we follow the rules.

Chairman WAXMAN. What do you mean when you say an allocation?

Mr. CHAPIN. OK. If we make a—our marketing costs are divided into two categories, per the Institute. One has to do with what is known as program services, and the other has to do with fundraising. This is a very arbitrary and subjective and discretionary matter. Now, we have a very conservative accountant, who happens to be a very good friend of mine. Because of that, I respect him and I go along with him. We get, and I would like to put this up on the chart, if I may, we get a very small allocation toward program services, and we get a very high toward fundraising.

And by that, I mean—can we put that up, please? So, in other words, a very small percentage, compared to other organizations, compared to other veterans' charities and many others, a very small percentage of our marketing costs are allocated to program services and a very high percentage are allocated to fundraising costs. It makes us look bad.

Chairman WAXMAN. So your own accountant then allocates more to fundraising than to actual services?

Mr. CHAPIN. That is right. Because we play by the rules.

Chairman WAXMAN. OK. Now let me ask you this. The committee staff asked you why you used inflated numbers in your mailings rather than the real figures. In response, this is what you said: "Because we wouldn't raise any money. I mean, that's a pretty straight answer."

You are right, that was a straight answer, but the question is whether it is an acceptable one, because you falsely inflated the numbers to raise more money by telling them more money is actually going to go to veterans, but in fact, your own accountant and your own figures show that less money is going to the veterans. You are not telling them the truth. It is unethical, it is wrong. It is really a fraud against Americans who agree to give you their hard-earned dollars, isn't it?

Mr. CHAPIN. Absolutely not. We made no representations whatsoever to the donor as to the percentage of the money that was going to the charity. Not so.

Now, our costs——

Chairman WAXMAN. What representations have you made to the donor?

Mr. CHAPIN. What did you say?

Chairman WAXMAN. What representations have you made to the donor?

Mr. CHAPIN. We told the donors that we are going to provide craft kits and we are going to provide—we are going to help turn back on the utilities of our severely disabled veterans that have been shut off. We are going to make payments on their cars so they don't get repossessed, such as many of them are. We are going to pay their mortgage payments on their houses, so they don't get evicted from their houses. We are going to do everything that Congress is not doing to take care of these guys. Unfortunately, we are very limited——

Chairman WAXMAN. Well, let me conclude, because my time is up, but in the mailing that was produced by Help Hospitalized Veterans, it said, "This mailing was produced by Help Hospitalized Veterans, which retains 100 percent of the contributions made." A hundred percent, it says, and then you would think that 100 per-

cent is going to help veterans, but that is not the reality, only 25 percent.

Mr. CHAPIN. That is not the—no reasonable person, if you will pardon me, Mr. Chairman, would interpret it in that way. As a matter of fact, the State of Florida——

Chairman WAXMAN. Well, if you say 100 percent goes to veterans, most people who are reasonable would believe that.

Mr. CHAPIN. We didn't say to the veterans, we said to the charity, 100—that is not what it says, sir. The State of Florida requires us to put that precise language in the solicitation. And Mr. Peters, I think, will attest to that. As a matter of fact, Mr. Viguerie, his mailings, he represents about 75 percent of all the revenues that we generate, he doesn't use that statement. Mr. Peters, who has CDR, that is the organization's he is the CEO of, his attorneys apparently believe that it is necessary to use that language——

Chairman WAXMAN. Let me ask Ms. Johns. Is that California? Do we require them to say 100 percent is used for the charity, even though 100 percent is not used to help the veterans?

Ms. JOHNS. We do not.

Chairman WAXMAN. Thank God.

Mr. Davis, your turn.

Mr. DAVIS OF VIRGINIA. Well, I am familiar with the high costs of fundraising. I was chairman of the Campaign Committee for the Republicans. We raised a lot of money through the mail. But the costs were very high, particularly in prospecting and the like. I got criticized for it, but we looked at the net that we could end up spending. So, I am familiar with it.

But I have a couple of questions. Mr. Chapin, I have a letter here. It is a copy of a Help Hospitalized Veterans mail solicitation dated June 18, 2007, directed to a Harvard-area mailing list. It is focused on a Massachusetts wounded veterans fund drive.

This mailing indicates that the donation will support Massachusetts' wounded and hospitalized veterans. How do you ensure that these donations help veterans in Massachusetts?

Mr. CHAPIN. By providing——

Mr. DAVIS OF VIRGINIA. Do you keep records to make sure that those donations go where the mailings come from?

Mr. CHAPIN. We have records showing——

Mr. DAVIS OF VIRGINIA. Or is this just more aspirational than specific?

Mr. CHAPIN. Well, we have 288 veterans and military and State veterans' homes that we service. And we have records. We would be happy to provide them to you, of all the money——

Mr. DAVIS OF VIRGINIA. I am not asking—I am just asking, this was a targeted letter into an area basically saying, this is targeted to people in Massachusetts, just saying, we want to help Massachusetts' hospitalized veterans. If you can send your fund drive in the enclosed envelope, it would be greatly appreciated.

If the money was mailed from Massachusetts, do you allocate that back to Massachusetts or do you not keep that?

Mr. CHAPIN. Not necessarily 100 percent of it. It helps veterans all across the country as well as veterans in Massachusetts.

Mr. DAVIS OF VIRGINIA. So, it is kind of a—there is not a direct linkage? It is a little puffery in there, then.

Mr. CHAPIN. No. If you give that $10, we can't absolutely guarantee you that $10 will wind up in Massachusetts, but a lot of other $10 will wind up in Massachusetts, as you will see by our records.

Mr. DAVIS OF VIRGINIA. From what Mr. Waxman said, if you give $10, $2.50 goes total, right? And then maybe it goes to Massachusetts. But you don't keep a direct allocation?

Mr. CHAPIN. No. You will get a better value than if you went down to the store and you bought him a craft kit and mail it yourself.

Mr. DAVIS OF VIRGINIA. I am just trying to understand it. I am questioning the motive. I am just trying to understand. The Better Business Bureau Wise Giving Alliance sent a letter to the Coalition to Salute America's Heroes Foundation, and stated that the Coalition did not meet its charity standards for governance and oversight, finances and fundraising practices. The letter also asks for clarification on your organization's related party transactions.

Can you tell us more about these standards? The Better Business Bureau standards now, not the other standards that were referred to earlier.

Mr. CHAPIN. Relative to the Better Business Bureau standards, if you take recent years, we meet the financial standard. Now, I am not suggesting that we necessarily meet all 21 Wise Giving Standards that they have. But we meet the two financial standards, which are a maximum of 35 percent of fundraising. The year that ended in 2006, we were at 26.9 percent, which is lower than most of the other veterans' charities and lower than a lot of big name charities all across the country. And the program services is a minimum of 65 percent. We also met that. We were slightly over 66 percent.

Mr. DAVIS OF VIRGINIA. Now, board minutes for the Coalition to Salute America's Heroes, December 29, 2005 minutes, contain a motion to formally evaluate the performance and effectiveness of your charity every 2 years. What performance metrics did you use and what assessments were made? Can you tell us?

Mr. CHAPIN. I can't tell you precisely. I would be glad to provide that information.

Mr. DAVIS OF VIRGINIA. OK. If you could get that back. You did have internal controls?

Mr. CHAPIN. I can elaborate if you want me to. I will be happy to.

Mr. DAVIS OF VIRGINIA. Sure.

Mr. CHAPIN. May I?

Mr. DAVIS OF VIRGINIA. Sure.

Mr. CHAPIN. Yes. We take a look at how effective our funding has been in terms of meeting the needs of the VA hospitals and the patients. As an example, we are shipping over 65,000 craft kits on the average every single month, which is enough to, if every veteran wanted a craft kit, which is our goal, every hospitalized veteran in a hospital, we would be able to provide it. Now, the fact of the matter is that some of these fellows might use 6 or 8 or 10 a month, and others may choose not to do any at all.

So that is how effective our are we in that regard, as an example. We provide virtually over 100 percent, well over 90 percent, let me

be conservative, of all of the craft kits that are provided in the veterans' hospitals.

Mr. DAVIS OF VIRGINIA. OK.

Mr. CHAPIN. Along with, incidentally, we pay the salaries of 51 creative craft specialists who enhance the program enormously. Because the VA was no longer able to do that, so we——

Mr. DAVIS OF VIRGINIA. What does a creative craft kit entail? I mean, what is in that kit?

Mr. CHAPIN. Well, we have over 350 different kits. We have leather, which is extremely popular, we have moccasins, we have wallets.

Mr. DAVIS OF VIRGINIA. OK. I get it. OK. Thanks. That is fine.

Mr. CHAPIN. I would be happy to expound on that. There are lots of them.

Mr. DAVIS OF VIRGINIA. That is fine.

I just want to ask a quick question to Mr. Viguerie and Mr. Peters. How many different mailings do you do annually for Mr. Chapin's charities, particularly for Help Hospitalized Veterans? Are the numbers of mailings done dictated by your contracts? How do you make the decision when a mailing is done who it is directed to? I assume you do some prospecting with that, which are not going to have as high yields to try to build. And who owns the list, at the end of the day? I am trying to just get an understanding of that.

Mr. VIGUERIE. Who is the question addressed to?

Mr. DAVIS OF VIRGINIA. To both you and Mr. Peters. You may have different answers.

Mr. VIGUERIE. We mail—I don't have the figures at my hand here or on the tip of my tongue, but something in excess of 50 million letters in the last year, I think, in that neighborhood that we have mailed, which means hundreds of different mailings, mailing thousands and thousands of different lists. And we have something in excess of 20 people working on this project.

Mr. DAVIS OF VIRGINIA. And these are your lists that you own? Is that right?

Mr. VIGUERIE. Well, it is a combination. We are—a small, small fraction of what the organization mails is our names. Probably less than 1 percent. The vast majority, we will get names from the Republican National Committee, they will rent our names, we rent theirs.

Mr. DAVIS OF VIRGINIA. You buy lists, and everything else?

Mr. VIGUERIE. We don't buy. Usually we exchange. We will exchange and rent for one-time use.

Mr. DAVIS OF VIRGINIA. Mr. Peters.

Mr. PETERS. We don't own any lists ourselves. We manage lists on behalf of charities but we don't own any lists. And then if their list is rented, the revenue goes to the charity. But mostly the names are exchanged with other charities, which is the industry practice in order to keep fundraising costs as low as possible.

I have no idea what the volume of mail we do is. I know that I asked this morning of my staff, we raise about 9 percent according to their 990 of the amount of money that they raise in a year. But I don't know what the actual mail volume is.

Were you asking, though, about frequency or were you asking about——

Mr. DAVIS OF VIRGINIA. I was asking also about frequency.

Mr. PETERS. I don't know precisely in this case, but I can tell you typically a charity will have a number of prospect mail drops during a year, somewhere between two and six or maybe even eight, which is an attempt to find new donors. And then they will mail existing donors who have shown an interest in their cause somewhere between 6 and 12 times a year. And how often any individual is mailed is a function of that individual's own propensity to give money or otherwise participate with the charity.

Sometimes the charities are not asking for money. They are asking for like a petition drive, and I am sure you all have received petitions from constituents that come in very large volumes. Sometimes they are asked to complete a survey, sometimes they are asked to volunteer. Depending upon how the individuals respond, they get different frequency of solicitations.

Chairman WAXMAN. Thank you, Mr. Davis.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. To all of you, thank you for testifying here today.

Mr. Chapin, you know, you started off your written statement by saying "I am passionate about veterans' issues," and I do believe that you are. And I am just wondering, as I am sitting here, I am just curious, do you see anything wrong with the 25 cents on the dollar going to the veteran, and the 75 cents being spent elsewhere? Do you see anything wrong with that?

Mr. CHAPIN. Let me tell you. When I started out, I sent 600,000 gift packs to GIs in Vietnam. Then I went into a veterans hospital and somebody asked, a very severely wounded fellow asked me, I asked him was there anything I could do to help him, he said, yes, give me something to do with my hands. That is how the craft kit program started. Initially I was horrified at the direct mail expense. I will just tell you that flat-out. I was horrified.

Mr. CUMMINGS. Now, I want you to answer the question because I have a lot of questions, and I have only got 5 minutes.

Mr. CHAPIN. Oh, all right. I am trying to answer. Let me tell you——

Mr. CUMMINGS. Do you see anything wrong with 25 cents——

Mr. CHAPIN. When somebody can go down to the store, buy the craft kit for $15, go to the post office, spend another $4, that is $19. And we can send a craft kit with that $15, they take a tax deduction. It is only costing them $10.50, opposed to $19 that if they sent the craft kit on their own. We are giving the donor a good value and at the same time, we are providing a very important service for the hospitalized veterans who otherwise would not receive these craft kits. This is an extremely important program.

Mr. CUMMINGS. I got you. So, you see nothing wrong with it?

Mr. CHAPIN. I didn't say I see nothing wrong.

Mr. CUMMINGS. Well, let me ask you this——

Mr. CHAPIN. I would rather have lower fundraising costs. Yes, we would. I have tried everything under the sun to lower our fundraising costs.

Mr. CUMMINGS. How about reducing your salary?

Mr. CHAPIN. Excuse me?

Mr. CUMMINGS. How about reducing your salary? Mr. Chapin, let me ask you a series of questions.

Mr. CHAPIN. Certainly.

Mr. CUMMINGS. Mr. Chapin, the documents the committee received show that most of what you raise never gets to the veterans you are supposed to be helping. At the same time, however, you appear to be doing quite well for yourself and your wife.

Mr. CHAPIN. By whose standards?

Mr. CUMMINGS. Let me finish. You have provided the committee with a spreadsheet detailing your compensation history and I would like to walk you through exactly how much you and your wife have received over the past 3 years from 2004 through 2006.

First, both you and your wife receive salaries. Yours was approximately——

Mr. CHAPIN. She is now retired.

Mr. CUMMINGS. I'm sorry?

Mr. CHAPIN. I say she is now retired.

Mr. CUMMINGS. When did she retire?

Mr. CHAPIN. What say?

Mr. CUMMINGS. When did she retire?

Mr. CHAPIN. February 28, 2007. She worked for the first 20 years as a volunteer. She got a salary of a maximum of $65,000 at her highest point. She is my right hand arm. She has raised over $7 million with her newsletters.

Mr. CUMMINGS. I believe you.

Mr. CHAPIN. She has raised more than 10 times her salary.

Mr. CUMMINGS. I am convinced that she is a great wife and a great asset to the company. We will stipulate to that. Both you and your wife receive salaries. Yours was approximately $250,000 a year. That is more than the Secretary of Defense or the Secretary of Veterans Affairs receives. Then your wife made about $60,000 a year.

You both also received bonuses during this period. They varied, but in 2006 you received a $50,000 bonus.

Mr. CHAPIN. That was for 2 years.

Mr. CUMMINGS. All right. You received your $50,000 bonus, your wife also received thousands of dollars in bonuses.

Mr. CHAPIN. Well——

Mr. CUMMINGS. Let me finish. I know you want to get at it, but let me get my little piece out. Finally, you have generous pensions. I think you referred to that a moment ago. When you retire, you will get 75 percent of your salary for life, over $200,000 per year. This costs donors to your charity about $100,000 a year.

So, based on the data you provided to the committee, when you total up all these salaries, bonuses and pension contributions for 2004, 2005 and 2006, you and your wife received more than $1.5 million. That is based on your data.

My question is not a legal one. It is not whether you broke the law. Because I don't think you did. My question is whether you believe this compensation is appropriate for someone who works at a charity for veterans.

Mr. Chapin, you and your wife got over $1 million during these 3 years. The public thought this money was going to veterans. But

instead it went to you and your wife. Over a 3-year period, you raised $168 million from the public but very little of that made it to veterans. You spent an astounding $124 million in overhead, salaries, mailings, payments to Mr. Viguerie's firm, and you and your wife kept over $1 million for yourselves.

This sounds like a great business for you and Mr. Viguerie, but a lousy deal for contributors and veterans. How do you respond to that?

Mr. CHAPIN. First of all, Congressman Cummings, my salary is in the lower half as measured by the Chronicle of Philanthropy November 1, 2006 survey of several hundred non-profit CEO's. I am in the lower half. I think my performance is in the upper half. I have probably raised—I have raised more money for veterans than anybody in the United States. I have also delivered more services than anybody else who ever founded a non-profit organization and still the CEO of that organization today.

The point is, my cash compensation, sir, is about six tenths of 1 percent of the gross revenues of my organizations. No. 2, the total compensation, of which a good bit of it I have never received, because it is in the form of futures retirement benefits—I don't intend to retire for one heck of a long time, so I may never see it—is roughly now $300,000.

Even if you take the total compensation benefits, which include retirement money I have never seen, that would be less than 1 percent. The average non-profit executive, sir, receives 3 percent of gross revenues. So I don't know what standard you want to use, but it is measured by a comparison to other non-profit executives, of which there are thousands and thousands of them, I am in the lower half of salary.

Now, yes, I get what I think is a generous one.

Mr. CUMMINGS. Thank you, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Cummings. Your time is expired.

Mr. Sali, do you wish to ask questions?

Mr. SALI. Not at this time, thank you.

Chairman WAXMAN. Mr. Burton, I think you were next.

Mr. BURTON. Yes. Thank you.

This is very interesting. Ms. Johns, have you ever contemplated or think that there needs to be legal action taken against Mr. Chapin or his companies?

Ms. JOHNS. Well, after reading the articles and hearing what I have heard in these hearings, we will certainly take a look. I don't know.

Mr. BURTON. No, I am not talking about taking a look. Because, you know, that is speculative. Has the Attorney General of California found any reason in the past or done anything to investigate or charge them with any illegal activity?

Ms. JOHNS. We have not in the past, no.

Mr. BURTON. OK. Thank you.

I was looking at this list from Charity Navigator of charities in the same category as the Help Hospitalized Veterans organization, the same category. The Alzheimer's Association, the American Cancer Society, the American Diabetes Association, the American Heart Association, the Anti-Defamation League of B'nai B'rith, the

Art Institute of Chicago, the Boy Scouts of America, Ducks Unlimited, the Jewish Federation Council of Greater Los Angeles, the March of Dimes, the Muscular Dystrophy Association, the National Trust for Historic Preservation in the United States, the National Wildlife Federation, the Planned Parenthood Federation of America, and YMCA and on and on.

I understand that we would like to see a lot more of the money that is spent in raising funds go to these charities, but the cost of raising this money is expensive. And I think a lot of my colleagues understand that.

I would just like to ask the members at the table, all of them, what would happen if we didn't do the direct mail, and what would happen to the amount of money that would come into these charities that does get to help these people? Any one of you can answer that.

Mr. CHAPIN. $60 billion would evaporate tomorrow. Of all the $300 billion that is raised by the 1.6 million non-profits, over 20 percent of it comes from direct mail. You folks might lose 25 percent of all your donations in 2008, because 25 percent of all the political donations come from direct mail, at the same expense that we have. And I am not sure that you folks disclose to your constituencies—I am not trying to be a wise apple—that only 25 cents on the dollar is actually going to your campaigns.

Mr. BURTON. Mr. Peters.

Mr. PETERS. Mr. Burton, I think it is an excellent question. What I would like to do is turn back history 50 years. If you looked at charity in the United States, there were a lot fewer charities. It reminds me of Alexis DeToqueville's comments about Americans' propensity to get together in clubs and groups and the huge diversity of interests that they have.

But back then there were a lot fewer charities. And I guess I have outgrown my tux, unfortunately, but back then you attended a charity ball. And you were with the rich, the famous and the influential.

What has happened in our country is the democratization of fundraising. Direct response, not just mail, but other forms of direct response fundraising, have allowed us to reach into communities that previously were never asked to support non-profits. It has allowed us to get into those communities and allow people to express their feelings and who they support and how they support them.

And yet we, through regulation and through IRS rules and through transparency, we allow the donor to see whatever they wish to see. Every charity has a Web site. The 990's are all available. Everyone can go to GuideStar and look up the ratios if they wish to do so.

But without that, we would be back to the days of rich people letting a few crumbs drop off the table for poor people.

Mr. BURTON. Let me just say this. I think, Mr. Chairman, it is good to keep an eye on these charities to make sure that they aren't any illegal activities or fraud going on. But I think for those of us who have been familiar with charities and fundraising in the past, we realize that there is a great deal of cost involved. So as long as there is reporting, and as long as we know what is going

on, and it is in the public domain and we can check it, then I think that we can hold them accountable and make sure they are not wasting money.

There is no question that there is probably some fraud and waste, and I appreciate Ms. Johns being here and I am sure they are going to investigate that sort of thing, as they will across the country. But charity giving through the mail, I think, is important. We should keep an eye on it and make sure that they aren't blowing money unnecessarily. But I think it is an absolutely necessary thing. Otherwise, it if we didn't have these charities, I believe the Federal Government would have to take up some of this slack and do it ourselves. Charities do provide a necessary function in this country.

With that, I yield back the balance of my time.

Chairman WAXMAN. Thank you.

Mr. CHAPIN. We can't begin to fulfill the need. I am the first to acknowledge that, but at least we are trying and something is better than nothing. And Congressman Cummings, if you had experienced as I had disabled veterans without legs who got—a young child, as a matter of fact, a baby and a wife who is living in the back of his car and he is freezing, because this guy doesn't have any other means, as a matter of fact, he was evicted from his trailer, and we are helping him.

Chairman WAXMAN. Mr. Chapin, I am going to have to interrupt you. Members have the opportunity now to ask you questions.

Mr. CHAPIN. Sure. Something is better than nothing.

Chairman WAXMAN. Save it for an answer to a question.

Ms. Watson.

Ms. WATSON. Mr. Chapin, we are looking very carefully at the facts that were presented to us. And you are here to help clarify if we have the right information. I do appreciate your coming. As you know, we sought your input before, and you were not here. This gives you an opportunity to speak directly to us with the facts.

So I want to query you about a letter that was sent to you on December 22, 2006, from a Dorothy W. Smith, Houston, TX. And she says, "Dear Sir, I have contributed to your organization in previous years, and am in the process of evaluating my contributions for 2007. I would appreciate knowing the percentage and charities received versus administrative costs and other expenditures." And she goes on. Your response, or Alicia Griffin responding, says: "Dear Mrs. Smith, as per your request, enclosed please find an annual report for the Coalition to Salute America's Heroes. Please note that 92 cents of every $1 donated goes toward programs supported by the Coalition to Salute America's Heroes." And then the programs are listed, Emergency Financial Relief, etc.

Can you then clarify for us, you said that 100 percent, 92 percent of what is donated goes out for charitable causes. Can you clarify that for us, please?

Mr. CHAPIN. Well, now we are speaking specifically in terms of the Coalition as opposed to Help Hospitalized Veterans. You are talking about a particular year. Now, what happened was, when we started the Coalition——

Ms. WATSON. Well, your response—the response was March 14, 2007.

Mr. CHAPIN. Yes. The Help Hospitalized Veterans board of directors saw fit to make a substantial loan, which was later converted to a grant, in the neighborhood of, about $2.5 million to the Coalition. And so therefore, the Coalition did have extraordinarily low fundraising costs. Starting in 2007, the Coalition did its own direct mail as opposed to HHV doing the direct mail and passing on the money to the Coalition. And that was the reason why, yes, we did have very low fundraising costs.

To start the Coalition, if I may just mention this, I had to loan $500,000 of my own money, which represented that together with an additional $260,000, which I advanced the Coalition in expenses. I didn't collect any of the various expenses that I was incurring over the first 3 years. A total of $760,000, which represented over half of my after-tax compensation for the previous 10 years, because I believed in what I was doing.

The fact of the matter is, just so you have some idea of my commitment to this, when I started the Coalition, the first thing we did was some direct mail with, not Mr. Viguerie, but this other gentleman, and we bombed. Is that correct, Mr. Peters?

Mr. PETERS. I can't say. I believe it is true, but as you know, my partner, who did the mailing, is——

Mr. CHAPIN. It was very unsuccessful. So, then I went out to corporations. So, I begged corporations—I just assumed the corporations were going to open up their pockets or their wallets. That didn't happen.

In the meantime, we had planned this wonderful Road to Recovery Conference, which everybody, the DOD, the VA, all were participating in this, and were helping launch these guys on their road to recovery. We have had over 1,200 of them come down there, the most severely disabled veterans and their families. And by that time, we had committed to well over 100 of these veterans and their families to come to the Road to Recovery Conference that December 2004. I was faced with a very, very tough personal decision.

Ms. WATSON. Well, let me just ask you this——

Mr. CHAPIN. Let me just tell you——

Ms. WATSON. Let me—sir. My time is——

Chairman WAXMAN. Excuse me, Mr. Chapin. You have to let the Members ask the questions and respond to the questions.

Ms. WATSON. Maybe you can give me another minute. I understand you are trying to get all this out, but there are some very specific things I would like you to address for us.

Mr. CHAPIN. Absolutely.

Ms. WATSON. And I would like the staff to put up on the screen, there was an issue dealing with a country club in Temecula, CA. It is called the Cross Creek Golf Club. Are you familiar with it?

Mr. CHAPIN. I am a club member.

Ms. WATSON. Yes. Well, according to a resolution from HHV board in 2001 that has been provided to this committee, HHV authorized the payment of $17,000 a year for a corporate membership to the country club in the name of Mike Lynch, the executive director.

Can you help clarify and explain to us why your group is spending money donated to help veterans on a country club membership?

Mr. CHAPIN. I think it was entirely appropriate. The board plays golf when they come to meetings out there. The board is all volunteers. They don't get paid to come to meetings. And that is what you might call a "perk," which I think we are all familiar with.

Ms. WATSON. That is a benefit, being on the board?

Mr. CHAPIN. I never set foot in that country club.

Ms. WATSON. OK. I just wanted to hear from you that you put $17,000 into a membership where they can play golf rather than $17,000 into the hands of a homeless veteran that might be renting a motel.

Mr. CHAPIN. Unfortunately, we are not able to——

Ms. WATSON. I have another question for you, Ms. Johns. Could California have concerns—and I am from California—and I was there for 20 years in the Senate, so I am very concerned. Would we have concerns about a charity in our State using donations for a country club membership regardless, for a board member?

Ms. JOHNS. Yes, I believe we would.

Ms. WATSON. And is there any way to track to see how many memberships were purchased by this outfit?

Ms. JOHNS. The way to do that would be to initiate an audit.

Ms. WATSON. OK, thank you very much.

Let me ask another question about another expense that was related to Mr. Lynch. Let me show you a copy of minutes from a meeting of the HHV board on July 28, 2003. These minutes state that the board authorized a loan of $135,000 to Mr. Lynch. According to the minutes, the purpose of this loan was to provide Lynch the ability to purchase his ex-spouse's interest in his home.

Now, to me, this looks like a personal loan to Mr. Lynch, not a business expense. So Mr. Chapin, can you clarify for me?

Chairman WAXMAN. The gentlelady's time has expired, but we will let Mr. Chapin answer.

Ms. WATSON. OK, thank you.

Mr. CHAPIN. It is exactly as you have characterized it, and I think it was entirely appropriate. It has been paid back with interest. And this fellow has done an absolutely extraordinary job. He works around the clock to help hospitalized veterans.

Ms. WATSON. OK, I really appreciate the Chair allowing time. I just want to say this. It seems to me that a personal loan of $135,000 at a time when we have veterans that are not receiving the care immediately, regardless of whether he paid it back or not, appears inappropriate. This is something that I would like our Attorney General to take a look at.

And is it, Ms. Johns——

Mr. CHAPIN. It is absolutely legal, I can assure you of that.

Chairman WAXMAN. The gentlelady's time has expired. But Ms. Johns, is this appropriate? Is this acceptable?

Ms. JOHNS. No. California law requires loans to be approved by our office.

Chairman WAXMAN. Your office?

Ms. JOHNS. Yes. By our section.

Ms. WATSON. Thank you, Mr. Chairman.

Chairman WAXMAN. Thank you.

Mr. Shays, do you have questions?

Mr. SHAYS. Not at this time, thank you, Mr. Chairman.

Chairman WAXMAN. Mr. Bilbray.

Mr. BILBRAY. Ms. Johns, I think if anybody knows about fundraising, Governor Brown [sic] has a lot of experience on that. But you were stating that California right now, the office is in transition from going to a paper system over to electronic. Do you feel that will give your agency the ability to monitor non-profit activities and keep a closer watch on what has been going on in California?

Ms. JOHNS. We do.

Mr. BILBRAY. The other issue that you really raise was the fact that the front line of, let's just say review of the most effective charitable giving is the donor themselves. Now, I have run into situations where I have seen fundraising going to my mother, trying to scare the heck out of her, over the fact that, give us money now or they are going to take your Social Security, they are going to take your Medicare and all this other stuff. With this new type of electronic review, are you going to be able to monitor those kinds of fundraising activities, especially the scare tactics to seniors?

Ms. JOHNS. No. Because unless somebody sends us those mailings, we won't know that they are occurring. We require fundraisers to give notice before they start a campaign in California. But they don't have to send us their mailings.

Mr. BILBRAY. Do you have any way of developing a policy of proactive contact with donors to make sure that they know that if they have any questions they have the ability? Because I think it is pretty well public record that, especially among the senior population, that there are certain individuals, not necessarily very wealthy, who really are the backbone of the charitable direct mail contributions. Are you planning any proactive contact with them, saying, if you have any questions, if you have any concerns contact us, rather than waiting for them to just come up?

So I guess I am asking you, are you going to do direct mailing yourself?

Ms. JOHNS. We have no way of knowing who donors are. What we do is post a lot of information on our Web site for donors. We invite them to call us and send us e-mails. And we can give them guidance where to go and tips about how to assess charities. Several years ago, I did a series of presentations to senior communities. And I am about to do that again to help communities at large understand what they can do to make wise decisions.

Mr. BILBRAY. Mr. Peters, Ms. Johns has no ability of knowing what the lists are that non-profits are receiving contributions for, those can't be made available? Are those all protected under the Privacy Act?

Mr. PETERS. No. In fact, when I teach with the NASCO group, or Ms. Johns' group of charity regulation officials, I tell them exactly how to do that. And that is, they need only a very modest budget of a couple hundred dollars. They make a $10 contribution to 20 charities and they will be on the mailing list, they will get all the mail. So what I have done is I have taught the regulators how you can actually look and see what is being mailed, in addition to the usual process of people submitting complaints and things like that, and inquiries. But there are lots of ways to seed mailing

lists. And pretty much everybody in our industry seeds other mailing lists.

Mr. BILBRAY. But is there any way to do an outreach to the contributors themselves, sort of sensitizing them to contact, or whatever, is there any way for Ms. Johns to know basically who you are mailing to and is that protected under Privacy or does she have an ability to be able to get that information so that she can then do an outreach saying, if you have any questions, if you have any concerns?

Mr. PETERS. There is a very thin line, and I don't want to get over-complicated, but basically the answer to your question is yes, it is protected by Privacy. It goes back to a case that went to the Supreme Court on the NAACP where they were investigated and the State officials asked them for their donor list. And it was pretty clear why the State officials wanted the donor list, because they were going to harass the donors.

And so the Supreme Court said, no, the State does not have a right to simply subpoena or get the donor list. However, in an situation where it is more of an enforcement situation, there are opportunities to get on the donor list so you can see solicitations.

The other answer to your question is, if you look at any solicitation that is made in the United States, you will see contact information for, I believe it's 23 or 25 different State charity offices. And these are required by law, they are disclaimers, and they include typically the address of the State charity office and often an 800 number, so that the citizens of that State can call in toll-free and register any complaints or concerns they have. And those are included on every single solicitation that is made by a legitimate charity. The only people that don't include them are the charities that never register and never comply with the law who are the ones we hope Ms. Johns enforces against.

Mr. BILBRAY. Thank you. Ms. Johns, I appreciate you guys upgrading, because coming from local government myself, I know that we can talk about the problems, but the real answers are going to come from your part of the political spectrum.

Thank you very much, and I yield back, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Bilbray.

Mr. Tierney.

Mr. CHAPIN. Mr. Chairman, her office was notified in writing by us of this loan to Mr. Lynch, and I have the letter here. I would be happy to read it. I don't want to interfere.

Chairman WAXMAN. Let's let Mr. Tierney ask questions.

Mr. TIERNEY. Thank you, Mr. Chapin, for gratuitously taking my time.

Let me ask a question. I was interested to see, since 2004, apparently you have been using General Tommy Franks to sign fundraising letters for your organization. I guess maybe millions of letters have gone out with his signature on there, asking the public for their contributions. I presume that when a general endorses a charity like that, he is doing it because he thinks the charity is worth endorsing and that he is not being paid to do it.

But in fact, you paid Tommy Franks about $100,000 to sign those letters, didn't you?

Mr. CHAPIN. That is correct.

Mr. TIERNEY. A hundred thousand dollars to General Tommy Franks to sign those letters. And then I also understand that General Diehl gets $5,000 a month to sign letters like that. Is that also true?

Mr. CHAPIN. Yes. Can I respond to that?

Mr. TIERNEY. You just did, and I appreciate your candor.

Mr. CHAPIN. Well, the fact of the matter——

Mr. TIERNEY. But the fact of the matter is that you give $100,000 to General Franks, you give $5,000 a month to General Diehl, and I don't see anything in your disclosure to individuals that these people were paid to put their signature on there.

So my question to Ms. Johns is, do you have any difficulty with that?

Ms. JOHNS. There is no specific law prohibiting the payment for endorsements by charities. It could be considered a waste of charitable assets.

Mr. TIERNEY. I could look at this, $100,000 to General Franks, $5,000 a month to General Diehl, $14 million to Mr. Viguerie's company, a million and a half dollars to you and your wife, at some point in time hopefully the veterans are getting a little slice of this action on that.

Also, Mr. Viguerie, let me ask you, you apparently have a longstanding personal relationship with Mr. Chapin, of about 40 years, is that right?

Mr. VIGUERIE. Something a little short of that, but we have been a client and a friend for many years.

Mr. TIERNEY. So when we look at the tax returns for the that the committee has for HHV, it looks like between 2000 and 2005, your direct mail company, American Target Advertising, and your list management rental companies, earned more than $14 million. Would that be about accurate?

Mr. VIGUERIE. I don't have those numbers at hand, sir.

Mr. TIERNEY. That is what the record seemed to indicate. So it seems like a lot from just one client. Is that one of your largest clients?

Mr. VIGUERIE. Yes, it is.

Mr. TIERNEY. And it looks, as I said, that a lot of money is going to two beneficiaries in particular, Mr. Chapin and then your corporation, your groups on that. They don't seem to be paying the expenses, like direct mail, postage, printing fees. It just seems to be going toward consulting fees on that basis.

So is all that $14 million a direct profit to you, sir?

Mr. VIGUERIE. Sir, that is a very incorrect word to use, consulting. We are a vendor. And we employ on the HHV account something over 20 people, writing copy, ordering envelopes, ordering lists, getting the mailings out, analyzing the returns. We are going to——

[Simultaneous conversations.]

Mr. TIERNEY. It doesn't look like direct costs——

Mr. VIGUERIE [continuing]. Advertising agency.

Mr. TIERNEY. It didn't look like there was any direct mail or postage or printing fees associated with that. It looked more like it was for the list on that. And I was wondering, for the list, how

much of that other than for list cost, for rental or whatever it is you do, would be just profits to those companies?

Mr. VIGUERIE. Well, sir, we have, as I said, over 20 people putting out hundreds of different mailings, something in excess probably of 50 million letters a year. It is an enormous undertaking.

Mr. TIERNEY. Mr. Chapin——

Mr. CHAPIN. He only gets about 6 or 7 cents of the 45 cents that he pops in the mail.

Mr. TIERNEY [continuing]. I am going to ask you a question now so you will have a chance to respond. I know you like to ad lib, but I want to cut back a little bit.

You told the committee that you had given Mr. Viguerie nearly $1 million in loans to provide capital for another venture on that. Do you see it within your corporate charitable purpose to give loans to other individuals for startup companies or for capital costs?

Mr. CHAPIN. Yes, very much so if it is in the interests of the nonprofit to do so. Because he has very, very high expenses, startup expenses or seed money expenses in terms of a particular mail campaign. And if he is not able to fund that mail campaign, and front the money until such time as the revenues come back, then we are extremely disadvantaged by it.

Mr. TIERNEY. Mr. Viguerie, did you try to seek those funds first from commercial lenders?

Mr. VIGUERIE. Well, for the 43 years we have been in business——

Mr. TIERNEY. I am sorry, I have very limited time.

[Simultaneous conversations.]

Mr. VIGUERIE. For over 43 years we have not been able to do it, because our assets go up and down the elevator every day.

Mr. TIERNEY. So Ms. Johns, do you have any difficulty with the fact of a charitable corporation lending money to a startup company that couldn't get the money from commercial lenders? Do you see that within the charitable purpose, or do you see any problems with that?

Ms. JOHNS. That could either be speculative investment or it could be a loan requiring notice to our office.

Mr. TIERNEY. Thank you. I yield back, Mr. Chairman. Thank you.

Chairman WAXMAN. That certainly is a lot of self-dealing.

Who is next over here? Mr. Cannon.

Mr. CHAPIN. I can't allow that go unchallenged. This business, of self-dealing. Not a penny—every penny has been repaid. Interest rates have gone at the rate of 10 to 12 to 18 percent that Richard has been charged. And we would not have been able to raise anywhere near the amount of money that we raised had it not been for the fact that we have made some of these advances. It would have been a lousy business decision on my part and the board of directors had we not advanced some of these moneys. So I will defend that all day long.

Chairman WAXMAN. I am sure you will.

Mr. Cannon.

Mr. CANNON. Thank you, Mr. Chairman. Like the ranking member and I suspect like you, I am also familiar with the high cost of fundraising. In fact, I am quite familiar with Mr. Viguerie,

whose son was a volunteer on my first campaign. And I have watched these issues for a long time.

I am actually quite surprised at the moral outrage and the hectoring of the witnesses here today, and I hope we can get to a little bit of an understanding about why that is and what we are really talking about here. But I understand we have a number of veterans in the audience today. Would you mind, Mr. Chairman, if we asked for a showing of hands so we can identify those veterans? We want to applaud their honor, their integrity.

[Applause.]

Mr. CANNON. It is, I think, extraordinarily important in America that we not only honor our veterans, but that we fund their health care and their recovery. If we don't do that as a Nation, we are going to end up with their children and their nephews and their nieces and their relatives not wanting to go into the service. And so I would hope that rather than folks have so much on this issue with such animosity and hectoring of our witnesses that we actually talk about what we can do to help veterans.

So I would like to ask just a quick question to Mr. Viguerie. There is a high cost to fundraising. But we do raise a significant amount of money that way. Could you compare briefly the effectiveness of fundraising through mail to the effectiveness of government? [Laughter.]

The laugh is all we really need there, by the way. The fact is, we don't do things very efficiently in America, and the market helps us do things remarkably efficiently. And what we need is transparency as to these things.

I don't mean to cut you off, Mr. Viguerie, but the point is that I think it is a laugh when you start considering what we do here. And there are a couple of things that I think are really important. Mr. Chapin, you offered a letter there and were cutoff, I think, that was sent to Ms. Johns' division. Would you allow us to have that letter submitted for the record.

Mr. CHAPIN. Yes.

Chairman WAXMAN. Without objection, it will be received for the record.

[The information referred to follows:]

Cal. Corp. Code Sec. 5236 states:

5236. (a) A corporation shall not make any loan of money or property to or guarantee the obligation of any director or officer, unless approved by the Attorney General; provided, however, that a corporation may advance money to a director or officer of the corporation or of its parent or any subsidiary for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director, provided that in the absence of such advance, such director or officer would be entitled to be reimbursed for such expenses by such corporation, its parent, or any subsidiary.

(b) The provisions of subdivision (a) do not apply to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value.

(c) The provisions of subdivision (a) do not apply to a loan of money to or for the benefit of an officer in circumstances where the loan is necessary, in the judgment of the board, to provide financing for the purchase of the principal residence of the officer in order to secure the services or continued services of the officer and the loan is secured by real property located in the state.

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

RONALD REAGAN BUILDING
300 SOUTH SPRING STREET, SUITE 1702
LOS ANGELES, CA 90013

Public: AREA CODE/PUBLIC NUMBER
Telephone: (213) 897-2184
Facsimile: (213) 897-7605
E-Mail: steve.bauman@doj.ca.gov

November 30, 2005

Board of Directors
Help Hospitalized Veterans, Inc.
36585 Penfield Lane
Winchester, CA 92596

RECEIVED
DEC 2 2005
BY:

RE: Loan activities

Dear Board of Directors:

The Office of the Attorney General has the duty to supervise charitable organizations under California Corporations Code section 5250, and Government Code sections 12580 through 12598. Upon review of the IRS form 990 for year end July 31, 2004 we have some questions regarding the loan activity between Help Hospitalized Veterans (HHV) and Michael Lynch.

This IRS form 990, reflects on line 50, a balance of $25,000 in loans at the beginning of the year and a balance of $122,452 at the end of the year. This 990 also reflects (statement #8) that this note is from Michael Lynch, dated October 1, 2003 and earns 6% interest. Did HHV give notice or seek approval from the Office of the Attorney General? If so, please provide copies of all correspondence with our office related to the loan. If not, Please provide copies of the following documents to me within **30 days** of the date of this letter.

1. Board minutes which disclose the boards' discussion and approval of this loan;
2. Schedule reflecting all payments to Michael Lynch regarding this loan. This schedule should reflect the date of the payment and the amount;
3. Schedule reflecting all repayments made by Mr. Lynch. This schedule should include the date of the repayment, the amount and the outstanding balance;
4. Proof of the repayments (copies of canceled checks from Mr. Lynch);
5. The promissory note relating to the loan;
6. Documentation reflecting that the loan was secured.

Thank you for your cooperation. If you have any questions I can be reached at (213) 897-2184.

Sincerely,

STEVE BAUMAN
Supervising Investigative Auditor

For BILL LOCKYER
Attorney General

Help Hospitalized Veterans

36585 Penfield Lane • Winchester, California, 92596
(951) 926-4500 • Fax (951) 926-3569
www.hhv.org

Secretary of Veterans Affairs, Anthony J. Principi presents HHV's 20 Millionth Care Kit to Iraqi Freedom Veteran Jason Whiting.

BOARD OF DIRECTORS
Founder & President: Roger Chapin
Vice-President: Robert Beckley (Businessman)
Secretary Treasurer Leonard Rogers (Businessman)
Director: Tom Arnold (Businessman)
Director: Gorham L. Black, III Colonel, USA, Ret.
Executive Director: Mike Lynch

FRIENDS OF HOSPITALIZED VETERANS
Buzz Aldrin
Mario Andretti
Bob Barker
Yogi Berra
Ernest Borgnine
Pat Boone
Jeff Bridges
Dr. Joyce Brothers
Red Buttons
Jim Carrey
Tim Conway
Cosby Lee Cosby
Arlene Dahl
Joyce DeWitt
Don Dierdorf
Phyllis Diller
Donna Douglas
Patty Duke
Barbara Eden
Samantha Eggar
Linda Evans
Peter Falk
Jamie Farr
Eddie Fisher
Roberta Flack
Fayette Flagg
Jeff Foxworthy
Tony Francosa
Teri Garr
Curt Gowdy
Kelsey Grier
Franco Harris
Tippi Hedren
Charlton Heston
Bob Hope (In Memoriam)
Paul Hornung
Shirley Jones
Janet Leigh
Carl Lewis
Art Linkletter
Loretta Lynn
Lee Majors
Pete Page
Arnold Palmer
Ara Parseghian
Jane Powell
Victoria Principal
Debbie Reynolds
Jeanne C. Riley
Brooks Robinson
Isabel Sanford
William Scott
Don Shula
Burt Sisler
Roger Staubach
Lee Trevino
Rob Uecker
Al Unser, Sr.
Dick Van Dyke
Andy Williams
Jonathan Winters
Jane Wyman

December 12, 2005

Mr. Steve Bauman
Supervising Investigative Auditor
State of California
Department of Justice
Ronald Regan Building
30 South Spring Street, Suite 1702
Los Angeles, CA 90013

Ref: Your letter of 11/30/05

Dear Mr. Bauman:

Help Hospitalized Veterans did not give notice or seek approval of the Office of the Attorney General regarding a loan to Mr. Michael Lynch as per California Corporation Code Section 5236 (c). The loan granted to Mr. Lynch was for real property and secured through (a) deed of trust on the property; (b) his wages; and (c) his pension plan.

It should be noted, that as of June 24, 2005, Mr. Lynch paid in full the amount of the principle and interest due the corporation in accordance with the loan agreement..

Per your request, I have enclosed the following:

(a) Minutes of the board of directors authorizing the loan;
(b) Executed loan agreement;
(c) Certified copies of the corporation's general ledger that pertains to the loan for fiscal years ending July 31, 2004 and July 31, 2005;
(d) Copy of the Deed of Trust;
(e) Copies of check payments to Mr. Lynch;
(f) Copies of check payments to the Corporation from Mr. Lynch.

If you are in need of additional information, please do not hesitate to contact me or our Director of Administration, Ms. Wende Caha (951/926-4500).

Sincerely,

Leonard C. Rogers
Secretary/Treasurer

Encl

MEETING OF THE BOARD OF DIRECTORS
OF
HELP HOSPITALIZED VETERANS

July 28, 2003

A meeting of the Board of Directors of Help Hospitalized Veterans was held pursuant to notice July 28, 2003 at the Headquarters of the Organization, 36585 Penfield Lane, Winchester, California.

Directors present:	Roger Chapin Leonard Rogers Thomas Arnold
Directors via teleconference :	Robert Beckley
Directors absent:	Gorham Black
Also present:	Mike Lynch

SEE PAGE 4 OF MINUTES

As the first order of business, the Board approved the minutes of March 20, 2003 meeting of the Board of Directors.

As the next order of business, Mike Lynch, Executive Director, gave a financial report for the current fiscal year. Lynch reported gross income for the current fiscal year through July 15, 2003 was $26,777,384 as compared to $27,941,092 for the same period of the previous year. Lynch stated that the gross income figure does not include the gift in kind received from the public service announcement which is an additional $5.2 million bringing the total gross income to well over $30 million for the fiscal year ending July 31, 2003. Lynch said the organization's donor file is at 686,325 as compared to 612,464 a twelve percent (12%) increase as compared to the prior year.

As the next order of business, Lynch reported on the direct mail programs of the organization. Lynch stated the house mailings are at ratio a 2.16 to 1 for the year on mailings of 17,320,829. Lynch reported the prospect mailings totaled 18,982,471 and reflects a four cent (-4¢) loss. President Chapin, stated that the overall mail program has done well and that the net for program services increased by 20% while sustaining the amount of donors on the file. Chapin said that the direct mail agencies have reported many other veteran non profit organizations have not been as successful in their direct mail response program.

As the next order of business, Lynch stated that as of July 15, 2003 the organization had delivered 826,630 craft kits to hospitalized veterans as compared to 748,781 delivered for the same period of the prior year. Lynch stated that the organization has delivered 19,744,603 craft kits since the inception of the program and that he anticipated that the twenty millionth craft kit would be delivered in calendar year 2003. Lynch said arrangements have been made with Anthony J. Principi,

Secretary, Department of Veterans Affairs to make a formal symbolic presentation of the twenty millionth kit to a hospitalized veteran on August 25, 2003. At the VA hospital in La Jolla, California. Lynch stated that the organization currently distributes 155 different therapeutic arts and crafts kits.

As the next order of business, Lynch gave a report on the Craft Care Specialists (CCS) Program and stated that VA hospitals have submitted letters requesting fulfillment of thirty-eight more positions. Lynch said CCS's are now in 32 facilities which has qualified the organization as a service organization within the Voluntary Service of VA. Director Arnold asked about the selection process as to which facility would receive a CCS. Lynch stated the process is based on the priority he has placed on the letters from the Medical Center Directors as it relates to the profile of the location, number of inpatients, and seniority of the application. Director Beckley stated, and the Board agreed, that based on the economic condition of the organization to fulfill positions, Lynch should continue to evaluate the need for CCS's within the military community and fill the positions as he deemed necessary in the best interest of the organization.

As the next order of business, Lynch reported that VA's Chief of Staff, Nora Egan will tour the organization's headquarters on August 28, 2003. Director Rogers stated and the Board agreed that Lynch is to be congratulated on his efforts to continue to create a strong bond with VA and that it will continue to prove valuable to the organization's future.

As the next order of business, Lynch stated that the organization has been approved to become an Associate Member of the Veterans Day National Committee. Director Arnold stated that such membership furthers relationships with VA and that being a part of such a committee is a very positive move for the organization. Lynch said he will be attending a meeting of all 60 organizations in Washington, D. C. September 25, 2003 at which he will present the organization's desires to the committee. Lynch said he is attempting to arrange a photo opportunity through the committee with President George Bush on Veteran's Day for such a photo would be valuable to the direct mail program. Lynch said he would report to the Board his progress at the next meeting.

As the next order of business, Lynch presented and suggested that the organization join other national veterans programs and become a national sponsor of the *Re-Creations* Stage Program. Lynch stated *Re-Creations* stages 300 performances per year at all VA medical centers and many corporate meetings. Lynch said that the young people who perform in the show are all volunteers and receive $115 per week for food and no other compensation through the F.O.R.-C.E.S. program of *Re-Creations*. Lynch said this is a visible program with VA Central Office and VA schedules their facilities for *Re-Creations*. Lynch said he believes that through sponsorship of *Re-Creations* it will bring HHV into further grace of VA as it not only touches many thousands of veterans, staff but also the corporate community. Lynch asked the Board to consider a contribution of $10,000 to the *Re-Creations* Stage Program. Chapin stated, and the Board agreed, that it would serve no purpose to donate $10,000 into the program initially and that the organization consider a $5,000 contribution the first year and revisit the

program next year. After further open discussion, a motion was made and seconded and it was:

RESOLVED, that the organization contribute $5,000 (Five Thousand Dollars) to the *Re-Creations* Stage Program.

As the next order of business, Lynch played the public service announcement (PSA) that was recorded by General Norman Swartzkopf and Kurtwood Smith of Fox Television. Lynch said that the last PSA generated a gift in kind contribution in access of $5.2 million at a production cost of $56,000. Director Arnold stated and the Board agreed, that with such a strong return on cost, the organization consider its PSA distribution into more markets. Lynch stated he would review the cost of extending the distribution from 150 television stations to 300 stations and report to Board.

As the next order of business, Chapin asked the Board for suggestions on acquiring the services of PFC Jessica Lynch, U. S. Army as a spokesperson for the organization to assist raising funds from corporations for the CCS program. Lynch said that he has some negative military and media concerns regarding utilizing such a high profile veteran and that he would like the input of Director Black before trying to secure here services. Lynch stated that he would contact Black and Walter Reed Army Medical Center for assistance in locating her whereabouts to best acquire an introduction. Chapin stated, and the Board agreed, the organization would benefit from her personal appearances, letter signing and usage in radiothons if she doesn't have a huge negative image. Lynch said that he and Black would report at the next meeting regarding PFC Lynch.

As the next order of business, Lynch gave a report on the matching gifts program in which the organization had received $18,000 in contributions. Lynch said employees of the various businesses chose to donate to the organization and their employer matches those gifts through payroll deductions.

As the next order of business, Chapin stated that American Target Advertising's contract will be up for consideration of renewal December 31, 2004 and that negotiations will be held as to better favor the organization. Chapin said that issues of concern is the organization's ownership of the its own donor file and the owner's share of list rental income. Lynch said that he and Russ Mason, Director of Development will review with Chapin the contract and report to the Board its finalization.

As the next order of business, Chapin suggested that Officers and Directors listings filed with various state agencies not include Honorary Board members. Rogers stated and the Board agreed, that it should be a standing policy that once a Board member is no longer a member, his/her name should be listed as an Honorary Board member for a 12 month period following the last meeting attended. After further open discussion, a motion was made and seconded and it was:

RESOLVED, that the organizations Board of Directors will be listed as Honorary Board members for a twelve (12) month period following a director's resignation.

As the next order of business, Chapin recommended that the organization execute a loan to Mike Lynch, the organization's Executive Director in the amount of $135,000 at six percent (6%) simple interest secured by a second deed of trust on his residence of 37430 Leon Road, Murrieta, California 92563. Chapin stated that the purpose of the loan is to provide Lynch the ability to purchase his ex-spouse's interest in his home. Chapin recommended that the loan would be payable in full no later than December 31, 2006. Rogers said that a loan of this nature is considered a minimal risk. Rogers stated, and the Board agreed, that money market funds are paying less than one percent and 6% interest is a good return on investment. After further open discussion, a motion was made and seconded and it was:

> RESOLVED, that the organization loan $135,000 (One Hundred Thirty-five Thousand Dollars) to Mike Lynch, Executive Director at six (6%) percent simple interest payable in full not later than December 31, 2006.

As the next order of business, the Board scheduled its next meeting at 9:00 a.m. October 11, 2003 at the Renaissance Oklahoma City Hotel, 10 North Broadway, Oklahoma City, Oklahoma 73102 the site of the National Veterans Creative Arts Festival.

There being no further business to come before the meeting, it was ADJOURNED.

LEONARD C. ROGERS
Secretary

LOAN AGREEMENT

This Loan Agreement ("Agreement") made this 1st day of October 2003 between Michael E. Lynch ("MEL") who maintains a principal residence at 37430 Leon Road, Winchester, California 92563 and Help Hospitalized Veterans, a California non-profit organization ("HHV"), which maintains a principal place of business at 36585 Penfield Lane, Winchester, California 92596.

RECITALS

Whereas, MEL desires to borrow funds from HHV to be used as a property buy-out as it relates to a personal divorce settlement;

Whereas, HHV is willing to loan such monies upon the terms and conditions set forth herein.

Whereas, MEL and HHV acknowledge the loan agreement of July 7, 2003 in the amount of Twenty-five Thousand Dollars ($25,000) will become part of this agreement and subject to the terms as set forth below.

Now, therefore, in consideration of the monies loaned, the repayment of such monies by MEL to HHV, and the agreements, promises, representations, warranties, and convenants contained herein, the receipt of sufficiency of which is hereby acknowledged, the parties agree as follows:

1. HHV will loan the sum of One Hundred Thirty-five Thousand Dollars ($135,000) to MEL for the purpose of a property buy-out as it relates to a personal divorce settlement. MEL acknowledges receipt of Twenty-five Thousand Dollars ($25,000) on July 9, 2003, therefore the funding shall be the balance of One Hundred Ten Thousand Dollars ($110,000).

2. MEL will pay HHV six percent (6%) simple interest.

3. MEL will repay loan principal and interest in full not later than December 31, 2006. MEL agrees that if any extension of maturity date is needed, it shall be requested from the President of HHV who has authority of approval or disapproval.

4. MEL agrees that this loan will be secured through a Deed o Trust on the property commonly known as 37430 Leon Road, Murrieta, California 92563 (APN 958-130-016) with a loss payee of Help Hospitalized Veterans.

5. MEL agrees this loan is secured through his salary and pension benefit earned as an employee of HHV and any delinquency of this loan will result in garnishment of salary until the principal and interest are paid in full.

6. Each party agrees to execute further documents (if needed) and take such further actions as may reasonably be required in order to give full force and effect to the terms of this agreement.

LOAN AGREEMENT
(Page 2)

7. Neither this Agreement nor any of its provisions may be changed, waived, discharged, or terminated orally, but only by a statement in writing signed by each party against whom enforcement of the change, waiver, discharge, or termination is sought.

8. The provisions of this Agreement shall be construed in accordance with the laws of the State of California.

9. If any term convenant, or condition of this Agreement or the application thereof to any person, entity, or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, or condition to persons entities, or circumstances other than those to which it is held to be invalid or unenforceable, shall not be affected thereby, and each such other terms and provisions shall be valid and enforceable to the fullest extent permitted by law or equity.

BY _____ 10-1-03
Mike Lynch Date

BY _____ 10-1-03
Roger Chapin, Founder/President Date
Help Hospitalized Veterans

HELP HOSPITALIZED VETERANS
General Ledger
08/01/03 to 07/31/04

Acct	Date	Description	Document	I	Cus/Ven	Activity
1105	08/01/03	Accts Receiveable Employee Ln				25,000.00
	10/20/03	*MIKE LYNCH	22322	D	*MIKE	110,000.00
	04/26/04	LOAN PAYMENT ML	6215	R		(16,381.19)
	07/31/04	Adj employee A/R	AJE00010	G		3,833.33
	07/31/04	Debits/Credits Total	113,833.33/(16,381.19)			97,452.14
	07/31/04	Accts Receiveable Employee Ln				122,452.14

Certified to be a true copy of General Ledger account 1105
fiscal year ending 7/31/04.

Wende Caha 12-12-05
Wende Caha
Director of Administration
Help Hospitalized Veterans

HELP HOSPITALIZED VETERANS
General Ledger
08/01/04 to 07/31/05

Acct	Date	Description	Document	J	Cus/Ven	Activity
1105	08/01/04	Accts Receiveable Employee Ln				122,452.14
	01/28/05	Payroll thru 1/25/05 ML	7356	G		(400.00)
	02/11/05	p/r ending 2/9/05 ml	7401	G		(400.00)
	02/25/05	p/r ending 2/25 ml	7451	G		(400.00)
	03/08/05	P/R ENDING 3/8/05 ML	7457	G		(400.00)
	03/25/05	payroll thru 3/22/05	7479	G		(400.00)
	03/31/05	Interest Inc Aug to March	7529	G		5,040.77
	04/05/05	p/r ending 4/5/05m lynch	7514	G		(400.00)
	04/23/05	Payroll we 04.22.05 ml	7545	G		(400.00)
	05/06/05	PAYROLL WE 05.06.05 ML	7592	G		(400.00)
	05/20/05	PR WE 5.17.05 ML	7616	G		(400.00)
	06/07/05	PR WE 06.03.05 MLynch	7645	G		(400.00)
	06/20/05	Payroll we 06.17.05 ml	7673	G		(400.00)
	07/31/05	Rec MLynch loan payment	YEJE0009	G		(123,092.91)
	07/31/05	Debits/Credits Total	5,040.77/(127,492.91)			(122,452.14)
	07/31/05	Accts Receiveable Employee Ln				0.00

PAYMENTS MADE THROUGH PAYROLL DEDUCTIONS.

Certified to be a true copy of General Ledger account 1105:

Fiscal Year ending 7/31/05

Wende Caha 12-12-05
Wende Caha
Director of Administration
Help Hospitalized Veterans

Promissory Note (2nd Trust Deed)

Date July 9, 2003

Total Principal Amount of Note: $135,000 State of California

FOR VALUE RECEIVED, the undersigned hereby promises to pay to the order of Help Hospitalized Veterans, 36585 Penfield Lane, Winchester, California 92596 the sum of one hundred thirty-five thousand U. S. Dollars ($135,000.00), together with interest thereon at the rate of percent 6% per annum on the unpaid balance. Help Hospitalized Veterans will fund two payments of this note (1) $25,000 and (2) $110,000 at the date(s) requested by the borrower of funds but not to exceed $135,000.

For consideration of this note, Michael E. Lynch conveys and assigns his personal residence commonly known as 37430 Leon Road, Murrieta, California 92563 (APN 958-130-016) as collateral held if a default of full repayment occurs. This note is to serve and be held as conveyance as a 2nd Deed of Trust attached to said property to the Help Hospitalized Veterans Organization.

This note may be prepaid, at any time, in whole or part, without penalty. This note shall, at the option of Help Hospitalized Veterans, be immediately due and payable upon the occurrence of any of the following:

1. Employment with Help Hospitalized Veterans termination by resignation or for cause.
2. Sale of property described as 37430 Leon Road, Murrieta, California 92563.
3. Not Later than December 31, 2006.
4. Upon the death or liquidation of assets of Michael E. Lynch whose Social Security Number is 450-90-8925.
5. Upon the filing by Michael E. Lynch an assignment for the benefit of creditors, bankruptcy or for relief under any provisions of the Bankruptcy Code; or by suffering an involuntary petition in bankruptcy or receivership not vacated within 30 days.

In the event this note shall be in default, and placed with an attorney for collection, then Michael E. Lynch agrees to pay all reasonable attorney fees and costs of collection. All payments of this note shall be made to Help Hospitalized Veterans via payroll deductions or as deemed reliable and convenient to Michael E. Lynch and management of Help Hospitalized Veterans until full principal and interest have been paid. Under no circumstances shall repayment of principle and interest exceed the date of December 31, 2006.

Help Hospitalized Veterans will release interest in the collateral property immediately once principle and interest have been paid in full.

The undersigned and all other parties to this note, whether as endorsers, guarantors or sureties, agree to remain fully bound hereunder until this note shall be fully paid and waive demand, presentment and protest and all notices thereto and further agree to remain bound, to this note. No modification or indulgence by any holder hereof shall be binding unless in writing; and any indulgence on any one occasion shall not be an indulgence for any other or future occasion. Any modification or change of terms, hereunder granted by any holder hereof, shall be valid and binding upon each of the undersigned. The rights of any holder hereof shall be cumulative and not necessarily successive. This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of California. The undersigned hereby execute this note as principals and not as sureties.

Michael E. Lynch
37430 Leon Road
Murrieta, California 92563

Leonard C. Rogers, Secretary and Treasurer
Help Hospitalized Veterans, Inc.
36585 Penfield Lane
Winchester, California 92596

Jan. 15. 2008 10:10AM No. 7803 P. 24

22281

22281

HELP HOSPITALIZED VETERANS, INC.
36585 PENFIELD LANE PH. 909-926-4500
WINCHESTER, CA 92596

WELLS FARGO BANK, N.A.
16-24-1220

Twenty-Five Thousand and 00/100 Dollars

DATE 07/09/03

AMOUNT $25,000.00

PAY TO THE ORDER OF

*MIKE LYNCH
29774 CALLE PANTANO
TEMECULA CA 92591

⑈022281⑈ ⑆122000247⑆06500750246⑈ ⑈0002500000⑈

22322

22322

HELP HOSPITALIZED VETERANS, INC.
36585 PENFIELD LANE PH. 909-926-4500
WINCHESTER, CA 92596

WELLS FARGO BANK, N.A.
16-24-1220

One Hundred Ten Thousand and 00/100 Dollars

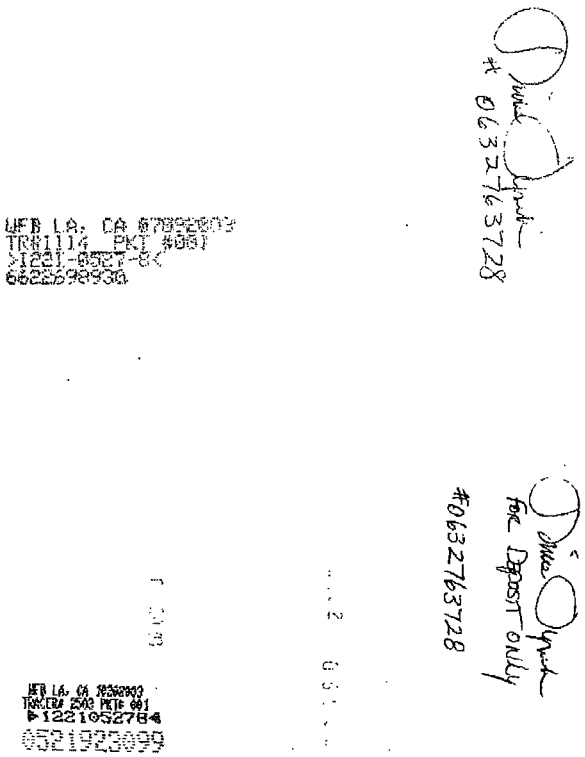
DATE 10/20/03

AMOUNT $110,000.00

PAY TO THE ORDER OF

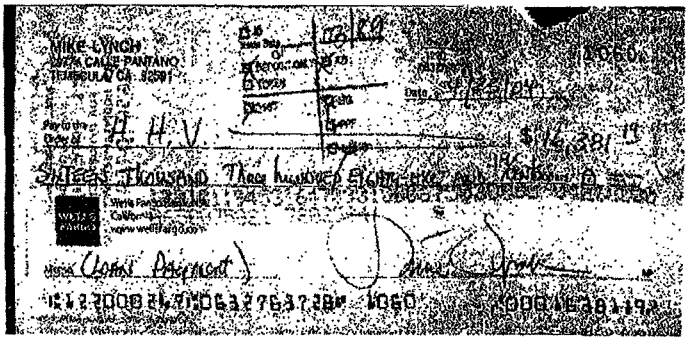
*MIKE LYNCH
29774 CALLE PANTANO
TEMECULA CA 92591

⑈022322⑈ ⑆122000247⑆06500750246⑈ ⑈0011000000⑈


#0637763728
For Deposit Only
#0637763728
0521928099

View Check Copy

Check Number	Date Posted	Check Amount	Account Number
1060	04/26/04	$16,381.19	CHECKING 053-2763xxx



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View Check Copy

Check Number	Date Posted	Check Amount	Account Number
2211	07/08/05	$127,396.39	CHECKING 083-2763xxx

MIKE LYNCH
31420 LEON RD.
MURRIETA, CA 92563-9024
951-461-7120

179-03455-10
179-04133-12

2211

6/24/05
Date

Pay to the Order of Help Hospitalized Veterans $ 127,396.39

One hundred twenty-seven three hundred ninety-six and 39/100 Dollars

Wells Fargo Bank, N.A.
Minnesota
wellsfargo.com

For Pay off Loan

⑆122000247⑆ 0832763728⑈ 02211 ⑈0012739639⑈

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NAME OF LOAN OR TITLE

AMOUNT BORROWED	$135,000.00
MONTHLY PAYMENT	$0.00
INTEREST RATE	6.00%
NUMBER OF PAYMENTS	0
FIRST PAYMENT DATE:	
MONTH	8
DAY	31
YEAR	2004

PAYMENT DATE	PMT #	0.50% INTEREST	TOTAL PAYMENT	PRINCIPAL REDUCTION	UNPAID BALANCE
					$122,452.00
31-Aug-04	1	$612.26	$0.00	$0.00	$122,452.00
30-Sep-04	2	$612.26	0.00	$0.00	122,452.00
30-Oct-04	3	$612.26	0.00	$0.00	122,452.00
29-Nov-04	4	$612.26	0.00	$0.00	122,452.00
29-Dec-04	5	$612.26	0.00	$0.00	122,452.00
28-Jan-05	6	$612.26	400.00	$0.00	122,452.00
27-Feb-05	7	$612.26	800.00	$0.00	122,452.00
29-Mar-05	8	$612.26	800.00	$0.00	122,452.00
28-Apr-05	9	$612.26	800.00	$0.00	122,452.00
28-May-05	10	$612.26	800.00	$0.00	122,452.00
24-Jun-05	11	$474.01	800.00	$0.00	122,452.00 ***
		$6,596.61	$4,400.00		

	Interest Receivable	Note Principal	Total
Balance 7/31/04	2,747.64	122,452.14	125,199.78
Accrued interest 8/1/04-6/24/05	6,596.61		6,596.61
Payments	(4,400.00)		(4,400.00)
Payoff at 6/24/05	4,944.25	122,452.14	127,396.39

Certified to be a true copy of Loan Reconcillation

Wende Caha 12-8-05

Wende Caha
Director of Administration
Help Hospitalized Veterans

1105/1043

MIKE LYNCH
37430 LEON RD.
MURRIETA, CA 92563-2624
951-461-7190

2211

6/24/05
Date

18-24/1220 4523
0639763728

Pay to the Order of Help Hospitalized Veterans $ 127,396.39

One Hundred Twenty-seven Three Hundred Ninty-six and 39/cents Dollars

WELLS FARGO
Wells Fargo Bank, N.A.
California
wellsfargo.com

For Pay off Loan

⑆122000247⑆ 0632763728⑈ 02211

Mr. CANNON. Ms. Johns, if that letter was submitted, then your earlier opinion that it was illegal would not be correct, wouldn't it?

Ms. JOHNS. Right. What I meant to say was that loans must be submitted to our office. They would be illegal otherwise.

Mr. CANNON. So we don't want there to be anything in this record today to suggest there is something improper as to that loan, which a big deal was made about, because apparently it was disclosed. So Mr. Chapin, if you could introduce that into the record, I would appreciate that.

And you would mind, you were asked questions without any opportunity to respond, can you tell us a little bit about the relationship with General Franks and General Diehl and what the nature of that relationship is, or anything you would like to tell us on the record about that?

Mr. CHAPIN. Thank you, Congressman. Very much so. The General, this was, sir, in 2005, that the General's arrangement with us was taking place. And his endorsement of the whole operation was responsible for raising millions and millions of dollars, I think over and above what otherwise might have been raised had it not been for the association of Tommy Franks with the organization. And Tommy, I have had any one of a number of conversations with Colonel Michael Hays, his aide, about this. Tommy originally had said no, that he had been approached by any one of a number of organizations to do similar tasks.

So the arrangement was entered into with the understanding that he can't do it for everybody and it is a lot of time that is being consumed by his involvement in this thing. He himself cannot be a charity case. He devoted, I think, 36 or 38 years in the service of his country. And he had a short window of opportunity. And he had to capitalize to some extent on his celebrity. And I thought that was totally appropriate. And it has benefited the charity enormously.

So I and General Diehl likewise, as devoting quite a bit of time to us, has done a marvelous job, well beyond the few thousand bucks that he gets to sign our letters. And that is just reality. I wish we could find more folks like that.

Mr. CANNON. Mr. Chapin, if I could ask, Mr. Chapin, I am up here, thank you. I take it that both of these generals have looked at your program and have decided that they are somewhat more effective than, say, the Federal Government is in some of the things that the Federal Government does and therefore they support your charity?

Mr. CHAPIN. Yes, sir. And my quarrel is, quite frankly, that the government has abrogated its responsibility to help these folks in desperate need. Let me just explain one thing to you. The wives are having to give up their jobs in order to be with their very severely wounded spouses at the VA and military hospitals. So right away, their income is cut in half. This is a total disaster. Because now, they don't have the money that they had before. Their utilities are being shut off. Their cars are being repossessed. Many of them are being evicted from their houses. This is criminal, in my opinion.

And this is the reason why I am doing what I am doing. And if takes 90 cents on a dollar to help these guys, I will help them. And I beg the government, and Mr. Chairman, if you will allow me, I

want to commend the chairman. Because he personally, I have been advised by the staff, Suzanne told me about this, that the chairman has really made a serious effort to try and persuade the Congress, unsuccessfully, and I commend you, Mr. Chairman, even though we have some issues on other points, that he has really tried to make a serious effort to get Congress to face up to their obligations in respect to our disabled veterans. And again——

Mr. CANNON. Mr. Chapin, since it is my time, and I appreciate that, and I also agree that the chairman has been important in doing what you are talking about here, but there was an implication here that General Diehl and General Franks had sold their integrity by being paid by you. Is there any truth in that?

Mr. CHAPIN. Absolutely not. That is an insult. This is a great——

Mr. CANNON. Thank you. It is an insult, if I can just take my time back. It is a dramatic insult. I am offended by it. What I would like to do now is just take a moment to try and establish what the heck we are doing beating up charities that are helping soldiers when they are very similar to many other charities in the world. Ms. Johns, I think you have been stuck here as sort of a stalking horse, you have been asked hypothetical questions, you have been left in an awkward position. You obviously understand your business. I am going to try and move you out of that and into a different context.

Do you understand the various systems out there for rating charities?

Ms. JOHNS. I don't, really. We aren't allowed to rate ourselves, so we refer——

Mr. CANNON. But you understand there are rating systems out there?

Ms. JOHNS. Oh, I understand they are there, yes.

Mr. CANNON. Would you be surprised if under those rating systems the YMCA had a similar rating to Mr. Chapin's charities, or the Disabled Veterans Association [sic] or the Paralyzed Veterans Associations?

Ms. JOHNS. I don't know that.

Mr. CANNON. You don't? OK, thank you. I will tell you there are rating systems out there, and maybe Mr. Peters and Mr. Chapin, you could take a moment to describe those systems and then establish how these charities rate compared to these other systems. Let's start with Mr. Peters briefly and then go to Mr. Chapin.

Mr. PETERS. By best count, there are over 50 different charity watchdog groups. Most of them operate on a State-only basis. There tend to be four large ones that operate on a national basis.

Mr. CANNON. And how did Mr. Chapin's rate compared to, say, the YMCA, if you have the knowledge?

Mr. PETERS. It varies, because the ratings systems all use different criteria. Some of them don't even use the criteria that the charities are required to use in order to file GAAP, according to generally accepted principles.

Mr. CANNON. Do you have any sense about Mr. Chapin's charities in particular?

Mr. PETERS. I know that the ratings systems for Mr. Chapin's charities are inconsistent, and that in some cases, some of the ratings people rate them the same. I believe one of the Members read

a list, it might have been Mr. Burton, that read a list of almost 30 or 40 charities that had the same rating. That kind of inconsistency is very typical.

Mr. CANNON. Mr. Chapin, could you talk about the ratings of your charities and other charities and how they compare? And how your salary compares with the salaries of comparable charities.

Mr. CHAPIN. Well, your first question, sir, is about the ratings. And we compare very favorably to most of the major charities in the United States. The fact of the matter is, Mr. Chairman, that a myth has been perpetrated by the whole non-profit industry. And the American public has been deceived to think that fundraising costs are only 10, 15, 25 percent. That is not reality.

And I have tried to be very straight with you. I may be the only guy in the whole cotton-picking non-profit establishment that is willing to tell it like it is. I do the best I can. And if I could do better, I would. I have tried television, I have tried radio, I have tried foundations, I have tried corporations. And the only thing that works is direct mails.

So we have this gentleman, Borochoff. Now, I suppose that it is his prerogative to be a maverick and to disregard the whole system that has been set up by the American Institute of Certified Public Accountants and by which we are required to report. Borochoff disregards allocations. Personally, I think the guy is a wacko. And the reason why he does this is because he set himself up——

Mr. CANNON. Pardon me, Mr. Chapin. Mr. Chairman, I see the light is off.

Chairman WAXMAN. Mr. Cannon, for some reason or another this timer went completely kaplooey. It was adding time.

Mr. CANNON. Well, that is how it ought to be, under the circumstances.

Chairman WAXMAN. Yes, I know. [Laughter.]

Mr. CANNON. May I ask unanimous consent for an additional minute to wrap up?

Chairman WAXMAN. Without objection, we will do that.

Mr. CANNON. Thank you.

Mr. Chapin, I appreciate that answer. Look, there are some very important issues here. I am deeply concerned that we are whacking on groups that are supporting the military. There is a dramatic difference today in how we are treating our servicemen than the embarrassment of the post-Vietnam war. As an American citizen, I was humiliated that we would treat our military so badly after that war. And I think a big part of that is what I think Mr. Chapin was referring to as allocations, which is by having these expensive processes, we not only get some money that comes in, but we send a message out, and that message is, we care about vets.

Why are we whacking on these guys when what we ought to be talking about is helping Ms. Johns with her job? And helping her with her job means creating a system of greater transparency. That is where this committee ought to be focused, not on whacking people that are helping vets, and in a very substantial way. And with that, Mr. Chairman, I yield back the balance of my time.

Chairman WAXMAN. Thank you, Mr. Cannon. You did take a minute, but the clock did not reflect it.

Mr. CANNON. Is that adding 2 minutes now?

Chairman WAXMAN. It is not worth going into.

I do want to just point out for the record that General Tommy Franks has disassociated himself from your organization, Mr. Chapin, and as I understand it, he asked that his name be removed from the information that is provided by your organization.

Mr. CHAPIN. That is correct.

Chairman WAXMAN. OK. Now I want to recognize——

Mr. CHAPIN. Can I explain to you why?

Chairman WAXMAN. Pardon?

Mr. CHAPIN. Can I explain to you why?

Chairman WAXMAN. Well, wouldn't he be the better one to explain it? Why do you think he left?

Mr. CHAPIN. He left because he had a number of letters from fellow generals who said, hey, I am getting too much mail. And then the one that broke the camel's back was he got something, his sister called him up and his sister got on him about how many mailings in a single day, he said, that is it. He also had a problem, I am trying to be very frank with you, he had a problem that we didn't meet all of the Wise Giving—we met the financial standards, we didn't meet all the Wise Giving of the Better Business Bureau. And Tommy's out, trying to make himself a living, he gets about $100,000 a pop for speeches to corporations and so forth. And he says, Roger, he says, I am terribly sorry, but I am not going to renew the contract. As a matter of fact——

Chairman WAXMAN. So he did not renew the contract, he is no longer with you, and he is no longer signing mail on your behalf.

Mr. CHAPIN. Yes, but I nevertheless——

Chairman WAXMAN. Well, I think that is what we want on the record. We don't want to hear a long story about the whole——

Mr. CANNON. But Mr. Chairman, if you would allow me, you have just put on the record an indictment of Mr. Franks, who may have a much more complicated view of the world, and in addition, this very hearing is maybe part of the problem there. We may be dissuading heroes like General Franks from doing things that are helpful to soldiers by having this hearing.

Thank you. I yield back.

Chairman WAXMAN. Mr. Franks was being paid $100,000 to lend his name for this organization. We understand he had misgivings about it and he asked that his name be taken off. We will hold the record open for Mr. Franks to submit any additional or contrary information.

Now the time goes to Mr. Yarmuth.

Mr. YARMUTH. Thank you, Mr. Chairman.

Mr. Chapin, I would like to pursue something that came up earlier, and I was confused by the response and I just want to clarify it. One of the mailings that you send out that was produced by Creative Direct Response, Mr. Peters' company, has that disclaimer, this mailing was produced by Help Hospitalized Veterans, which retains 100 percent of the contributions made. The language is on the screen there. And we have already established, and you have basically conceded, that is not literally true.

Now, was it my understanding that you said that precise disclaimer was required by law in a State even though it is demonstrably untrue?

Mr. CHAPIN. First of all, the statement is true. I don't know why anybody is questioning the statement. Yes, we did retain 100 percent of the contributions. We didn't give it to somebody else before we got the money. We took in the money, we paid our expenses and what was left we passed on to the hospitalized veterans. And yes, the State of Florida does require this language.

Mr. YARMUTH. That precise language. Now, you said that you paid Creative Direct Response $100,000. Did all the money come into you and you paid them and that is why you say it is literally true? Is that your argument?

Mr. CHAPIN. Yes. I have been advised by CDR, which is their outfit, Creative Response Direct, that this language is required. I have never seen it in a statute. The State of Florida has never told me that. But I was advised that it was necessary to put this verbiage in the mailing. That is the reason why it is there.

Mr. YARMUTH. Mr. Chapin, before I came to Congress, I was a journalist, an editor to be specific. So I think very closely about exactly what words mean. And when I saw that during our last hearing, my thought was that this is exactly the type of language that is designed to create the impression that 100 percent of the dollars being donated are going to the beneficiary group. Basically when I looked at it, I said, you know, this basically says that you kept all the money. It doesn't say that you spent one dollar actually for veterans.

Now, I know you have. But I took it exactly the other way.

Mr. CHAPIN. The fact of the matter is that, what did you say you did, 10 percent of our mailings, I think you do 20 percent of our mailings?

Mr. PETERS. Nine percent of the revenue is what I said.

Mr. CHAPIN. Nine percent of the revenue, maybe 20 percent of the mailing. The fact of the matter is, this is not in the other 80 or 90 percent of the mailings that Richard Viguerie's company is doing. So if we were trying to misrepresent to people, we would have this in all of our mailings, not just in a small percentage of him. His attorneys happen to believe that the State of Florida requires this. I could care less if——

Mr. YARMUTH. Mr. Chairman, if I——

Chairman WAXMAN [gaveling]. This is a committee where there are 5 minutes granted to Members to ask questions. Respond to the questions. Don't give us a speech. Because that time is used up and it is unfair.

Mr. CHAPIN. I apologize.

Mr. YARMUTH. You have answered that question. There has been suggestion that possibly there has been some self-dealing here, and I want to give you an opportunity, Mr. Chapin, Mr. Viguerie, Mr. Peters, to answer some questions on the record, so that we can clarify if there has been or not.

Is it your testimony, Mr. Chapin, that Mr. Viguerie's company, you said you fronted the money, are they the only direct mail company that could have facilitated the type of solicitation that you are talking about, that you do, that you are involved in?

Mr. CHAPIN. Congressman, would you be kind enough to repeat that just one more time? I want to make sure I have it clear in my head before I answer you.

Mr. YARMUTH. You fronted Mr. Viguerie money to basically allow him to make the investment to produce your, to help you with your mailings and your solicitation. My question is, is Mr. Viguerie's the only company, in your judgment, in the United States, that was capable of doing such a project?

Mr. CHAPIN. Put it this way. Richard out-performed every other direct mail house, of which there were several, some of the top direct mail agencies in the country. That is the reason why he gets the bulk of the business. If somebody else can beat Richard, we will be there in a minute.

Mr. YARMUTH. Is that your testimony, that you explored and you talked to other direct mail companies before you chose Mr. Viguerie's company?

Mr. CHAPIN. Yes. Matthews and Smith struck out with another program that I started some previous years. Richard made it work. This other gentleman here, as much as I admire his work, when we first mailed for the Coalition, struck out. And Richard made it work.

Mr. YARMUTH. OK, fine. I am just trying to get this on the record now.

Second question. Do you or does anyone in your company, including board members, have a financial interest in either Mr. Viguerie's company or Mr. Peters' company?

Mr. CHAPIN. Absolutely not.

Mr. YARMUTH. Does anyone in your company, you or a board member, have any financial interest in the manufacturers or creators of the craft projects that you distribute?

Mr. CHAPIN. Absolutely not.

Mr. YARMUTH. Mr. Viguerie, I just want to, and this is a small point, but your reputation precedes you, you are a passionate and outspoken advocate for your cause. I congratulate you on that. And all of us here are familiar, both sides of the aisle, with spin and pivoting and all those types of techniques, and I respect your statement in that light.

But I have one question. You mentioned *New York Times* v. *Sullivan* as some kind of evidence for your position that you are in some way under assault here on a first amendment basis. And wasn't the point and the principle of *Times* v. *Sullivan* that public figures couldn't sue news media for libel or slander based on, unless under certain circumstances there was a reckless disregard for the truth?

Mr. VIGUERIE. Well, I am clearly not an attorney. But I think you are probably right, but I couldn't say for sure.

Mr. YARMUTH. Well, as I have said, I spent a long time in journalism, and every journalist knows that case. And I really have a hard time figuring out how that relates to your testimony or your argument at all.

But with that, I yield back.

Mr. PETERS. Mr. Chairman, I know that you have made it clear that the Members are to ask questions. But since this question has appeared twice now about why that language is there, I think I can clarify for the committee.

Chairman WAXMAN. Go ahead.

Mr. PETERS. I appreciate it, Mr. Chairman.

As I tried to indicate earlier in response to another question about the State disclaimer languages, the States passed statutes that require certain words to be present in any mailing that is mailed into that State. When you mail mailings throughout the United States, you have to amalgamate all of the State disclaimer language throughout the whole States.

Because of concerns about telemarketing costs, where the money doesn't necessarily go directly to the charity, it goes first to the telemarketing firm, and then the charity gets what is left over after the fees, a number of States have required language that states whether or not that is the case. So the State of Florida has required language that states how much of the money that is contributed goes directly to the charity without requirement for saying how the charity may use the money that is contributed.

But the language is required by the States. As to the specific language, we have our lawyers who are specialists in regulatory law for charities, examine the State disclaimers, and then we tell our clients that they have to comply.

Chairman WAXMAN. Let me ask Ms. Johns if I might, do you think saying that 100 percent is a disclaimer or is it something that might well lead to confusion and misrepresentation to what people believe when they read it?

Ms. JOHNS. When we bring a cause of action under our unfair competition law, we send questionnaires to donors and ask them what they thought a phrase meant. If a phrase has a tendency to mislead, then it violates our unfair competition law. And I would think that if we sent donor questionnaires out on this language, they would say, gee, I thought they were going to use it all for a charitable purpose.

Chairman WAXMAN. Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

Just on that last point, obviously the language used has to be looked at very carefully, and I guess States ought to review what they are requiring, so there isn't any kind of confusion.

I just wanted to, on this issue of whether the Federal Government and what it is trying to do for our veterans is more or less efficient than what some of these charities are doing, I just pulled some statistics which suggests that the Veterans Administration's administrative costs come to about 8 percent of the total budget and 16 percent of the discretionary budget. So just for the record, I wanted to put that out there. That is not a question, that is just an observation.

I would like to understand a little bit better how, Mr. Viguerie, your company and companies like yours get paid. Is there a per piece of mail fee that goes with the contract? Is that how it works?

Mr. VIGUERIE. I can only speak for my agency, Congressman. But when I started 43 years ago, I didn't know a whole lot about how agencies charge, so I decided on a per piece fee that probably has increased 60, 70 percent over 43 years, unlike inflation. But every once in a while, I will work it out, and it comes to almost exactly what the typical advertising agency markup is, which is 17.65. So the answer to your question is yes, we charge a per piece fee and have for 43 years.

Mr. SARBANES. So whatever profit you need to build into your operation, obviously you need to build something in, is part of that per piece fee?

Mr. VIGUERIE. Right, exactly.

Mr. SARBANES. Which means obviously the more mail pieces you send out, the more fees are going to accrue. So I guess it becomes relevant to you, Mr. Chapin, how that mailing operation works and whether it is efficient or not efficient. I think the staff pulled some evidence that some of these pieces of mail are going to incarcerated prisoners. In fact, I think one State began confiscating some of that mail because it was coming with dollar bills as part of the solicitation.

I am just curious if, as part of the RFP process, now, I worry about whether your relationship with Mr. Viguerie is arms-length enough for you to bring a careful analysis to his efficiency in terms of providing these mail services versus somebody else. But if you were starting from scratch and doing an RFP and having people come in and make the case, what are the kinds of things you would look at in comparing and contrasting how efficient these vendors are in deciding whether to hire them?

Mr. CHAPIN. Well, it is always a tough decision. You really go on the basis of a track record and what other charities has he mailed for, what kind of success has the particular vendor had. It is very difficult sometimes to determine that, because most of these numbers are pretty confidential.

I will say that as far as Richard is concerned, we do have an arms-length relationship. As a matter of fact, Richard wanted to do more mailing than we thought was appropriate not too long ago for the Coalition. So I said to Richard, I will tell you what, typically you lose 10 cents on a prospect mailing. I said to Richard, look, you want to do a few million more than I think is appropriate, then we are going to limit you, we are going to put a Governor on you of 5 cent loss. Anything over that, you have to pay for.

Now, I paid a premium of a penny a mailing.

Mr. SARBANES. That is interesting you mention that. Why did you think he wanted to do more? Why did you think what he wanted to do was not appropriate? What was there about it?

Mr. CHAPIN. Well, Richard gets paid, I would rather pay him on a performance basis. Richard gets paid 6, 7 cents per mailing, for the most part. So there is an incentive from Richard's point of view to maximize the mailing. We have a guy who used to be Richard's account executive who now works for us that sort of puts a Governor on Richard.

So I said to Richard, look, I will pay you a premium of a penny a mailing, but you have to absorb any loss over 5 cents, because typically we lose 10 cents. So Richard put his money where his mouth was, and he said fine. Well, it cost Richard almost $500,000.

Mr. SARBANES. Well, you have introduced into the conversation, this is kind of where I was heading, the notion that there has to be more scrutiny of the terms of these contracts between the charities and the mail houses. Both to make sure they are efficient and to make sure that there is not an incentive to just send mail out willy-nilly , because you are going to get a return on each piece.

Which brings me to the last sort of point or question I wanted to put to Mr. Peters and maybe Ms. Johns. I am very focused on the kind of disclosure there can be. You have suggested that it is so hard to compare and contrast the different criteria for determining whether a charity is a good one or using money efficiently or not.

But that can't be the end of the conversation. There has to be a way to provide more information to the donor, apples to apples, oranges to oranges, so that they can make some judgment of whether this is a charity that is going to handle their donation in a responsible fashion. All I keep hearing is it is just so complicated to do that we have to throw our hands up.

So help me with that, because we need to think about the donors.

Mr. PETERS. Let me narrow your perception of what I said. Because I was focused on the measure cost of fundraising ratio as having been thrown out by everybody that has looked at it in a responsible way.

That does not for a moment mean that charities should not be transparent, that they should not be required to reveal whatever information the donor wishes to receive, and in fact under IRS guidelines, charities are required to post and give to everyone who wish a copy all of their financial statements in their 990 and 1023, which is the original application for exemption.

So I do not for a moment want you to understand me to be saying that we are opposed, or the charitable community is opposed to disclosure. We are in favor of transparency. We are in favor of disclosure. We are in favor of informed donors.

What we are not in favor of is a regime, either by the government or by misguided private watchdogs that rely exclusively on a measure that we know to be unreliable and use a one size fits all measure for the ranking of charities. And that is all I was trying to say.

Chairman WAXMAN. The gentleman's time has expired.

I just wanted to make a comment. Mr. Chapin, you are quite a witness. You talked about General Franks, he just didn't want all these mailings because some people said there were too many mailings. Well, the truth of the matter is, General Franks said you are sending too much mail because he knew more money was going to pay for the overhead costs to Mr. Viguerie as he sent more mail out. General Franks got $100,000 from you, and he said he didn't want to be part of it any more. General Diehl got money. Others got money. You got your cut, Mr. Viguerie got his cut. Everybody got a cut.

But what was left was only 25 cents for the veterans. Now, I know you said this is the way it is. I don't think that is the way it should be. I don't think that is right. And as I look at how you are paid from this whole operation, you are doing very well for yourself. No one, no veteran could get the kind of pension you are going to get. No veteran could get the kind of money you are getting. No executive except at the very top of some major corporations get the kind of take you are taking out of this.

And I wouldn't mind it if we had something really returned to the veterans more than just 25 cents on the dollar.

It is Mr. Shays' time and I am going to comment, unless you want to comment.

Mr. CHAPIN. I would like to comment. This nonsense about lining my pockets, as every other CEO, which is over half of them, getting the same kind of compensation that I am getting or more, are they lining their pockets? Is the YMCA, is the Boy Scouts, are the American——

Chairman WAXMAN. There are other veterans groups that raise money and provide services to veterans and don't have nearly the overhead costs that you have. It isn't true that every charity has the same overhead costs that you claim. A lot of them have held down their costs so they could do more for the charitable purpose and less for the overhead and the personal purposes for which a lot of that money goes.

Mr. CHAPIN. Paralyzed Veterans of America has higher costs than we do. They are not here. DAV has about the same costs, they were not invited. The American Legion, I am very, very friendly with them. The VFW, all these folks have higher, higher costs——

Chairman WAXMAN. Then it is your view everybody does it. That to me is not a good enough excuse, that everybody does it. Because it seems to me that the ones who are losing out are the veterans.

Mr. CHAPIN. If you have a cheaper way of doing it, I would sure like to know about it.

Chairman WAXMAN. Well, I will tell you one cheaper way is the Federal Government ought to do what is right for its veterans. That is what we should be doing.

[Applause.]

Mr. CHAPIN. We are all for you.

Chairman WAXMAN. Mr. Shays.

Mr. SHAYS. This is, in my 32 years in public, this has been a fascinating hearing for a lot of reasons. First, I do think the issue is very serious. And I do want to ask you, Mr. Chapin, am I to understand that Help Hospitalized Veterans, the Coalition to Salute American Heroes Foundation and Help Wounded Heroes, all of them basically have 75 percent cost and a 25 percent benefit to the veteran? Is that accurate? Is that your statement before Congress?

Mr. CHAPIN. Generally speaking, I would say that does not really apply to Help Wounded Heroes. That is just now getting off the ground. That is an advocacy organization.

Mr. SHAYS. So Help Wounded Heroes even has less or more to the veterans?

Mr. CHAPIN. Probably has close to 100 percent, because——

Mr. SHAYS. A hundred percent goes to the veterans?

Mr. CHAPIN. No, the other way around.

Mr. SHAYS. A hundred percent does not go?

Mr. CHAPIN. A hundred percent goes to the message to beat on Congress in order to pass the necessary legislation.

Mr. SHAYS. To raise money? Is it cost or benefit? I just want to know the difference. And I don't want to spend a long time.

And Mr. Chairman, I would like to ask permission that I can keep going on until I get answers to my questions.

Chairman WAXMAN. It is your time, keep going.

Mr. SHAYS. So the answer is, is most of that an expense or a benefit to veterans? It is not a hard question to answer.

Mr. CHAPIN. Help Wounded Heroes, Congressman, is not a charity. We don't profess to give a dime to charity. It is an advocacy organization.

Mr. SHAYS. Fair enough. It does not go to veterans, it goes to getting the word out?

Mr. CHAPIN. Precisely, and that——

Mr. SHAYS. Fair enough. You answered the question.

Mr. CHAPIN. OK.

Mr. SHAYS. Now, I will say to you that I came having stronger feelings about this issue than I do now, but I still believe that 25 percent to the veterans and 75 percent cost is too much. And I just want to say that.

Mr. Viguerie, I consider you the beginning and the end as it comes to fundraising. And you have reason to be proud of how you have done it, though I will say to you that what it has meant is that in the political side of the equation, we have more money to spend and our opponents have more money to spend, they get more money spent and we have more money spent, and that is the reality of the world.

But to your credit, I was raised, though, as a young person, that when someone is asked a question but goes on the attack, it is usually a defensive method because they don't want to answer your questions. You have valid answers to questions, but your attack in basically saying, we are going to investigate Congress, and, and, and, makes me think that you have some things that you don't want discussed. I am just going to tell you that is the way I feel.

Mr. VIGUERIE. Well, Congressman, in reply to that, let me say first of all, first of all, you said earlier this morning that charities are failing our veterans. No, Mr. Shays, the Congress, you Members of Congress are failing the veterans. Not compared to charities——

Mr. SHAYS. Well, if you want to—no, I understand. I am not going to disagree with you. I am not going to disagree with you. Congress is failing the veterans. That is true. And each of us is up for re-election and our constituency has to evaluate that. You and I agree.

But it is irrelevant right now under this issue on charities. And I wonder, in fact, are we failing because we are not doing a better job on charities. But if you want to rail on Congress for all the things we are doing wrong, so be it. You have a field day. You could spend a day, a year, whatever.

I happen to have been the lead co-sponsor of the Congressional Accountability Act. We passed it in 1995. It said whatever laws we pass on the public, we should pass on Congress. And it passed. It was part of the Contract with America.

I don't disagree with you that what we impose on others, we should have to abide by ourselves. So tell me in terms of our campaign fundraising what you think would be helpful. Because I also think that I have had some interest in campaign fundraising.

But once we get beyond that, then I want to ask you a question about what you do. So tell me, what do you suggest we do in campaign fundraising? Because usually, I find people, particularly conservative Republicans, are opposed to having stronger laws on campaign fundraising.

Mr. VIGUERIE. Well, gosh, Congressman, you are right, I could talk all day, because you are throwing out a number of very good, interesting questions.

Mr. SHAYS. Well, let's talk about campaign fundraising. What would you do that is different?

Mr. VIGUERIE. I was just down at an organization that you and I both have been at before a few weeks ago. And this issue came up over and over, and I made the point over and over, the dirty little secret of campaign finance reform is not about limiting money, it is about protecting the incumbents. That is why 98 percent of the incumbents get re-elected. That is a dirty little secret of campaign finance reform.

Mr. SHAYS. I don't understand that. What is illegal about our raising money, just as what is illegal about your doing it? What is your point?

Mr. VIGUERIE. No, just that the purpose of campaign finance reform is to make sure that the incumbents don't have serious competition. And of course it has not had that effect.

Mr. SHAYS. No, the irony of this is that you are the expert on raising small dollars. And the whole point of campaign finance reform was to get corporate money out, union dues money out, and have the small contributor like you argue for be back in play. So I don't think that is a fair charge. I think actually what we are doing is the kind of thing you want. The irony is you are accusing Congress of something that you advocate.

Tell me what we require on you that we don't require on us that you think makes sense.

Mr. VIGUERIE. Well, first of all, we are going in great lengths about the contracts that we have, what we are paid. Congress doesn't make their contracts with——

Mr. SHAYS. Would you support a law that says we should disclose the contract?

Mr. VIGUERIE. Absolutely. Absolutely.

Mr. SHAYS. Now, let me ask you this question, though. Would you be opposed in all your fundraising solicitations to say to the donor that 25 percent goes to the veteran and 75 percent goes to the charity for administrative costs and to this fundraising solicitation? Would that be a wrong thing to do?

Mr. VIGUERIE. Absolutely.

Mr. SHAYS. What?

Mr. VIGUERIE. Absolutely that would be the wrong thing to do.

Mr. SHAYS. Why? The public shouldn't have a right to know that you are taking 75 percent out? Why would that be wrong?

Mr. VIGUERIE. Congressman, let me read you from the Supreme Court——

Mr. SHAYS. No, I want to know why it would be wrong to disclose to the public——

Mr. VIGUERIE. Because the Supreme Court has clearly established that charitable appeals for funds involve a variety of speech interests. It is amazing that for 2 days——

Mr. SHAYS. Why doesn't the public have a right to know the information?

Mr. VIGUERIE. It is amazing to me, this is the second day of hearings about charitable fundraising for veterans organizations, and

there has been zero conversation and discussion about the effectiveness of these organizations. It is all as if the effectiveness——

Mr. SHAYS. Mr. Viguerie, I have endless respect for you. Endless respect for your accomplishments, but you are not answering the question. And proponents have argued disclosure and transparency is the key. Why would you be opposed to disclosing to the people you are raising money from that only 25 percent is going to the veteran and 75 percent is going to you and others?

Mr. VIGUERIE. That is your characterization, Congressman, that you are making a false assumption, and the chairman has made that false assumption. The assumption that the mail program is designed just simply to be a conduit from the donor to pass it through to the veterans, that is your assumption. The Supreme Court has said over and over and everybody who is familiar with this, the Republican National Committee, the Democratic National Committee, they know that advertising mail serves multiple purposes. As I pointed out in my opening statement——

Mr. SHAYS. Well, then let's do this. Why would you be opposed to say that 25 percent goes to the veteran and 75 percent goes to costs and alerting you to what is happening to veterans? Would you be opposed to that?

Mr. VIGUERIE. Yes.

Mr. SHAYS. Why?

Mr. VIGUERIE. You are chilling speech rights. The Republican—I wish Congressman Van Hollen was here and we could talk about the millions and millions and millions of letters that he and the Republicans sent out that he signs these letters, knowing that zero money, zero money is going to go to elect Democrat candidates, because they're going to do prospect, what we call acquisition mailings. And for every dollar they spend, it is going to cost them 70, 80, 90 cents, because it is achieving other purposes. It is advertising. The Iraq war veterans are being treated significantly better than the unpopular war in Vietnam. And part of it I think is because of the hundreds of millions of communications from veterans organization to the public.

Chairman WAXMAN. OK, we have to move on. But Mr. Shays, these organizations get a break on their postage. They get a special rate, a lower rate on their postage. Perhaps we ought to consider taking away that low rate unless they disclose this information.

Mr. VIGUERIE. Mr. Chairman, Mr. Shays did not attack me, but he made a comment which I think entails a response. And I agree with you, when somebody sometimes gets very intense, you wonder what their true agenda is. And perhaps I am very intense today, because I feel really outraged at the chairman here. We are going to leave at some point here today and Members of Congress will go to lunch with their lobbyists and raise contributions——

Chairman WAXMAN. Mr. Viguerie, I think we have to follow the regular order. You have attacked me a couple of times, and I just want to say for the record, I raise campaign funds and I think campaign funds are a lot different than funds for veterans. It is not a charitable contribution, it is not a tax deductible contribution. But I only use 20 percent to raise it, and 80 percent goes for the campaign cost. And I don't think you are in a position——

Mr. VIGUERIE. Running the campaign.

Chairman WAXMAN. Running the campaign itself. So for you to come in and fulminate about politicians this and Congress that and everybody does it, you both have wonderful excuses. But when it comes right down to it, I think you have to let the public decide once we put this out there, whether this is the way we want charities to operate. I think disclosure is always a good idea.

Mr. Tierney——

Mr. CHAPIN. I will disclose if everybody else will.

Chairman WAXMAN. Good.

Ms. Norton hasn't had her first time around. Ms. Norton, your turn.

Ms. NORTON. Thank you, Mr. Chairman.

As you can see by Mr. Shays' questions and a number of questions that have been asked so far, what is it about disclosure? I think you sometimes underestimate what Americans are willing to do even if they understand that it costs a lot of money to raise money. But whatever is on the record would absolve you of much of the criticism you have heard today. Just before I ask my question, which has basically also in its own way to do with disclosure, let me say, I understand that people get paid in ordinary life. For example, baseball stars get paid after they retire. So nobody is trying to begrudge anybody anything. We are just trying to find out what happened, what the public knows and does not know.

Mr. Chapin, you were interviewed by our committee staff. You were specifically asked, do you or your employees in any of the organizations pay the veterans for their testimony. And you said no. And yet when Mr. Tierney asked the question about $5,000 a month for one general, $100,000 a month for another, you answered, yes, you indeed paid them. They are veterans, by the way.

So I mean, already on the record, we have a contradiction from what you told the committee.

Mr. CHAPIN. I beg to differ with you. That is incorrect. When I was first asked the question about whether these folks were getting paid, I said this was a confidential arrangement, Susanne will remember. I said this was a confidential arrangement, and I asked, do I have to answer that question. And I felt that I would be doing a disservice to the gentleman that we had made the arrangement with, because I had agreed that it was confidential. I——

Ms. NORTON. So you decided to answer falsely?

Mr. CHAPIN. No, I didn't answer falsely. I said it was confidential and I declined——

Ms. NORTON. Just a moment. I don't want to get hung up on this. The fact is that you indeed indicated in your answer to Mr. Tierney that the generals were paid, and your answer was blanket, when asked if veterans were paid for their testimony. There is no way to see that as anything but a contradiction to what you said. If the reason was that it was confidential, that is not what you told the committee.

Mr. CHAPIN. I didn't deny they were getting paid.

Ms. NORTON. I don't begrudge people money. It's all about disclosure for me.

You have a former employee, John Clifford, who has told the committee that you stated to him personally that he was to withhold assistance, grants, whatever it is you offer, to veterans who

would not provide testimonials. He indicated that he refused to do so because that many veterans desire to keep private the fact that they are receiving any assistance at all. I am going to give you the opportunity to explain, deny or admit that is in fact the conversation you had with John Clifford, a former employee. Did in fact you instruct him to withhold grants from veterans who did not provide testimonials?

Mr. CHAPIN. Quite to the contrary. Clifford stole all kinds of documents from us, as a matter of fact. He was fired, he and his brother. But apart from that, no, that is totally incorrect. I told him that I thought that the veterans, whenever possible, had an obligation to help his buddies and to step up and speak out.

Ms. NORTON. All right, you deny that one. Let's go on to a present employee, Stephanie Lepore, who has given an affidavit to the committee. Apparently it is not always easy to get veterans to come forward with these testimonials. And you said to her, according to an affidavit, which I have here, "Not having these pictures and stories is costing us hundreds and thousands of dollars." And she states that you authorized her to offer any service members a check of anywhere between $250 and $500 to get their stories and pictures told.

Now, understand I am not here saying the veterans shouldn't have been offered money. I am asking you whether or not you instructed this employee or any others to offer grants of the kind I have just indicated in this affidavit in exchange for the use of their stories.

Mr. CHAPIN. That is essentially correct. It is sometimes difficult, the veterans very often don't care to have their names disclosed who get aid. And we ask them for their pictures and for their stories and testimonials. And they are very, very slow in many cases providing——

Ms. NORTON. How do you decide whether you give $250 or if you give $500?

Mr. CHAPIN. Rather than make them a charity case, I would rather give somebody $250 or $500 to tell their story.

Ms. NORTON. How do you decide who gets $250 and who gets $500 and who gets $5,000 a month and who gets $100,000?

Mr. CHAPIN. It depends on what they are doing and the value of the service.

Ms. NORTON. Well, I am trying to find out how you decide on how much a veteran should be paid, not that a veteran should not be paid. Frankly, it is hard for me to sit up here and say that you shouldn't pay a veteran any amount of money. I am just trying to find out what happens, and I don't know why there isn't something that says a small stipend, if it is small, is offered to veterans who willing come forward and give testimonials.

Mr. CHAPIN. Instead of treating these folks as charity cases, we now have a program where we pay them and their spouses $15 an hour to call our donors.

Ms. NORTON. Now, see, now you are on another subject.

Mr. CHAPIN. You are moving so fast. I have already asked and answered——

Ms. NORTON. Do you have any objection, would you have any objection to noting in your literature that we pay veterans an amount

ranging between X and Y for their testimonials and pictures? Do you have any problem with that? Or do you think the public would be hostile to that?

Mr. CHAPIN. I am not sure we actually ever did that or not. Mr. Lynch, did we ever—I am not sure if we ever did pay a veteran, but I don't deny the fact that we offered them. And I know it was a good idea. And I stand by that idea.

Ms. NORTON. Well, anyway, there is the affidavit, Mr. Chapin. All I am trying to know, and answer my question, please, would you have any objection, or do you believe, do you really believe that the public would be hostile in knowing that the people who have risked their lives for us may be receiving an amount of money between X and Y? Why not disclose that? Particularly given the way Americans feel about our veterans, why not disclose it? Would you be willing to disclose it?

Mr. CHAPIN. I will disclose anything you would like me to disclose. Give me a list, and seriously, I will be glad to disclose it.

Ms. NORTON. You are under oath, Mr. Chapin. We are going to look for that.

Mr. CHAPIN. Excuse me?

Ms. NORTON. You are under oath, and we are going to look for that disclosure, and thank you very much.

Chairman WAXMAN. Your time has expired.

We have had all the Members have a first round, but a couple of Members wish a second round. Mr. Tierney.

Mr. TIERNEY. Thank you very much.

Mr. Chapin, I am not sure that some of the things you do are done by all the other organizations that you keep saying everybody does it, we ought to do it. I don't think other organizations pay moneys for country club dues and I don't think that they give loans to entities to startup businesses when they can't get commercial loans elsewhere. I don't think that they fund the CEO's money, advance them money so they can settle some divorce buy-out of property. And I don't think that necessarily all the other organizations pay people to endorse or sign letters on fundraising things, not generals and not veterans or people comparable in their organizations.

But there is another thing that I think is probably out of the ordinary in your group, and that is an expense that you were reimbursed for that doesn't seem to make much sense in the context of charitable giving here. On April 14, 2005, there is a document that you signed, perhaps the committee staff can put that up there. It is a sales contract between you and the Renaissance condo complex in Virginia. It looks like, you can explain otherwise, it looks like you and your wife Elizabeth personally made a down payment of $24,725 for that unit on April 14, 2005.

I have another document that I won't put up, but it is a second contract, nearly identical, dated the same day, signed by you to also buy the unit right next door. For that one, you apparently paid an $18,500 deposit. So if we understand this correctly, you entered into two contracts on the same day for two condominium units right next to each other, and you put down a total of $43,225. Would that be correct?

Mr. CHAPIN. I believe so, yes. I am trying to think of the exact amount, but off the top of my head, that sounds about right.

Mr. TIERNEY. So based on the documents that we have, it looks like several months after that date, after the time that you entered into those contracts personally, you went to the board of HHV, told them you were buying a condo in Virginia. And if we show you the minutes of that meeting up there, on June 24, 2005, it says this: "Chapin said that due to his requirement to be in the Washington, D.C. area, he was purchasing a one bedroom condominium in the area of Tysons Corner in Virginia. And the return on his investment for him personally is estimated to be very strong. Lynch," that is HHV's Executive Director, "recommended that the organization consider purchasing a separate property within the same complex."

So in April, you are buying one for yourself and 2 months later, in June, HHV decides it wants to buy one as well. Ultimately, we know that HHV did buy one. But you didn't. It appears that you pulled out of both contracts that you signed in April. And that is where it gets to the crux of my question. You pulled out of your contracts, you forfeited $43,000 in down payments, but you submitted that amount to HHV for reimbursement. So if we put up the document, I think it is entitled Summary of Virginia Condo Deal, and I think that is your handwriting, isn't it, sir?

Mr. CHAPIN. I will accept that, yes.

Mr. TIERNEY. So you asked HHV to pay you $43,225 for, what it says there is forfeited Chapin down payments. And the records we reviewed show that they actually issued you a check in that amount.

Why would anybody that donates to the charitable organization expect money that was intended for veterans to pay your failed real estate costs?

Mr. CHAPIN. Can I——

Mr. TIERNEY. That is the question, sir.

Mr. CHAPIN. The answer to that was, we had had some discussions, because of the amount of time that we were spending there, and it would be much more cost effective to own a condominium than to go out and stay in a motel or to rent an apartment. So as a matter of convenience, I put down the original down payments, because, to get the particular units that we thought were desirable, they seemed to be selling quite rapidly at the time.

Mr. TIERNEY. So this was a discussion you had with your wife, or who did you have this discussion where you decided it would be better to buy?

Mr. CHAPIN. Well, I decided it with the board, the board was interested in——

Mr. TIERNEY. Well, if I can just back up, in April, there was no discussion on the board and you reported to the board——

Mr. CHAPIN. Well, the discussion with the board, there hadn't been any decision made.

Mr. TIERNEY. Please, sir. You reported to the board, we just put it up there for you, I am surprised that you contradict it now, but it said that you were talking about the return on your investment to you personally, to you personally. So it was 2 months later that the board decided that they were going to purchase it, and you were going to back out of your two agreements and then look for reimbursement.

Mr. CHAPIN. I didn't say that the board had decided. I said there had been a discussion with the board about the possibility of acquiring a condominium. We investigated it, went ahead and put up the down payments.

Mr. TIERNEY. For two?

Mr. CHAPIN. For two, that is correct. One for myself. I lived in that building, incidentally, a number of years prior to that when it was an apartment and they converted it to a condominium. In any event, my accountant, when it came time to actually close the deal, the accountant suggested that we only buy one, that HHV, I should say, buy the one and that I not buy the other. He did not think that was a good idea.

Mr. TIERNEY. Was that your personal accountant or the organization's accountant?

Mr. CHAPIN. The organization's accountant did not think that I should be buying a condominium. My wife, we have a couple thousand square feet in San Diego. The one that HHV was buying was, as I recall, about 1,200 square feet. The other one was a one bedroom, which was 800 square feet. We were going to put them together, which we did when we rented there many years before.

And in any event, the accountant suggested this was not something that I should do. So I didn't do it. So what happened was, we renegotiated with these people, we took a much less expensive apartment on a lower floor, on the 3rd floor instead of the 10th or 11th floor. And HHV wound up spending less than they originally committed to spend by buying a less expensive apartment. So I said, hey, look, in that case, HHV, because they wouldn't refund your money, OK, so the original down payments were forfeited. So I said in the event that HHV actually saved money on the whole transaction, it is reasonable if I get reimbursed for what I put down in the down payment and HHV gets reimbursed. Because we still save money and the board thought that was fine, and the cotton-picking accountant went ahead and 1099'd me for $18,000 or something.

Mr. TIERNEY. So your opinion was, you had personally put down deposits on two condominiums, personally——

Mr. CHAPIN. Yes, but I had no intention of buying the two.

Mr. TIERNEY [continuing]. Indicating that your return on that investment, you said to the board, would benefit you personally. You thought that was a very strong case it would benefit you. Then you lost money because you forfeited both of those deposits. The corporation decided to buy a unit and in the end, you get the entity to also reimburse you for your lost deposits. So you——

Mr. CHAPIN. Well, I was putting down a deposit in behalf of HHV. Because the board, even though there wasn't a formal vote, the board had originally indicated yes, they would be favorably disposed to HHV acquiring an apartment.

Mr. TIERNEY. If that were the case, you would expect that the board would go out and issue a check for the deposit on those two condominiums, sir. It seems rather suspect that you went out personally, put it down, reported to the board that you personally expected to get a strong chance of return on your investment on that, and then 2 months later, decide that you have lost money on those

two deposits, the board will come in and put down a check and buy a unit, and then they will reimburse you for your lost deposits.

Mr. CHAPIN. How could I get a strong return on an investment for an apartment that I never bought?

Mr. TIERNEY. I don't know how you anticipated that you were going to get one. But you said to the board——

Mr. CHAPIN. I didn't anticipate any——

Mr. TIERNEY. Sir, just your own words: "Chapin said," in your own board minutes, that due to the requirement to be in Washington you were purchasing a one bedroom, "and the return on that investment for him personally is estimated to be very strong." Those are your board meeting minutes. Those are not my words.

Ms. Johns, would you have any issue, in your capacity of an entity, on a charitable basis, reimbursing somebody for a personal down payment on a unit that goes bad?

Ms. JOHNS. It would potentially be a waste of charitable assets.

Mr. TIERNEY. Thank you. I yield back, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Tierney. Ms. Watson.

Ms. WATSON. You know, I am listening to all of this, and I am quite disturbed. The purpose of your charity is to help veterans. And when I hear that there are all kinds of business deals, such as we have been able to note that there was a reimbursement for three plane tickets to Hawaii, and these tickets were bought on Christmas Eve 2004, then there is noted that there were gifts given to Mr. and Mrs. Viguerie over a period of time, it just seems to me that the purpose of raising these funds has been missed. And you know, you might be able to explain and so on.

But the commitment that you said you have made to veterans seems to be squandered in moneys lining the pockets of you and your wife. And you know, I don't go along either with the fact that others are doing it, so why can't I do it. You can turn and point to us about campaign funds. This is not a campaign. This is your organization, collects money to be able to give to veterans.

Now, what we do in our campaigns is completely separate from the purpose of raising charitable funds. And it is my feeling that if you raise money, you ought to be able to expose everything you give and the reason you give it. We have a list of expenditures that would benefit Mr. Viguerie. We also have copies of those tickets. I wish that three handicapped veterans could have gone to Hawaii.

So I am just saying that your testimony here, Mr. Chapin, has convinced me and Ms. Johns that we need to do a better job in the State of California and probably across this country in monitoring and bringing some light on what we do with charitable funds. We know what we do with campaign funds, Mr. Viguerie. But we are not talking about campaigns. We are talking about the lives and the health of our veterans.

And certainly, this Congress ought to do a better job. Every time there is a request, I am right there in supporting it. But I don't think that you as a charity, and I am not talking about you specifically, the charities that operate in the name of our veterans ought to be using moneys for membership dues at country clubs, giving gifts to the mail house owner, reimbursing for tickets to Hawaii. I just think these are inappropriate expenses, and with that, Mr. Chairman, I yield back my time.

Mr. CHAPIN. Can I reply? Thank you.

The 660 bucks, if that is the right number, for the trip to Hawaii, was out of $260,000 that I paid in expenses. That was an erroneous charge picked up—incidentally, I fly Southwest practically everywhere I fly, sometimes make two and three plane changes in order——

Ms. WATSON. Why did you submit it for reimbursement?

Mr. CHAPIN. That was submitted and it was incorrect, and I apologized for it. Out of 260,000 charges, and I don't know how many hundreds of plane fares, and there was a trip that I missed because I took the whole out of my CitiBank summary statement. I took all the plane charges, because I never fly any place unless it is for the cause. And my daughter had gone to Hawaii, and I had not realized that it was charged to my card. And I struck it out and paid them back plus 5 percent interest. So I take exception to that, Madam.

Ms. WATSON. Well, what I want to say, my bottom line, since you have given me time, is that I think we ought to shine a finer light on charities, all of them, those that you have mentioned and those that you are involved in. We appreciate the fact that you said you were committed. But I think the actual expenditures that have been documented really don't meet the need and the purpose. I think the overhead is too high, and if you can't live, then you should probably, on that amount that you get, you probably should go——

Mr. CHAPIN. Our overhead is high. Our overhead is high.

Ms. WATSON. The overhead that you spend out of a dollar is too much. Because that group who are the recipients are not getting the benefit. And I think any charity ought to use the majority of its funds to benefit the purpose of that charity. With that, I yield back.

Chairman WAXMAN. The gentlelady's time has expired. Mr. Shays?

Mr. SHAYS. Thank you. Free speech is protected under the Constitution as it should be. Congress is an institution protected under the Constitution. The White House, the Judiciary, some people don't like Congress, some don't like the Members, some don't like the White House or the executive branch, some don't like the President, some don't like the Judiciary, some don't like the judges. But the fact is, we are all part of this mix.

I have a responsibility under the Constitution to look at things that I think are wrong. I think it is wrong for the public not to know that only 25 percent goes to the actual veteran. That is an opinion that I have, which I have a right to have. And I have that opinion, and I am happy to go to my voters and tell them that is my opinion.

Now, Mr. Viguerie, I have less problem with the fundraising aspect, so long as people know. And if we aren't concerned with this, what is to say that someone shouldn't be able to raise 95 cents on the dollar in order to give 5 cents to the veterans? The public has a right to know.

Mr. Peters, you never answered the question that I asked of Mr. Viguerie. Do you have any objection to, in your fundraising solicitation, say that 25 percent or 28 percent or 20 percent actually goes

to help the veterans directly, and the rest is fundraising costs and getting out our message?

Mr. PETERS. I really appreciate your asking me the question, because I didn't get a chance to respond. First of all, there is an impression that is being left that the charities do not disclose this information. That is an incorrect——

Mr. SHAYS. I am talking about when you solicit it.

Mr. PETERS. I understand. That is an incorrect assumption. First of all, it is available, I will get to your answer, it is available to everyone because the IRS requires, in order to keep your charitable exemption, that you make it available to everyone. So it is available to everyone.

Mr. SHAYS. And yet it has been so hard for us to even get this information out in a public hearing because we hear so much obfuscation. So with all due respect, I am going to let you answer it, the chairman will be a little generous with my time, I hope. But the bottom line is, I leave wondering what the hell is going on here.

Mr. PETERS. I don't know why it is so hard for the committee to get it, because I go can go online to GuideStar today and look up any 501(c)(3) in the United States that reports to the IRS, which are those who make more than $25,000 a year. And I can look up the numbers.

Mr. SHAYS. Now, answer my question.

Mr. PETERS. The second answer to your question is, the vast majority of charities, and most of the people that I do fundraising for, publish that number as part of the——

Mr. SHAYS. That is not what I asked you.

Mr. PETERS. You said do they disclose.

Mr. SHAYS. No, I didn't. I said, do you have any objection to the fact that when you solicit the dollars, on the phone or by letter, that you disclose, for instance, in the case of Mr. Chapin's two groups, Help Hospital Veterans and Coalition to Salute American Heroes Foundation, and we will leave Help Wounded Veteran Heroes out, because that is a C(4), and it is a different operation, but those two. If you were raising money for them, do you have any problem, you call me up or you send me a letter saying that 25 percent will go directly to the veteran and 75 percent will go to Mr. Chapin's group and the solicitation costs and so on? Do you have an objection to making that public when you raise those dollars?

Mr. PETERS. We recommend to our clients that——

Mr. SHAYS. I want an answer to the question.

Mr. PETERS. I don't know how to answer your question without——

Mr. SHAYS. Because you don't want to.

Mr. PETERS. No, that is not true, Mr. Shays.

Mr. SHAYS. Do you have an objection? OK, go ahead.

Mr. PETERS. I recommend to my clients that they put the pie chart that shows what percentage of the funds are going to each purpose, how much is for fundraising, how much is for administration and that they put that in the solicitation, so that the donor does in fact receive that information. Because I am not a charity, I can't require that.

Mr. SHAYS. So the answer to the question I think is that you think you would recommend that should happen?

Mr. PETERS. Yes, that is correct.

Mr. SHAYS. That is not a hard question to answer. What you should have said, it seems to me is, that is what I recommend to my clients. It is easy, you wouldn't have wasted so much of my time. And that is not a bad answer. How many of them do it?

Mr. PETERS. Most.

Mr. SHAYS. How many of the veterans groups do it, that you do?

Mr. PETERS. Most.

Mr. SHAYS. Name me who.

Mr. PETERS. Wounded Warrior Project.

Mr. SHAYS. And they say how much?

Mr. PETERS. There is a pie chart that——

Mr. SHAYS. And what does the pie chart say? How much goes to the veteran in that pie chart?

Mr. PETERS. It doesn't say to the veteran. What it says is how much for programs, how much for fundraising, how much for administration. It shows all of the functional categories.

Mr. SHAYS. Do they describe what programs mean?

Mr. PETERS. Yes, they do.

Mr. SHAYS. What are programs? Going to the veteran?

Mr. PETERS. Many of their programs involve backpacks for veterans, they work at Walter Reed, if you have ever been over there, you will see them with the tee-shirts and so forth.

Mr. SHAYS. Here is what I would like you to do. Please submit, and this is, I am well in my right to ask you to submit this, please submit to us the fundraising letters that you have done or any solicitation that you have done for veterans. I want all of them as they relate to veterans. And because you are under oath, I want to see those pie charts, and I want to know how many of those actually did that.

But I congratulate you for suggesting that be done.

Ms. Johns, do you think it makes sense for solicitations to actually describe how much goes to the veterans?

Ms. JOHNS. It would be a lot easier for donors to make decisions about giving.

Mr. SHAYS. See, what I know is, when I know a group gives 90 percent to the call, like certain police associations, when they call me up I say, you know, I would like to do it, but I don't like 10 cents of my dollar going to the cause and 90 cents going to you all. You have a right to raise money this way, but I know that information, I don't want it to happen. But if 90 percent or 80 percent went to the police, I would react differently.

I sincerely believe that most people who are giving money don't realize how little goes ultimately to the veteran. And I will just end by saying to you, Mr. Viguerie, I believe that Congress needs to have better oversight of fundraising, that we do. But I will say this to you. We have pretty strong laws. We just have an incredibly weak Federal Elections Commission that will investigate something months after an election has taken place, find someone a year later, and in some cases, just have a blind eye and deaf ear to this.

So believe it or not, you and I are on the same wave length. Let's have stronger laws governing how Congress raises money and campaigns. It would make good sense, I think.

Mr. VIGUERIE. Mr. Shays, my legal counsel, Mark Fitzgibbons, has a solution about disclosure that deals with the Riley case. And he would be glad to talk to your staff and help you address some legislation.

Mr. CHAPIN. If we disclose, which I am more than happy to do, we will all be out of business and you wouldn't have gotten the 23 million arts and crafts kits.

Mr. SHAYS. Why would they be out of business?

Mr. CHAPIN. Excuse me?

Mr. SHAYS. Why would they be out of business?

Mr. CHAPIN. Nobody would donate. It would dry up.

Mr. SHAYS. Because they would then know that only 25 cents goes to the veteran.

Mr. CHAPIN. That is right. And nobody would give to the American Cancer Society or the Boy Scouts or YMCA.

Mr. SHAYS. What a wonderful——

Mr. CHAPIN. And $50 billion worth of direct mail would evaporate. I would take my $300,000 retirement and walk off into the sunset.

Mr. SHAYS. Mr. Chapin. I think your words are a wonderful way to end this hearing. Because you are basically saying if the public knew they wouldn't contribute.

Mr. CHAPIN. Yes. Hey, I am trying to be straight with you guys. I am——

Chairman WAXMAN. You have been very straight with us. Ms. Johns, I want to ask you a question. We have heard over and over that high fundraising costs are not a problem. Do you think they are a problem and why?

Ms. JOHNS. Our job is to make sure that charitable assets are used for charitable purposes. We talk about it in terms of efficiency. There are reasons for high fundraising costs, and then there are other times there are not good reasons.

The board of directors of each organization is required to assess what is reasonable and where they can get the best deal in fundraising. It really falls to the board. It isn't the only criteria we use in deciding whether there are ways.

Chairman WAXMAN. Well, I would say, in conclusion in this hearing, and I've been sitting listening to the responses to many of the questions, Mr. Chapin, you said just now what you said to our staff, nobody would give any money if they knew how much was going to overhead. I think people understand that there are fundraising costs.

But if they knew that they were giving money to a country club membership for $17,000, a personal loan to your executive director to settle his divorce at $135,000, reimbursement for your personal forfeited condo deal of $43,000, loans to Mr. Viguerie because he didn't have the capital to execute his contracts, nearly a million dollars, payments to you and your wife over the past 3 years of $1.5 million, payments to Mr. Viguerie's for-profit company since 2000 of $14 million, I don't think they would give any donations to you.

But I think people have a right to know where some of this money is doing. It sounds to me that you have a real close-knit club there, and you're all self-dealing with each other and then you

don't want it disclosed. You don't want it disclosed because nobody will give you any money. I think if you had to disclose there would be things like market forces, there would be a lot of pressure on you to lower your costs. There would be more pressure on you to do more for veterans. People would say, I don't want to give money to that veterans group, I want to give money to another one that is giving more to the veterans. I thought that is what conservatives like, honesty, fairness and market forces. And I don't think you have any of those things in the operations that——

Mr. CHAPIN. I would totally disagree. I think I am the most honest person in this room based upon my performance. I have loaned over half of my after-tax compensation back in order to enable the charity. I did not take in a million and a half dollars. That is totally inaccurate. I took in $750,000, over the half of what you are talking about, plus some bonuses.

Chairman WAXMAN. Well, I accept that you are very sincere. And you genuinely believe what you have told us. And I just have to tell you, I don't agree with you, and I don't think the veterans are getting the deal that they should have out of this whole operation.

Mr. Shays, did you have something else?

Mr. SHAYS. Mr. Chapin, I want to explain why I laughed when you spoke, because I do think you have been brutally honest.

Mr. CHAPIN. Sir?

Mr. SHAYS. I think you have been brutally honest, I think all of you have, and that is to your credit, to be honest. But I listened to what you said, and we have our disagreements.

Let me, Mr. Chairman, make a request. The organization Independent Sector has asked to submit a letter and booklet on charity standards for the record. I ask that this be placed in the record.

Chairman WAXMAN. Without objection, that will be the order.

[The information referred to follows:]

INDEPENDENT SECTOR
A vital voice for us all

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United Way of America

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Charles Stewart Mott Foundation

Ruth A. Wooden
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The Honorable
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Founding Chair

Brian O'Connell
Founding President and President Emeritus

January 17, 2008

The Honorable Henry A. Waxman
Chairman
House Oversight and Government Reform Committee
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Tom Davis
Ranking Member
House Oversight and Government Reform Committee
B-350A Rayburn House Office Building
Washington, DC 20515

RE: Committee Hearing: Assessing Veterans' Charities - Part II

Dear Chairman Waxman and Ranking Member Davis:

I am writing on behalf of Independent Sector to commend you for your efforts to publicize reported fundraising abuses involving charities created to serve veterans and to take this opportunity to highlight the continuing work of people across the charitable community to establish the highest standards of ethical conduct, accountability, and transparency.

Independent Sector is a national, nonpartisan charitable organization with approximately 600 members, including public charities, private foundations, and corporate giving programs, collectively representing tens of thousands of charitable groups in every state across the nation. Our coalition leads, strengthens, and mobilizes the charitable community to fulfill our vision of a just and inclusive society and a healthy democracy of active citizens, effective institutions, and vibrant communities. IS members represent a broad cross-section of our nation's nonprofit community, which exists to meet society's needs, frequently in partnership with government, in diverse areas such as the arts, education, human services, community development, and health care.

Your committee has already heard from witnesses concerned about charitable groups that, in raising money to serve our nation's veterans, were conducting high volume mail and telemarketing campaigns that enrich the fundraisers but failed to provide meaningful assistance to veteran Officials of two Independent Sector members, American Institute of Philanthropy and the BBB Wise Giving Alliance, offered guidance to the Committee at that hearing on ensuring that charitable resources go to charitable purposes.

1200 Eighteenth Street, NW, Suite 200, Washington, DC 20036 phone 202-467-6100 fax 202-467-6101 www.independentsector.org

We were gratified that Committee members made the distinction between the majority of charities that comply with the law and exercise ethical practices and the few organizations charged with wrongdoing. The commitment of nonprofits to comply with the law and conduct their work ethically is clear in testimony before the House Ways and Means Committee on July 24, 2007, from Steve Miller, Commissioner of the Tax Exempt and Government Entities Division of the IRS. He observed that, "on the whole, the charitable sector is very compliant with the Tax Code" and added, "While we have found some tax compliance problems in the charitable sector, we remain quite optimistic that through our efforts and the efforts of others, these problems have not reached and will not reach the core of the charitable sector."

Building a charitable organization committed to the highest ethical standards demands more than just following the law: it also requires fostering practices that create a culture of transparency, accountability and integrity. We at Independent Sector are proud to have worked for many years with people from across the nonprofit community to strengthen ethical conduct, accountability, and transparency in America's 1.4 million charitable organizations.

The most important recent advance in this effort is the Panel on the Nonprofit Sector, which Independent Sector convened in October 2004. The Panel has brought together thousands of people involved with charities and foundations to develop and refine recommendations--to Congress, the Internal Revenue Service, and our own community--that would strengthen governance, transparency, and ethical standards. The Panel issued its first report to Congress and the nonprofit sector in June 2005, and a supplement in April 2006. Together, those reports offered more than 150 recommendations for actions by Congress and the Internal Revenue Service that would reduce the ability of unscrupulous individuals to abuse charitable resources for personal gain and to punish those who do. Many of those recommendations have been enacted into law through the Pension Protection Act of 2006, and we continue to work with Congress and the IRS to improve the regulatory framework under which charitable organizations operate.

We feel strongly that government action cannot – and should not – replace strong, effective governance of individual organizations. The two reports also detailed actions that we in the charitable community should take to improve our own practices. Because of the importance of each organization meeting high standards, the Panel in October published the enclosed ***Principles for Good Governance and Ethical Practice: A Guide for Charities and Foundations***. In its preamble, the Panel summarized the approach taken to establish the thirty-three principles it lays out:

> … the best bulwark against misconduct will always be a well-informed vigilance by members of the nonprofit community themselves, including a set of principles they could adopt, promote sector-wide, and improve over time. These principles should be clear enough to be practical and readily implemented in a wide variety of organizations, but flexible enough to allow each organization's governing board and management to adapt them to the dictates of that organization's scope and mission.

The commitment of charities and foundations to high standards is clear from the response to the Principles: in less than four months, members of the nonprofit community have requested nearly 60,000 copies of the Guide, and more than 250 organizations have endorsed it.

Illegal conduct involving donations to charities hurts all donors, the charities themselves, and the people they serve, since it undermines the public trust that our community needs to continue its work. Preservation of that trust depends upon a combination of active self-regulation by charitable organizations, vigorous enforcement of the law, and effective oversight. We look forward to working with this Committee, other members of Congress, oversight officials, and our own community to ensure that charitable organizations live up to the highest standards of ethical and accountable practice.

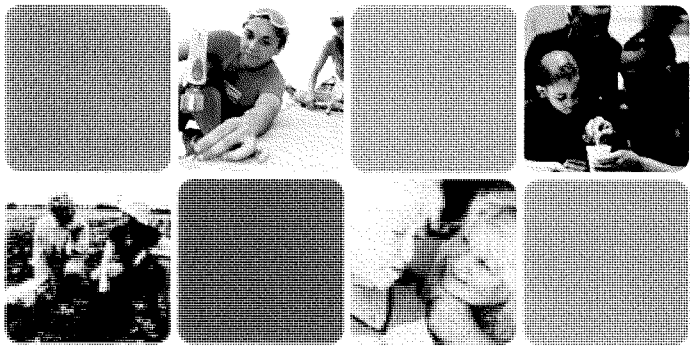
Sincerely,

Diana Aviv
President and CEO
Independent Sector

Enclosure

Principles for Good Governance and Ethical Practice

A Guide for Charities and Foundations



Panel on the Nonprofit Sector

Convened by Independent Sector

OCTOBER 2007

Panel on the Nonprofit Sector

CO-CONVENERS

Lorie A. Slutsky, President, New York Community Trust, New York, NY
M. Cass Wheeler, Chief Executive Officer, American Heart Association, Dallas, TX

PANEL MEMBERS

Susan V. Berresford, President, Ford Foundation, New York, NY
Paul Bresr, President, William and Flora Hewlett Foundation, Menlo Park, CA
Linda Perryman Evans, President and CEO, The Meadows Foundation, Dallas, TX
Jonathan F. Fanton, President, John D. and Catherine T. MacArthur Foundation, Chicago, IL
Brian Gallagher, President and CEO, United Way of America, Alexandria, VA
Robert Greensrein, Executive Director, Center on Budget and Policy Priorities, Washington, DC
Steve Gunderson, President and CEO, Council on Foundations, Washington, DC
Stephen B. Heintz, President and CEO, Rockefeller Brothers Fund, New York, NY
Wade Henderson, Executive Director, Leadership Conference on Civil Rights, Washington, DC
Dorothy A. Johnson, Trustee, W.K. Kellogg Foundation, Grand Haven, MI
Valerie Lies, President and CEO, Donors Forum of Chicago, Chicago, IL
Paul Nelson, Former President, Evangelical Council for Financial Accountability, Winchester, VA
William D. Novelli, CEO, AARP, Washington, DC
Jon Pratt, Executive Director, Minnesota Council of Nonprofits, St. Paul, MN
John R. Seffrin, President and CEO, American Cancer Society, Atlanta, GA
Sam Singh, Former President and CEO, Michigan Nonprofit Association, Lansing, MI
Edward Skloot, Former Executive Director, Surdna Foundation, New York, NY
William E. Trueheart, President and CEO, The Pittsburgh Foundation, Pittsburgh, PA
William S. White, President, Charles Stewart Mott Foundation, Flint, MI
Timothy E. Wirth, President, United Nations Foundation, Washington, DC
Gary L. Yates, President and CEO, The California Wellness Foundation, Woodland Hills, CA
Raul Yzaguirre, Former President and CEO, National Council of La Raza, Washington, DC

EXECUTIVE DIRECTOR

Diana Aviv, President and CEO, Independent Sector, Washington, DC

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We are delighted to share with you these principles for good governance and ethical practice, which are designed to guide board members and staff leaders of every charitable organization as they work to improve their own operations. The Panel on the Nonprofit Sector has been dedicated to finding ways to strengthen governance, transparency, and ethical standards within the charitable community since its creation in October 2004 at the encouragement of the U.S. Senate Finance Committee. Over the last three years, we have brought together thousands of people involved with charities and foundations to develop and refine recommendations to Congress, the Internal Revenue Service, and our own community that would achieve those goals.

The Panel issued its first report to Congress and the nonprofit sector in June 2005, and a supplement to that report in April 2006. Together, those reports offered over 150 recommendations for actions that Congress and the Internal Revenue Service should take to improve the laws, as well as education and enforcement efforts to prevent unscrupulous individuals from abusing charitable resources for personal gain. It also outlined actions that we in the charitable community needed to take to improve our own practices. Many of those recommendations have been enacted into law through the Pension Protection Act of 2006, and we continue to work with Congress and the IRS to make improvements in the regulatory framework under which charitable organizations operate.

We know that government action cannot—and should not—replace strong, effective governance of individual organizations and constant vigilance by our own community. The Panel has spent the past eighteen months working with an outstanding advisory committee led by Rebecca Rimel, President, Pew Charitable Trusts, and Joel Fleishman, Director, Philanthropic Foundations Research Program, Terry Sanford Institute of Public Policy, Duke University, to examine how we might advance the state of governance and self-regulation throughout our community. It further invited public comment from the charitable community. The result is the 33 principles presented here.

We encourage the board and staff leaders of every charitable organization to examine these principles carefully and determine how best they should be applied to their own operations. Many organizations will find that they already follow—or go beyond—these principles. Others may wish to make changes in their current practices over time, and some may conclude that certain practices do not apply to their operations. We hope these principles will help our organizations as we continue to reach for the highest standards of governance and ethical practice that the communities we serve expect and deserve.

Lorie Slutsky
President and Director
New York Community Trust

M. Cass Wheeler
Chief Executive Officer
American Heart Association

Co-Conveners, Panel on the Nonprofit Sector

Preamble

Nonprofit organizations in the United States —educational, charitable, civic, and religious institutions of every size and mission—represent the most widespread organized expression of Americans' dedication to the common good. The creation of these voluntary, often grassroots organizations to accomplish some public purpose is a distinguishing feature of our national life. Since the 1835 publication of Alexis de Tocqueville's *Democracy in America*, they have been recognized internationally as a source of social cohesion, a laboratory of innovation, and a continually adaptable means of responding to emerging ideas, needs, and communal opportunity. Individuals have continued to use their First Amendment freedoms of speech and association to create and energize organizations that define common needs, rally popular support, and pursue innovative approaches to public problems. These nonprofits have been a source of national achievement on many fronts.

Nonprofit organizations have long embraced the need for standards of ethical practice that preserve and strengthen the public's confidence.

The variety of purposes, forms, and motivating beliefs that make up the charitable community in the United States is one reason why it has consistently earned widespread support from large numbers of Americans. In recent decades, the percentage of survey respondents expressing confidence in the ethics and honesty of U.S. charities and voluntary organizations overall has hovered around two-thirds.[1] For individual charitable organizations, responses are even more favorable, some reaching above 70 percent. In 2006, 20 percent of all Americans—more than 61 million of them—volunteered in some capacity in an assortment of different kinds of nonprofit activity.[2] Individual donations totaled more than $207 billion, which came on top of the $41 billion given by corporations and foundations created from private money.

Preserving this diversity, adaptability, and capacity for innovation depends in large part on maintaining the public's trust. The public has high expectations for both the ethical standards and the impact of the country's 1.4 million charitable organizations, but often has trouble distinguishing one nonprofit from another. Unethical or improper conduct by an individual organization, though rare, can thus jeopardize the human and financial support on which countless other activities rely. Yet government attempts to prevent such abuses, if not carefully pursued, can themselves diminish the unique value that nonprofits bring to American life. Too heavy a regulatory hand, or too uniform and inflexible a set of legal restraints, could stifle the very creativity and variety that makes nonprofit activity worth protecting and encouraging. Government appropriately sets rules for the organizations and activities that are exempt from taxes and eligible to receive tax-deductible contributions: for example, government has determined that such contributions may not be used for partisan political activities or the private benefit of the donor. At the same time, government has wisely avoided intruding on how organizations pursue their missions, manage their programs and structure their operations.

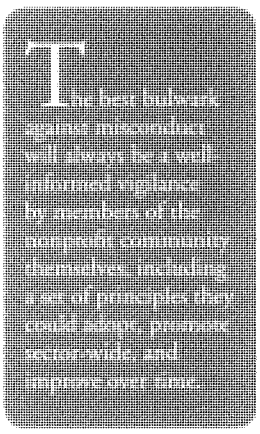
Just as important, nonprofit organizations have long embraced the need for standards of ethical practice that preserve and strengthen the public's confidence. Many such systems in fact already exist, though none have applied to the entire range of American charitable organizations. The pages that follow therefore set forth a comprehensive set of principles to inform the field. Their purpose is to reinforce a common understanding of transparency, accountability, and good governance for the sector as a whole—not only to ensure ethical and trustworthy behavior, but equally important, to spotlight strong practices that contribute to the effectiveness, durability, and broad popular support for charitable organizations of all kinds.

TOWARD A BALANCED SYSTEM OF LAW AND SELF-GOVERNANCE

Any approach to preserving the soundness and integrity of the nonprofit community must strike a careful balance between the two essential forms of regulation—that is, between prudent legal mandates to ensure that organizations do not abuse the privilege of their exempt status, and, for all other aspects of sound operations, well-informed self-governance and mutual awareness among nonprofit organizations. Such a balance is crucial for ensuring that structures of accountability and transparency are core strengths of our nonprofit community, affording organizations the support they need to pursue their various callings and the flexibility they need to adapt to the changing needs of their communities, their fields of endeavor, and the times.

The Panel on the Nonprofit Sector has worked over the past three years to help find that balance. Created in 2004 at the encouragement of the leaders of the Senate Finance Committee, the Panel had addressed concerns shared by nonprofit organizations, members of the public, Congress, and federal and state oversight agencies about reports of illegal or unethical practices by some charitable organizations and their donors. The Panel's Final and Supplemental Reports, issued in 2005 and 2006 respectively, offered more than 100 recommendations for improving government oversight, including new rules to prevent unscrupulous individuals from abusing charitable organizations for personal gain. The Pension Protection Act of 2006 enacted many of these recommendations into law, and the Panel is continuing to work with members of Congress and the executive branch on ways of implementing the remaining ones.

The Panel has been equally committed to formulating effective, broadly applicable methods of self-regulation since its inception in 2004. Its work has proceeded from a belief—among lawmakers and their staffs no less than among charitable organizations—that the best bulwark against misconduct will always be a well-informed vigilance by members of the nonprofit community themselves, including a set of principles they could adopt, promote sector-wide, and improve over time. These principles should be clear enough to be practical and readily implemented in a wide variety of organizations, but flexible enough to allow each organization's governing board and management to adapt them to the dictates of that organization's scope and mission. Widespread use of such principles would enable organizations to improve their operations by learning from each other. Critically, it would also provide a common yardstick by which members of the public can evaluate how to direct their support.



DEVELOPING SECTOR-WIDE PRINCIPLES TO SUPPORT SELF REGULATION

Though given fresh impetus by current members of Congress and by the creation of the Panel on the Nonprofit Sector, the idea of self-regulation is far from a recent preoccupation among charitable organizations. Among the earliest such efforts dates back to 1918, when a coalition of nonprofits established the National Charities Information Bureau to help the public learn about the ethical practices and stewardship of organizations that raise money from donations. Many excellent systems of self-regulation have long been in use in various subsets of the sector, each tailored to the goals, resources, and challenges of its particular field and membership. In searching for generally applicable standards for the

whole sector, the Panel's first step was therefore to commission two studies to review, analyze, and find patterns among these existing systems.

The Panel then called together 34 leaders from charities, foundations, academia, and oversight agencies to form a special Advisory Committee on Self-Regulation. Armed with the two studies of self-regulation regimens already in use, the Committee began its work in 2006 with a detailed review of principles and standards drawn from more than 50 such systems, including selections from both the nonprofit and for-profit sectors. After extensive deliberation, the members developed a comprehensive set of principles drawn from current systems and incorporating the advice of experts in nonprofit law and governance.

Self-regulation begins with good governance.

This first set of draft principles was circulated for public comment in early 2007. After considering the resulting feedback, the committee and the Panel made revisions and released a second draft for a longer comment period. The wide-ranging reaction to both drafts demonstrated a broad interest across the nonprofit community in achieving consensus on the elements of transparent, accountable, and ethical conduct. The resulting guidance and encouragement further strengthened the Panel's final set of principles.

USING AND ADAPTING THE PRINCIPLES FOR YOUR ORGANIZATION

In the following pages, the Panel sets forth 33 principles of sound practice that should be considered by every charitable organization as a guide for strengthening its effectiveness and accountability. Six of these principles describe actions that all charitable organizations *must* take because they are required by law.[3] The other 27 describe actions that charitable organizations *should* strongly consider following, based on their legal and operational structure and their particular charitable purposes.

This distinction—between firm rules based on law and more flexible principles that must be interpreted and applied differently in different cases—is essential to understanding and using this document. In following this approach, the Panel on the Nonprofit Sector examined a broad continuum of different models, reflecting greater and lesser degrees of uniformity and means of enforcement. At one end of this spectrum are systems of accreditation, such as those for hospitals and institutions of higher education, that carry the force of law and sanctions for violations. Further along on the continuum are standards that members of an association or network of similar organizations, such as associations of land trusts or certain religious institutions, agree to follow. While failure to meet these standards may not force an organization to close its doors, the advantages to being a member in good standing of the umbrella network is usually sufficient to encourage careful adherence to its rules and norms. Finally, there are standards that nonprofits subscribe to on a purely voluntary basis, without any external verification, because they want to strengthen their governance practices and ethical conduct.

The first two approaches tend to be effective primarily with organizations that are closely affiliated with one another or belong to a relatively homogeneous group—where practices and professional expectations are highly standardized or where social sanctions have a strong impact. For a group as broad and diverse as the whole community of nonprofits, the third approach is clearly more appropriate: standards of practice that organizations are encouraged, but not required, to meet. Many national and state associations of charitable organizations with voluntary memberships have found this approach benefits their member nonprofits. The Panel has followed the practice, common to many such voluntary associations, of describing the reasoning behind each principle and offering guidance on how to adapt and apply it.

To be sure, a significant number of nonprofit organizations already function under one of the more prescriptive regimens as a result of their participation in some subset of the sector. Yet few of these systems offer a comprehensive approach to good governance and ethical practice. Even organizations that subscribe to the more comprehensive systems may well find ideas and practices in this document that will improve their self-governance further.

Still, given the wide, necessary diversity of organizations, missions, and forms of activity that make up the nonprofit community, it would be unwise, and in many cases impossible, to create a set of universal standards to be applied uniformly to every member. Instead, the Panel commends the following set of principles to every charitable organization as guideposts for adopting specific practices that best fit its particular size and charitable purpose. Organizations can use these principles to evaluate their current standards.

Self-regulation begins with good governance. Every charitable organization, by federal and state law, must have a board of directors or, if it is established as a charitable trust, one or more trustees. The board sets the organization's broad policies and oversees its operations, including its financial policies. The board also has a responsibility to create an environment in which there is open and robust deliberation of the issues on which it takes action. Whether or not the organization has paid staff, the board bears the primary responsibility for ensuring that the organization lives up to its legal and ethical obligations to its donors, consumers, and the public. For organizations that do have staff, the chief staff officer, in partnership with the board, has responsibility for overseeing or carrying out many of the activities implied by these principles. **It is therefore to the boards and chief executives of nonprofit organizations that this document is particularly, though not exclusively, addressed.**

The 33 principles that follow are organized under four main categories:

1. **Legal Compliance and Public Disclosure** (principles 1-7, pages 8-12)—responsibilities and practices, such as implementing conflict of interest and whistleblower policies, that will assist charitable organizations in complying with their legal obligations and providing information to the public.
2. **Effective Governance** (principles 8-20, page 13-19)—policies and procedures a board of directors should implement to fulfill its oversight and governance responsibilities effectively.
3. **Strong Financial Oversight** (principles 21-26, pages 20-23)—policies and procedures an organization should follow to ensure wise stewardship of charitable resources.
4. **Responsible Fundraising** (principles 27-33, pages 24-27)—policies and procedures organizations that solicit funds from the public should follow to build donor support and confidence.

Strengthening ethics and accountability is an ongoing process that requires an ongoing commitment to learn and staff of individual organizations and to the entire nonprofit community.

It is advisable that an organization's board conduct a thorough discussion of the complete set of principles, and determine how the organization should apply each to its operations. It is possible that after this review, a board may conclude that certain principles do not apply to its organization. Developing a transparent process for communicating how the organization has addressed the principles, including the reasons that any of the principles are not

relevant, is likely to foster a greater appreciation of the diverse nature of the sector and a deeper respect for the board's good stewardship.

A reference edition of these principles is available on the Panel's website, www.nonprofitpanel.org. It includes legal background on each principle, a glossary of terms, the two studies on self-regulation systems commissioned by the Panel to inform this work, and the more than 50 existing self-regulation systems and standards that the Panel's Advisory Committee on Self-Regulation studied during its work.

Independent Sector, which convened and supported the Panel, also offers information on its website, www.independentsector.org, to assist organizations in finding tools and other resources for applying these principles.

A PROCESS OF CONTINUING VIGILANCE AND ADAPTATION

Strengthening ethics and accountability is an organic process that requires an ongoing commitment by boards and staff of individual organizations and by the entire nonprofit community. Over time, discussion within organizations and across the community may well result in refinement of the principles presented here. Such discussions would provide a further demonstration of the value to the whole sector of coming together to improve its work.

For organizations whose practices do not currently meet the standards recommended by the Panel, and for existing systems of self-regulation that fall short as well, reaching those levels may take some time. Yet even the process of striving toward these standards will strengthen the organization and its ability to serve its community. **The key is to begin that process today.**

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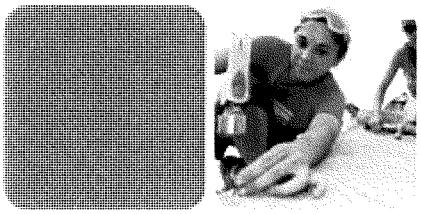
[1] Independent Sector, *Keeping the Trust:Confidence in Charitable Organizations in an Age of Scrutiny*, August 2002, p. 2.

[2] Bureau of Labor Statistics, *Volunteering in the United States, 2006*, Washington, DC: U.S. Department of Labor, 2007.

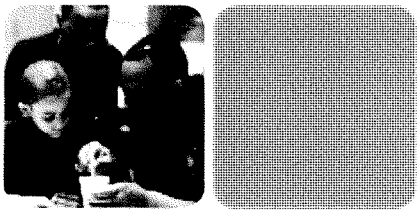
[3] Principles 1, 3, 21, 25, 26 and 27 describe actions that are required by law of all charitable organizations.

Principles for Good Governance and Ethical Practice

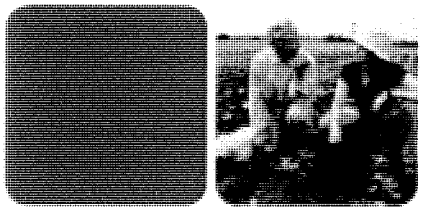
Legal Compliance and Public Disclosure page 8



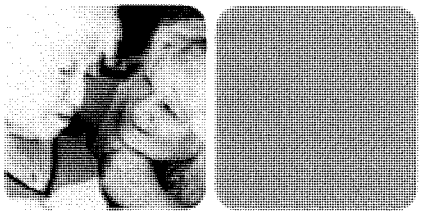
Effective Governance page 13



Strong Financial Oversight page 20



Responsible Fundraising page 24



Legal Compliance and Public Disclosure

1 A charitable organization must comply with all applicable federal laws and regulations, as well as applicable laws and regulations of the states and the local jurisdictions in which it is based or operates. If the organization conducts programs outside the United States, it must also abide by applicable international laws, regulations and conventions that are legally binding on the United States.

Charitable organizations are subject to a range of federal, state, and local laws, which are described in the reference version of this report available at www.nonprofitpanel.org. An organization's governing board is ultimately responsible for overseeing and ensuring that the organization complies with all its legal obligations and for detecting and remedying wrongdoing by management. While board members are not required to have specialized legal knowledge, they should be familiar with the basic rules and requirements with which their organization must comply and should secure the necessary legal advice and assistance to structure appropriate monitoring and oversight mechanisms.

There are many resources to help charitable organizations and their boards understand the law. The Internal Revenue Service provides a free online workshop at www.stayexempt.org, which covers tax compliance issues relevant to small and mid-sized tax-exempt organizations. Some state attorneys general and other state charity officials, as well as many national, state and regional associations of nonprofit organizations, provide online tools and resources that offer legal guidance. Organizations may also find it helpful to consult with state and local chapters of bar associations for referrals to low-cost or pro bono legal assistance.

2 A charitable organization should have a formally adopted, written code of ethics with which all of its directors or trustees, staff and volunteers are familiar and to which they adhere.

Adherence to the law provides a minimum standard for an organization's behavior. Each organization should also have a code of ethics that outlines the practices and behaviors that its staff, board, and volunteers agree to follow. The adoption of such a code, though not required by law, helps demonstrate the organization's commitment to carry out its responsibilities ethically and effectively. The code should be built on the values that the organization embraces, and should highlight expectations of how those who work with the organization will conduct themselves in a number of areas, such as the confidentiality and respect that should be accorded to clients, consumers, donors, and fellow volunteers and board and staff members.

The process by which a code of ethics is adopted and implemented can be just as important as the code itself. The board and staff should be engaged in developing, drafting, adopting, and implementing a code that fits the organization's characteristics. It should then be complemented by policies and procedures that describe how the principles in the code will be put into practice. Organizations should include a discussion of the code of ethics in orientation sessions for new board and staff members and volunteers, and should regularly address adherence to the code in their ongoing work.

3 A charitable organization should adopt and implement policies and procedures to ensure that all conflicts of interest, or the appearance thereof, within the organization and the board are appropriately managed through disclosure, recusal, or other means.

A conflict of interest arises when a board member or staff person's duty of loyalty to the charitable organization comes into conflict with a competing financial or personal interest that he or she (or a relative) may have in a proposed transaction. Some such transactions are illegal, some are unethical, but others may be in the best interest of the organization as long as certain clear procedures are followed.

Establishing and enforcing a conflict-of-interest policy is an important part of protecting charitable organizations from unethical or illegal practices. The policy need not be complex, but it must be consistent with the laws of the state in which the nonprofit is organized and should be tailored to specific organizational needs and characteristics. The policy should require full disclosure of all potential conflicts of interest within the organization. It should apply to every person who has the ability to influence decisions of the organization, including board and staff members and parties related to them. Some organizations may extend the policy to substantial contributors as well.

Board members and staff should be encouraged to disclose any interest they have in a transaction or matter that is before the organization where that interest could be reasonably viewed by others as affecting the objectivity or independence of the decision maker, even if the interest is not the result of the staff or board member having a formal affiliation with some other party. The practice of full disclosure should be fostered particularly at board meetings, and the fact of any conflict and the action taken in response, including abstention, should be recorded in the minutes.

Conflict-of-interest policies should distinguish between situations that give the *appearance* of a conflict and those that involve a *material* conflict where a board or staff member has a direct or indirect financial interest in transactions with the organization. It is important that there be in place a transparent process, in which board members engage, to understand the nature of the conflict and whether it can be appropriately managed. For example, some foundations and grantmaking public charities prohibit grants to organizations for which one of the funder's board or staff members serves as an uncompensated director or trustee. Others require disclosure of this relationship and recusal from the decision-making process. Still others encourage board or staff members to be engaged actively with other charitable organizations, including the charities they may fund, as a way of learning about those organizations and the fields in which they work.

Once a conflict-of-interest policy is developed, all board and senior staff members should be required to sign it and to disclose any material conflicts of interest, both at the time they join the organization and at the beginning of each new board year. Many organizations use an annual questionnaire or disclosure statement for this purpose and commonly provide information about board members' conflicts to auditors or others reviewing the organization's financial transactions. When senior employees, board members or their family members have a material conflict of interest in a matter being considered by the board or the staff, they should refrain from attempting to influence other decision-makers regarding the matter. Board members with a material conflict of interest are required by law to recuse themselves from board discussions and votes regarding those matters, other than to respond to information requests.

4 A charitable organization should establish and implement policies and procedures that enable individuals to come forward with information on illegal practices or violations of organizational policies. This "whistleblower" policy should specify that the organization will not retaliate against, and will protect the confidentiality of, individuals who make good-faith reports.

Every charitable organization, regardless of size, should have clear policies and procedures that allow staff, volunteers, or clients of the organization to report suspected wrongdoing within the organization without fear of retribution. Information on these policies should be widely distributed to staff, volunteers and clients, and should be incorporated both in new employee orientations and ongoing training programs for employees and volunteers. Such policies can help boards and senior managers become aware of and address problems before serious harm is done to the organization. The policies can also assist in complying with legal provisions that protect individuals working in charitable organizations from retaliation for engaging in certain whistle-blowing activities. Violation of such provisions may subject organizations and the individuals responsible for violations to civil and criminal sanctions.

Policies that protect people who report wrongdoing—sometimes known as "Whistleblower Protection Policies" or "Policies on Reporting of Malfeasance or Misconduct"—generally cover suspected incidents of theft; financial reporting that is intentionally misleading; improper or undocumented financial transactions; improper destruction of records; improper use of assets; violations of the organization's conflict-of-interest policy; and any other improper occurrences regarding cash, financial procedures, or reporting.

The policy should be tailored to the nonprofit's size, structure, and capacity, and it must reflect the laws of the state in which the nonprofit is organized or operates. All policies should specify the individuals within the organization (both board and staff) or outside parties to whom such information can be reported. Small organizations with few or no paid staff may wish to designate an external advisor to whom concerns can be reported without any threat of retaliation. This is a particular concern for family foundations whose board members and staff may not feel comfortable sharing concerns about suspected illegal or unethical practices directly with another family member or close associate of the family. Larger organizations should encourage employees and volunteers to share their concerns with a supervisor, the president or executive director, and/or the chief financial officer of the organization, but should also provide a method of reporting anonymously to either a board member or an external entity specified by the organization. Some large organizations have set up computerized systems that allow for anonymous reports, and a number of private companies offer anonymous reporting services via a toll-free telephone number, email address, or intranet site.

It is equally important that the organization have clear procedures to investigate all reports and take appropriate action. The policy should stipulate that there will be no retaliation against any individual who reports a suspected violation, except in those instances where the organization determines that a false report was made with intent to harm the organization or an individual within the organization.

5 A charitable organization should establish and implement policies and procedures to protect and preserve the organization's important documents and business records.

A written document-retention policy, consistently monitored over time, is essential for protecting the organization's records of its governance and administration, as well as business records that are required to demonstrate legal compliance. Such a policy also helps to protect against allegations of wrongdoing by the organization or its directors and managers. Board members, staff and volun-

teers should be made thoroughly familiar with the policy and informed of their responsibilities in carrying it out.

The policy should address the length of time specific types of documents must be retained, as well as when it is permissible or required to destroy specific types of documents. The policy should provide guidance to staff and volunteers for paper and electronic documents, files and e-mail messages. Specific procedures should also ensure that any document destruction is immediately halted if an official investigation of the organization is under way or anticipated.

Charitable organizations are required to maintain permanently their organizational documents, board minutes and policies, and materials related to their state and federal tax-exempt status. Other documents related to the governance, administration, fundraising, and programs of the organization must be kept in paper or electronic form for specific periods, depending on applicable laws and reporting requirements. Federal and some state laws prohibit the destruction, alteration, mutilation, or concealment of records related to an official legal proceeding.

6 A charitable organization's board should ensure that the organization has adequate plans to protect its assets—its property, financial and human resources, programmatic content and material, and its integrity and reputation—against damage or loss. The board should review regularly the organization's need for general liability and directors' and officers' liability insurance, as well as take other actions necessary to mitigate risks.

The board of a charitable organization is responsible for understanding the major risks to which the organization is exposed, reviewing those risks on a periodic basis, and ensuring that systems have been established to manage them. The level of risk to which the organization is exposed and the extent of the review and risk management process will vary considerably based on the size, programmatic focus, geographic location, and complexity of the organization's operations.

Risk management generally includes a review of potential risks to the organization's significant assets, such as its property, its good will, and its key programs and activities, and decisions about the most appropriate ways to protect those assets from loss. All organizations should consider carefully all of the principles in this report—for effective governance, strong financial oversight, and responsible fundraising practices—as they develop appropriate policies and procedures to protect their assets.

Board members may have personal liability for fines and other penalties as a result of certain legal violations, such as failure to pay required payroll and other taxes or approval of excess benefit or self-dealing transactions. Federal and some state volunteer liability laws provide some safeguards for board members who are not compensated, other than receiving reimbursement of expenses, and who act in good faith. Nonetheless, while it is rare for a charitable organization and its board to be the target of a lawsuit, each organization should still take steps to protect its assets in such an event. The board of directors should consider including indemnification provisions in the organization's governing documents, based on a review of the laws of the states in which it is based or operates. The board should also assess periodically the organization's need for insurance coverage based on its program activities and financial capacity. Insurance is only one risk management strategy, however. Other financial strategies should also be considered to protect an organization's assets, such as establishing reserve funds to absorb minor losses, borrowing from lenders, and negotiating with third parties to assume certain losses. The organization should also have policies and procedures designed to reduce the risk of various occurrences, or limit the exposure of the organization to certain identified risks.

Even the smallest organizations should have procedures for backing up and preserving electronic and print copies of documents and other information vital to their governance, financial, and programmatic operations. Larger organizations may require more extensive risk management programs, including emergency preparedness and disaster response plans in case of natural or man-made disasters or other crises that may disrupt significantly its programs and operations.

Organizations that employ staff should have written personnel policies that conform to federal and state laws. They should develop appropriate procedures to protect the health and safety of both employees and volunteers while they are at work. Organizations providing services to vulnerable individuals should ensure that appropriate screening, training and supervision procedures are in place to minimize safety risks to consumers and clients, as well as to paid and volunteer staff.

7 A charitable organization should make information about its operations, including its governance, finances, programs and activities, widely available to the public. Charitable organizations also should consider making information available on the methods they use to evaluate the outcomes of their work and sharing the results of those evaluations.

For private foundations and most puhlic charities, filing an accurate and complete annual information return with the IRS is a legal requirement. Those returns serve as a primary source of information about their finances, governance, operations and programs for federal tegulators, the public and many state charity officials. Beyond this basic requirement, charitable organizations can demonstrate their commitment to accountability and transparency by offering additional information about what they do and how they operate.

A good first step is to provide an annual report that lists the organization's board and staff members, describes its mission, shares information on program activities, and details financial information including, at a minimum, its total income, expenses and ending net assets. Such reports need not be elaborate, can be produced in paper or electronic form, and can direct the reader to other readily available documents (such as the Form 990 return or audited financial statements) for further information. If an organization chooses to produce such reports on a less frequent basis, such as every two or three years, it should ensure that any intervening changes in its board and staff or programs and its current financial statements are provided as an attachment or are otherwise made known to readers of the report.

Another source of transparency and accountability and a key method for communicating about the organization's work is a website, which can be maintained independently or through another organization. A website should feature the same information recommended for annual reports, with links directly to or instructions on how to request the organization's most recent IRS Form 990 return and other financial statements. Useful websites often provide such essential information as the organization's vision and mission statements; lists of board and staff members; statement of values and code of ethics; and policies on conflicts of interest, whistleblower prorection and travel policy.

Information on an organization's results and how they are measured can be an especially valuable means of explaining its work and accounting to donors and the public. Such information, and the ability to provide it, will vary considerably from one organization to another. To the extent evaluation or information on outcomes is available, some version of it should be included in annual reports, websites and other forms of communication. More information about program evaluation is provided in principle #19.

Effective Governance

8 A charitable organization must have a governing body that is responsible for reviewing and approving the organization's mission and strategic direction, annual budget and key financial transactions, compensation practices and policies, and fiscal and governance policies.

The board of directors bears the primary responsibility for ensuring that a charitable organization fulfills its obligations to the law, its donors, its staff and volunteers, its clients, and the public at large. The board must protect the assets of the organization and provide oversight to ensure that its financial, human and material resources are used appropriately to further the organization's mission. The board also sets the vision and mission for the organization and establishes the broad policies and strategic direction that enable the organization to fulfill its charitable purpose.

When the board determines that the organization is ready to add paid staff, the board is responsible for selecting, overseeing, and, if necessary, terminating the chief staff officer. In smaller, un-staffed organizations, the board may have a more direct role in overseeing and sometimes delivering the organization's programs and services. In larger organizations, the board generally works as a strategic partner to the staff leadership in ensuring that the organization meets its goals and commitments.

9 The board of a charitable organization should meet regularly enough to conduct its business and fulfill its duties.

Regular meetings provide the chief venue for board members to review the organization's financial situation and program activities, establish and monitor compliance with key organizational policies and procedures, and address issues that affect the organization's ability to fulfill its charitable mission.

Charitable organizations should ensure that their governing documents satisfy legal requirements in establishing rules for board activities, such as quorum requirements and methods for notifying board members about meetings. The board should establish and implement an attendance policy that requires board members to attend meetings regularly. Given the time and expense involved in traveling to meetings, some boards may choose to conduct their business through conference calls or forms of online communication that permit members to hear and be heard by all other participants. In such cases, the organization's governing documents should specify that such alternative methods of holding meetings are permitted.

Boards often form committees and authorize them to handle some work between full board meetings. The organization's governing documents should specify whether the board may create one or more such committees. In most states, the law prohibits boards from delegating certain responsibilities to committees, such as dissolving the organization's assets; electing or removing directors; and altering the organization's governing documents. However, committees may investigate and make recommendations on any of these issues, subject to the full board's consideration and decision.

While many charitable organizations find it prudent to meet at least three times a year to fulfill basic governance and oversight responsibilities, some with strong committee structures, including organizations with widely dispersed board membership, hold only one or two meetings of the full board each year. Foundations that make grants only once a year may find that one annual meeting is sufficient.

10 The board of a charitable organization should establish its own size and structure and review these periodically. The board should have enough members to allow for full deliberation and diversity of thinking on governance and other organizational matters. Except for very small organizations, this generally means that the board should have at least five members.

The ideal size of a board depends on many factors, such as the age of the organization, the nature and geographic scope of its mission and activities, and its funding needs. Although a larger board may ensure a wide range of perspectives and expertise, a very large board may become unwieldy and end up delegating too much responsibility to an executive committee or permitting a small group of board members to exercise substantial control. Conversely, smaller boards may elicit more active participation from each member, but they should consider whether their members collectively have the full range of knowledge and experience necessary to inform their decisions, and, if not, provide opportunities for the board to confer with outside experts or advisory groups on specific matters.

11 The board of a charitable organization should include members with the diverse background (including, but not limited to, ethnic, racial and gender perspectives), experience, and organizational and financial skills necessary to advance the organization's mission.

Boards of charitable organizations generally strive to include members with expertise in budget and financial management, investments, personnel, fundraising, public relations and marketing, governance, advocacy, and leadership, as well as some members who are knowledgeable about the charitable organization's area of expertise or programs, or who have a special connection to its constituency. Some organizations seek to maintain a board that respects the culture of and reflects the community served by the organization. Boards increasingly are being encouraged to be inclusive of and sensitive to diverse backgrounds when recruiting board members, in addition to purposefully recruiting board members with expertise and professional or personal experiences that will be beneficial to the organization.

Because the board must ensure that all financial matters of the organization are conducted legally, ethically and in accordance with proper accounting rules, it should make every effort to ensure that at least one member has "financial literacy" —that is, the ability to understand financial statements, to evaluate the bids of accounting firms that may undertake an audit or review and to assist the board in making sound financial decisions. This need not entail advanced training in accounting or financial management. If the board finds itself unable to recruit members with such skills, it should contract with or seek pro bono services of a qualified financial advisor, other than its auditor, to assist the board in its financial responsibilities.

Organizations should also consider the requirements of current and prospective funding sources regarding the composition of the boards of their grantees.

Some donors to private foundations wish to involve family members on the boards of their foundations to ensure that the donors' philanthropic tradition will continue through future generations. If family members do not have the necessary expertise and experience, the board may wish to bring in advisors. The board should also consider the advantages of diversity and the perspective offered by representatives from outside the family.

12 A substantial majority of the board of a public charity, usually meaning at least two-thirds of the members, should be independent. Independent members should not: (1) be compensated by the organization as employees or independent contractors; (2) have their compensation determined by individuals who are compensated by the organization; (3) receive, directly or indirectly, material financial benefits from the organization except as a member of the charitable class served by the organization; or (4) be related to anyone described above (as a spouse, sibling, parent or child), or reside with any person so described.

All directors of nonprofit corporations have a "duty of loyalty" that requires them to put the interests of the organization above their personal interests and to make decisions they believe are in the best interest of the nonprofit. Individuals who have a personal financial interest in the affairs of a charitable organization may not be as likely to question the decisions of those who determine their compensation or fees or to give unbiased consideration to changes in management or program activities.

The founders of a nonprofit corporation sometimes initially turn to family members and business partners to serve on its board of directors, but interlocking financial relationships can increase the difficulty of exercising the level of independent judgment required of all board members. It is therefore important to the long-term success and accountability of the organization that a sizeable majority of the individuals on the board be free of financial conflicts of interest.

This principle does not apply to private foundations and certain medical research institutions that operate under specific legal restrictions regarding self-dealing transactions, and other charitable organizations whose articles of incorporation or trust instruments include special stipulations regarding board composition. For example, an organization established under the auspices of a religious institution may be required to include clergy or other paid representatives of that institution on its board. A supporting organization may be required to have representatives of its supported organizations on its board. For a complete list of the types of organizations excluded from this principle, consult the reference addition of these principles at www.nonprofitpanel.org.

When a charitable organization determines that having a majority of independent board members is not appropriate, the board and staff should evaluate their procedures and meeting formats to ensure that board members are able to fulfill their responsibilities to provide independent, objective oversight of management and organizational performance.

13 The board should hire, oversee, and annually evaluate the performance of the chief executive officer of the organization, and should conduct such an evaluation prior to any change in that officer's compensation, unless there is a multi-year contract in force or the change consists solely of routine adjustments for inflation or cost of living.

Boards of directors have the authority to delegate responsibility for maintaining the daily operations of the organization to a chief executive officer. One of the most important responsibilities of the board, then, is to select, supervise, and determine a compensation package that will attract and retain a qualified chief executive. The organization's governing documents should require the full board to evaluate the performance and approve the compensation of the chief executive annually and in advance of any change in compensation. The board may choose to approve a multi-year contract with the CEO that provides for increases in compensation periodically or when the CEO meets specific performance measures, but it is important that the board institute some regular

basis for reviewing whether the terms of that contract have been met. If the board designates a separate committee to review the compensation and performance of the CEO, that committee should be required to report its findings and recommendations to the full board for approval and should provide any board member with details, upon tequest. The board should then document the basis for its decision and be prepared to answer questions about it.

When determining the reasonableness of the compensation package paid to the chief executive, the board should ensure that the individuals involved in making the compensation recommendation do not have a conflict of interest with regard to the executive. The board or its committee should examine the compensation paid by similarly situated organizations, both taxable and non-taxable, for functionally comparable positions. Many professional associations prepare regular compensation surveys that can be useful in evaluating compensation, or the committee may turn to compensation surveys compiled by independent firms or actual written offers from similar organizations competing for the executive's services. Some organizations may find it difficult to locate salary surveys or other data to establish comparable values for executive compensation within their geographic area or field of operation, but the board should still seek objective external data to support its compensation decisions.

When governing boards use compensation consultants to help determine the appropriate salary for the chief executive, the consultant should report directly to the board or its compensation committee and should not be engaged in other business with or have any conflicts of interest with regard to the chief executive.

Governing boards are responsible for hiring and establishing the compensation of the CEO and for approving the compensation range of other persons in a position to exercise substantial control of the organization's resources. It is the responsibility of the CEO to hire and set the compensation of other staff, consistent with reasonable compensation guidelines set by the board. If the CEO finds it necessary to offer compensation that equals or surpasses his or her own, in order to attract and retain certain highly qualified and experienced staff, the board should review the compensation package to ascertain that it does not provide an excess benefit.

The board or a designated compensation committee should also review the overall compensation program, including salary ranges and benefits provided for particular types of positions, to assess whether the compensation program is fair, reasonable, and sufficient to attract and retain high-quality staff.

14 The board of a charitable organization that has paid staff should ensure that the positions of chief staff officer, board chair, and board treasurer are held by separate individuals. Organizations without paid staff should ensure that the positions of board chair and treasurer are held by separate individuals.

Concentrating authority for the organization's governance and management practices in one or two people removes valuable checks and balances that help ensure that conflicts of interest and other personal concerns do not take precedence over the best interests of the organization. Some state laws require that the offices of president and treasurer be held by different individuals. Both the board chair and the treasurer should be independent of the chief staff executive to provide appropriate oversight of the executive's performance and to make fair and impartial judgments about the appropriate compensation of the executive.

When the board deems it is in the best interests of the charitable organization to have the chief executive officer serve as the board chair, the board should appoint another board member (sometimes referred to as the "lead director") to handle issues that require a separation of duties, such as reviewing the responsibilities, performance or compensation of the chief executive.

15 The board should establish an effective, systematic process for educating and communicating with board members to ensure that they are aware of their legal and ethical responsibilities, are knowledgeable about the programs and activities of the organization, and can carry out their oversight functions effectively.

Most people volunteer for boards because of a commitment to the mission of the organization and the value of the organization's work to society. Yet they may not have the training or information necessary to understand adequately their fiduciary responsibiliries or common practices of boards of charitable organizations.

An effective board orientation process fills this need by detailing the broad oversight responsibilities of the board and the specific legal and ethical responsibilities of individual members. Members should be made aware of their personal liability for the board's actions—or for its failure to take action—and of the protections available to them. All board members should receive oral and written instruction regarding the organization's governing documents, finances, program activities, and governing policies and practices. Even members who have served on the boards of other organizations can benefit from a specific orientation to each organization for which they provide board service. Charitable organizations, if needed and if funds permit, should provide opportunities for board members to obtain special training or advice on legal and financial issues and responsibilities. It is also advisable for an attorney or insurance agent who is knowledgeable about board liability to explain the legal protections available to board members, as well as the options for insurance.

The ongoing process of board education includes ensuring that members have received and reviewed sufficient information on the issues to be addressed at each board meeting. Agendas and background materials should be distributed far enough in advance of all board meetings so that all members can be expected to read and consider the issues prior to attending the meeting.

16 Board members should evaluate their performance as a group and as individuals no less frequently than every three years, and should have clear procedures for removing board members who are unable to fulfill their responsibilities.

A regular process of evaluating the hoard's performance can help to identify strengths and weaknesses of its processes and procedures and to provide insights for strengthening orientation and educational programs, the conduct of board and committee meetings, and interactions with board and staff leadership. Many boards will find it helpful to conduct such a self-assessment annually; others may prefer a schedule that coincides with the terms of hoard service or regular long-range planning cycles. A number of print and online tools, ranging from sample self-assessment questionnaires to more complex evaluation procedures, can help an organization design a board evaluation or self-assessment process that best meets its needs.

The board should establish cleat guidelines for the duties and responsibilities of each member, including meeting attendance, preparation and participation; committee assignments; and the kinds of expertise board members are expected to have or develop in order to provide effective governance. Many boards assign responsibility for oversight of the board evaluation and development function to tbeir executive committees or to a separate board development committee. Board members with this responsibility should be empowered to discuss problems of attendance or other aspects of board performance with individual members to ascertain whether the problem can be corrected or the individual needs to resign or be removed from the board. Removing a non-performing board member generally requires the action of the full board or, if the organization has members, the action of the membership.

17 The board should establish clear policies and procedures setting the length of terms and the number of consecutive terms a board member may serve.

Every charitable organization should determine whether its best interests are served by limiting the length of time an individual may serve on its board. Some organizations have found that such limits help in bringing fresh energy, ideas and expertise to the board through new members. Others have concluded that term limits may deprive the organization of valuable experience, continuity and, in some cases, needed support provided by board members. They believe organizations should rely solely on rigorous board procedures for evaluating board members and removing those who are not able to fulfill their governance responsibilities effectively. Some family foundations may decide not to limit board terms if their donors expressed a wish that family members continue serving as long as they are willing and able.

Organizations that do limit the terms of board service should consider establishing a staggered term process that provides a continual flow of new participants while retaining a cadre of more experienced members. Many organizations find it useful to establish policies making board members eligible for re-election after taking a year or more off. It is always valuable to find ways in which members who have completed their service can continue to be engaged in the organization's programs and services.

Organizations that choose not to limit the terms of board service should consider establishing a regular process whereby the board reaffirms its commitment to this approach and members actively indicate their desire to continue serving on the board. Some organizations create an alumni council or honorary board to provide an easy option for board members who feel it is time to leave active service but still wish to be involved in the organization. Others specify the age at which a member must retire from the board.

Whether or not the organization establishes board term limits, it is always helpful to have a process for involving prospective board members on committees or task forces until there is an appropriate opening on the board.

18 The board should review organizational and governing instruments no less frequently than every five years.

Regular reviews of the organization's articles of incorporation, bylaws and other governing instruments help boards ensure that the organization is abiding by the rules it has set for itself and determine whether changes need to be made to those instruments. The board may choose to delegate some of this deliberation to a committee, but the full board should consider and act upon the committee's recommendations.

Most state laws permit the state attorney general to file suit asking the court to hold a board accountable for failure to abide by the requirements set forth in these basic documents. If it becomes impractical or no longer feasible to carry out the purposes of the organization as outlined in its articles of incorporation, the board should take appropriate action to amend the articles and to file the amended articles with state officials, as required. In some instances, a charitable organization may need court approval to amend its organizing documents.

19 The board should establish and review regularly the organization's mission and goals and should evaluate, no less frequently than every five years, the organization's programs, goals and activities to be sure they advance its mission and make prudent use of its resources.

As stewards of the public's trust and the resources invested in the organization, board members have an obligation to ensure that the organization uses its resources as effectively as possible to advance its charitable mission. Every board should therefore set strategic goals and review them annually, generally as part of the annual budget review process. This review should address current needs and anticipated changes in the community or program area in which the organization operates that may affect future operations. It should also consider the financial and human resources that are needed to accomplish the organization's goals. Such periodic performance reviews and assessments are a common feature of many self-regulation, accreditation and funding programs in which nonprofit organizations participate.

Although discussions of individual program activities and accomplishments are typical of most board meetings, these are not a substitute for a more rigorous periodic evaluation of the organization's overall impact and effectiveness in light of goals and objectives that the board has approved.

Because organizations and their purposes differ, it is incumbent on each organization to develop its own process for evaluating effectiveness. Most organizations should have at least an informal review of their progress on goals and objectives annually, but, because of the time and cost involved, they may choose to conduct a more rigorous evaluation less frequently. Even for organizations whose work is not properly measured in one-year increments, such as scientific research or youth-development programs, interim benchmarks can be identified to assess whether the work is moving in the right direction.

20 Board members are generally expected to serve without compensation, other than reimbursement for expenses incurred to fulfill their board duties. A charitable organization that provides compensation to its board members should use appropriate comparability data to determine the amount to be paid, document the decision and provide full disclosure to anyone, upon request, of the amount and rationale for the compensation.

Although some charitable organizations reimburse expenses related to board work, the vast majority of board members serve without compensation. In fact, board members of public charities often donate both time and funds to the organization, a practice that supports the sector's spirit of giving and volunteering.

When organizations find it appropriate to compensate board members due to the nature, time or professional competencies involved in the work, they must be prepared to provide detailed documentation of the amount of and reasons for such compensation, including the responsibilities of board members and the services they provide. Any compensation provided to board members must be reasonable and necessary to support the performance of the organization in its exempt function. Compensation paid to board members for services in the capacity of staff of the organization should be clearly differentiated from any compensation paid for board service.

Board members of charitable organizations are responsible for ascertaining that any compensation they receive does not exceed to a significant degree the compensation provided for positions in comparable organizations with similar responsibilities and qualifications. Some organizations hire compensation consultants to identify comparable compensation levels, some rely on data available through national and regional associations or for-profit firms, and some conduct their own surveys of compensation paid by similar organizations. When they establish their own compensation, board members generally cannot be considered independent authorizing bodies and therefore generally cannot avail themselves of the legal protections accorded to such bodies.

Strong Financial Oversight

21 A charitable organization must keep complete, current, and accurate financial records. Its board should receive and review timely reports of the organization's financial activities and should have a qualified, independent financial expert audit or review these statements annually in a manner appropriate to the organization's size and scale of operations.

Complete and accurate financial statements are essential for a charitable organization to fulfill its legal responsibilities and for its board of directors to exercise appropriate oversight of the organization's financial resources. A board that does not have members with financial expertise should retain a qualified paid or volunteer accounting professional to establish whether financial systems and reports are organized and implemented appropriately.

Having financial statements prepared and audited in accordance with generally accepted accounting principles and auditing standards improves the quality of the information. Each organization must ensure that it has its annual financial statements audited or reviewed as required by law in the states in which it operates or raises funds or as required by government or private funders. When an audit is not legally required, a financial review offers a less expensive option that still provides the board, regulators and the public with some assurance of the accuracy of the organization's financial records. Many smaller organizations that have opted to work with an independent accountant have noted that the accountant provided invaluable guidance.

Every charitable organization that has its financial statements independently audited, whether or not it is legally required to do so, should consider establishing an audit committee composed of independent board members with appropriate financial expertise. By reducing possible conflicts of interest between outside auditors and the organization's paid staff, an audit committee can provide the board greater assurance that the audit has been conducted appropriately. If state law permits, the board may appoint non-voting, non-staff advisors rather than board members to the audit committee.

Organizations with small boards of directors or limited organizational structures may not choose to delegate the audit responsibility to a separate committee. Audit committees may also be inappropriate for charitable organizations that are organized as trusts rather than as corporations.

22 The board of a charitable organization must institute policies and procedures to ensure that the organization (and, if applicable, its subsidiaries) manages and invests its funds responsibly, in accordance with all legal requirements. The full board should review and approve the organization's annual budget and should monitor actual performance against the budget.

Sound financial management is among the most important responsibilities of the board of directors. The board should establish clear policies to protect the organization's financial assets and ensure that no one person bears the sole responsibility for receiving, depositing, and spending its funds. Day-to-day accounting and financial management should be the task of staff or, in the case of organizations with no or one staff member, designated volunteers who have the necessary time and skills. The board is responsible for reviewing practices and reports to ensure that those staff or volunteers are adhering to the board-approved policies.

The organization's annual budget should reflect the programs and activities the organization will undertake in the coming year and the resources it will need to raise or generate to support those activities. Careful review of regular financial reports showing both budgeted and actual expenditures and revenues will permit the board to determine whether adjustments must be made in spending to accommodate changes in revenues. Financial reports should also reflect how the organization bas adhered to any restrictions placed on funds by donors or grant programs.

Prudent financial oversight requires that the board look beyond monthly or annual financial reports to consider how the organization's current financial performance compares with that of previous years and how its financial future appears. If the organization's net assets have been declining over a period of years, or if future funding seems likely to change significantly, the board may need to take steps to achieve or maintain stability.

Whenever possible, an organization should generate enough income to create cash reserves for its future. When an organization has built sufficient reserves to allow for investments, the board is responsible for establishing policies that govern how the funds will be invested and what portion of the returns, if any, can be used for immediate operations or programs. The boards of organizations with sizeable reserves or endowments generally select one or more independent investment managers to handle the organization's investments. In those cases, the board or a committee of the board should monitor the outside investment manager(s) regularly.

23 A charitable organization should not provide loans (or the equivalent, such as loan guarantees, purchasing or transferring ownership of a residence or office, or relieving a debt or lease obligation) to directors, officers, or trustees.

The practice of providing loans to board members and executives, while infrequent, has created both real and perceived problems for public charities. While there may be circumstances in which a charitable organization finds it necessary to offer loans to staff members, there is no justification for making loans to board members. Federal laws prohibit private foundarions, supporting organizations and donor-advised funds from making loans to substantial contributors, board members, organization managers and related parties. Many states also forbid such loans or allow them only in very limited circumstances.

When a charitable organization deems it necessary to provide loans to an employee—for example, to enable a new employee of a charity to purchase a residence near the organization's offices—the terms of such loans should be clearly understood and approved by the board. Such loans then must he reported on the organization's annual information returns (Forms 990 and 990-PF).

24 A charitable organization should spend a significant percentage of its annual budget on programs that pursue its mission. The budget should also provide sufficient resources for effective administration of the organization, and, if it solicits contributions, for appropriate fundraising activities.

Charitable organizations have an obligation to devote their resources to the charitable purposes for which they were granted tax exemption, and to spend donated funds on the programs and activities for which the funds were contributed. At the same time, the successful operation of any business or organization—including the responsible pursuit of nearly any kind of charitable purpose—requires effective management and administration. Administrative activities include financial and investment management, personnel services, recordkeeping, soliciting and managing contracts, legal services, and supporting the governing body of the organization. Not only do these elements ensure that the organization complies with all legal requirements, but they also help provide complete, accurate, and timely information to donors, the public, and government regulators.

Charitable organizations rely on other supporting services to carry out their missions. Most public charities have fundraising operations to encourage potential donors to contribute money, materials and other assets and to ensure that donors receive necessary reports about how their contributions were used. Some public charities also rely on membership development activities to solicit prospective members, collect membership dues, and ensure that members receive promised benefits. Private foundations and some public charities also have expenses associated with making grants and contributions to other organizations and individuals.

Qualified personnel are crucial for providing programs, recruiting and managing volunteers, raising funds, and ensuring proper administration. The costs of compensating personnel, including salaries and benefits, must be allocated to the particular functions they perform for the organization based on appropriate records.

Some self-regulation systems and "watchdog" organizations recommend that public charities spend at least 65 percent of their total expenses on program activities. This standard is reasonable for most organizations, but there can be extenuating circumstances that require an organization to devote more resources to administrative and fundraising activities. The board should review the budget and financial reports to determine whether the organization is allocating its funds appropriately.

25 A charitable organization should establish clear, written policies for paying or reimbursing expenses incurred by anyone conducting business or traveling on behalf of the organization, including the types of expenses that can be paid for or reimbursed and the documentation required. Such policies should require that travel on behalf of the organization is to be undertaken in a cost-effective manner.

A charitable organization's travel policies should be unambiguous and easy to follow, and should reflect the organization's principled judgment about what it considers "reasonable" expenditures for individuals who must travel to conduct business on its behalf. These policies should include procedures for properly documenting expenses incurred and their organizational purpose.

As a general practice, travel policies should ensure that the business of the organization is carried out in a cost-effective manner. Decisions on travel expenditures should be based on how best to further the organization's charitable purposes, rather than on the title or position of the person traveling. Charitable funds generally should not be used for premium or first-class travel, but boards should retain the flexibility to permit exceptions when they are in the organization's best interest. Such exceptions, if any, should be explicit, consistently applied and transparent to board members and others associated with the organization.

An organization's policies should reflect the requirements and restrictions on travel expenditures imposed under current law. The detailed guidance provided in IRS Publication 463: Travel, Entertainment, Gift and Car Expenses should serve as a guide for managers of charitable organizations in avoiding lavish, extravagant or excessive expenditures.

26 A charitable organization should neither pay for nor reimburse travel expenditures for spouses, dependents or others who are accompanying someone conducting business for the organization unless they, too, are conducting such business.

If, in certain circumstances, an organization deems it proper to cover expenses for a spouse, dependent, or other person accompanying someone on business travel, the payment generally must, by law, be treated as compensation to the individual traveling on behalf of the organization. This principle need not apply to de minimis expenses such as the cost of a meal at organization functions where participants are invited to bring a guest.

Responsible Fundraising

27 Solicitation materials and other communications addressed to donors and the public must clearly identify the organization and be accurate and truthful.

Charitable solicitations—whether in print, via the Internet, over the phone, or in person—are often the only contact a donor has with a charitable organization. Clear and accurate solicitation materials help potential contributors to contact the organization and obtain information necessary to distinguish an organization with a solid history of service to the community from one that may claim a similar name or purpose, but whose fundraising appeal is misleading.

A donor has the right to know the name of anyone soliciting contributions, the name and location of the organization that will receive the contribution, a clear description of its activities, the intended use of the funds to be raised, a contact for obtaining additional information, and whether the individual requesting the contribution is acting as a volunteer, employee of the organization, or hired solicitor. (A Donor Bill of Rights, endorsed by many organizations, is available at www.nonprofitpanel.org.) Descriptions of program activities and the financial condition of the organization must be current and accurate, and any references to past activities or events should be dated appropriately.

If an organization is not eligible to receive tax-deductible contributions, it must disclose this limitation at the time of solicitation. Similarly, a charitable organization that the IRS has recognized as eligible to receive tax-deductible contributions should clearly indicate in its solicitations how donors may obtain proof of that status. The charity may post a copy of its IRS letter of determination on its website or offer to provide a copy of the letter to donors who request it. If the solicitation promises any goods or services to the donor in exchange for contributions, the materials should also clearly indicate the portion of the contribution (that is, the value of any goods or services provided) that is not tax-deductible.

28 Contributions must be used for purposes consistent with the donor's intent, whether as described in the relevant solicitation materials or as specifically directed by the donor.

When a donor responds to a charitable solicitation with a contribution, he or she has a right to expect that the funds will be used as promised. Solicitations should therefore indicate whether the funds they generate will be used to further the general programs and operations of the organization or to support specific programs or types of programs. A donor may also indicate through a letter, a written note on the solicitation, or a personal conversation with the solicitor or another official of the charitable organization how he or she expects the contribution to be used.

In some cases, an organization may not receive sufficient contributions to proceed with a given project or it may receive more donations than it needs to carry out that project. If the organization is unable or unwilling to use the contribution as stated in its appeal or in the donor's communication, it has an obligation to contact the donor and request permission to apply the gift to another purpose or offer to return the gift. Charitable organizations should strive to make clear in materials that solicit contributions for a specific program how they will handle such circumstances,

A charitable organization should carefully review the terms of any contract or grant agreement before accepting a donation. If the organization will be unable or unwilling to comply with any of the terms requested by a donor, it should negotiate any necessary changes prior to concluding the

transaction. Particularly in the case of substantial contributions, the recipient should develop an agreement that specifies any rights it may have to modify the terms of the gift if circumstances warrant. Some charitable organizations include provisions in their governing documents or board resolutions indicating that the organization retains "variance powers," the right to modify conditions on the use of assets. Such powers should be clearly communicated to donors through a written agreement.

29 A charitable organization must provide donors with specific acknowledgments of charitable contributions, in accordance with IRS requirements, as well as information to facilitate the donors' compliance with tax law requirements.

Acknowledging donors' contributions is important not only because of IRS requirements, it also helps in building donors' confidence in and support for the activities they help to fund. Organizations should establish procedures for acknowledging contributions in a timely manner and for providing appropriate receipts for cash contributions if requested. Regular updates to donors on the activities they support is another way to build trust and loyalty, as is providing ways for contributors to find more information on their own—say, through a website, print publications or visits to the organization's office.

If the organization has provided goods or services to the donor in exchange for or recognition of the contribution, an acknowledgement must include a good-faith estimate of the fair market value of those goods or services—that is, the amount the donor would have to pay to purchase those goods or services independently. The cost of the item to the charitable organization does not determine its fair market value, although cost may be an important factor. For example, a hotel may donate the food served at a banquet, thus imposing zero cost on the charitable organization. But the fair market value of a donor's meal at that banquet would not be zero; it would be the price he or she would have to pay for a similar meal at that hotel. The charitable organization does not have to include information on fair market value in a donor acknowledgement if that value is not more than 2 percent of the contribution or $89, whichever is less. (These are 2007 amounts; the IRS changes them periodically.)

It is generally unwise, and may pose a conflict of interest, for a charitable organization to appraise the value of gifts of property from taxpayers seeking income tax deductions for such contributions. Organizations should, however, alert donors to IRS rules for substantiating such claims and encourage them to seek appropriate tax or legal counsel when making significant non-cash gifts.

30 A charitable organization should adopt clear policies, based on its specific exempt purpose, to determine whether accepting a gift would compromise its ethics, financial circumstances, program focus or other interests.

Some charitable contributions have the potential to create significant problems for an organization or a donor. Knowingly or not, contributors may ask a charity to disburse funds for illegal or unethical purposes, and other gifts may subject the organization to liability under environmental protection laws or other rules. Some types of corporate sponsorships or interests in corporate stock or assets may result in unrelated business income for a charitable organization. Donors may also face adverse tax consequences if a charity is unable to use a gift of property in fulfilling its mission and

must instead sell or otherwise dispose of the property soon after the donation is received.

A gift-acceptance policy provides some protection for the board and staff, as well as for potential donors, by outlining the rules and procedures by which an organization will evaluate whether it can accept a contribution even before an offer is actually made. The policy should make clear that the organization generally will not accept any non-cash gifts that are counter to or outside the scope of its mission and purpose, unless the item is intended for resale or would otherwise produce needed revenue for the organization. It should list any funding sources, types of contributions, or conditions that would prevent the organization from accepting a gift. The organization should also consider establishing rules and procedures for determining whether a gift is acceptable and should identify circumstances under which a review by legal counsel or other experts would be required before accepting a gift.

31 A charitable organization should provide appropriate training and supervision of the people soliciting funds on its behalf to ensure that they understand their responsibilities and applicable federal, state and local laws, and do not employ techniques that are coercive, intimidating, or intended to harass potential donors.

A charitable organization may be legally responsible when those who solicit on its behalf engage in illegal or fraudulent practices. Yet even beyond ensuring that fundraising practices are lawful and honest, a charitable organization has many reasons to provide careful training and supervision to those who solicit donations on its behalf. The most obvious reason is that they are often a potential donor's first, and sometimes only, direct contact with the organization. The organization should therefore ensure that its fundraisers are respectful of a donor's concerns and do not use coercive or abusive language or strategies to secure contributions, misuse personal information about potential donors, pursue personal relationships that are subject to misinterpretation by potential donors, or mislead potential donors in other ways. All those who solicit contributions on the organization's behalf, including volunteers, should be provided with clear materials and instructions on what information to provide to prospective donors, including the organization's name and address, how the donor can learn more about the organization, the purposes for which donations will be used, whether all or part of the donation may be tax-deductible, and who the donor can contact for further information.

If a charitable organization decides to use an outside professional fundraising firm or consultant, it should have a clear contract—as required by law and guided by good practice—that outlines the responsibilities of the organization receiving the funds and of the firm or consultant. The fundraiser must agree to abide by any registration and reporting requirements of the jurisdictions in which fundraising will be conducted, as well as federal restrictions on telephone, email, or fax solicitations. The charitable organization should verify that the outside solicitor is registered as required in any state in which the solicitor will be seeking contributions.

In general, those soliciting funds on behalf of charities should refrain from giving specific legal, financial and tax advice to individual donors. Rather, when such questions arise, fundraisers should encourage donors to consult their own legal counsel or other professional advisors before finalizing a contribution.

32 A charitable organization should not compensate internal or external fundraisers based on a commission or a percentage of the amount raised.

Compensation for fundraising activities should reflect the skill, effort, and time expended by the individual or firm on behalf of the charitable organization. Many professional associations of fundraisers prohibit their members from accepting payment for fundraising activities based on a percentage of the amount of charitable income taised or expected to be raised. Basing compensation on a percentage of the money raised can encourage fundraisers to put their own interests ahead of those of the organization or the donor and may lead to inappropriate techniques that jeopardize the organization's values and reputation and the donor's trust in the organization. Percentage-based compensation may also lead to payments that could be regarded by legal authorities or perceived by the public as "excessive compensation" compared to the actual work conducted. Percentage-based compensation may also be skewed by unexpected or unsolicited gifts received by the chatitable organization through no effort of the fundraiser.

A similar logic applies to employees. Some charitable organizations choose to provide bonuses to employees for exceptional work in fundraising, administrative, or program activities. If so, the criteria for such bonuses should be clearly based on the quality of the work performed, rather than on a percentage of the funds raised.

33 A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

Preserving the trust and support of donors requires that donor information he handled with respect and confidentiality to the maximum extent permitted by law. Charitable organizations should disclose to donors whether and how their names may be used, and provide all donors, at the time a contribution is made, an easy way to indicate that they do not wish their names or contact information to be shared outside the organization. In all solicitation and other promotional materials, organizations should also provide a means, such as a check-off box or other "opt-out" procedure, for donors and others who receive such materials to request that their names be deleted from similar mailings, faxes or electronic communications in the future. The organization should immediately remove a donor's name from any lists upon request and should ensure that all donors at least once a year are provided information about how they may request that their names and contact information nor be shared outside the organization.

Organizations that gather personal information from donors and other visitors to their websites should have a privacy policy, easily accessihle from those websites, that informs visitors to the site what information, if any, is being collected about them, how the infotmation will be used, how to inform the organization if the visitor does not wish personal information shared outside the organization, and what security measures the charity has in place to protect personal information.

Panel on the Nonprofit Sector Staff

Executive Director
Diana Aviv

Project Director
Patricia Read

Assistant Project Director
Jennifer Chandler Hauge

Communications Staff
Patricia Nash Christel
Bill Wright
Additional support provided by
Jennifer Frias and Gudrun Hofmeister

Development Staff
Sherry Rockey
Deborah Briggs

Administrative Support
Gina Catedrilla
Staci Morgan

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Finally, we thank all of the organizations that provided comments on these principles and all of the Panel's work through our website, our town hall meerings, and other communications.

For Further Information

The reference edition of the Principles for Good Governance and Ethical Practice is available for free download at www.nonprofitpanel.org. It provides legal background on each principle with detailed footnotes, a glossary of terms, and additional information on self-regulation in the nonprofit community, including the two studies commissioned by the Panel to inform this work.

Independent Sector, which provided leadership in convening and supporting the Panel on the Nonprofit Sector, will continue to offer resources through its programs and website (www.independentsector.org) to facilitate putting these principles into practice.

Advisory Committee on Self-Regulation of the Charitable Sector

CO-CHAIR

Joel L. Fleishman, Director, Samuel and Ronnie Heyman Center for Ethics, Public Policy and the Professions, Terry Sanford Institute of Public Policy, Duke University, Durham, NC

Rebecca W. Rimel, President & Chief Executive Officer, Pew Charitable Trusts, Philadelphia, PA

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Marion R. Fremont-Smith, Senior Research Fellow, Hauser Center for Nonprofit Organizations, Kennedy School of Government, Harvard University, Cambridge, MA

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Michael D. Weekes, President and CEO, Massachusetts Council of Human Service Providers, Boston, MA

Myrl Weinberg, President, National Health Council, Washington, DC

Rand Wentworth, President, Land Trust Alliance, Washington, DC

Panel on the Nonprofit Sector

Convened by Independent Sector

1200 Eighteenth Street NW
Suite 800
Washington, DC 20036

www.nonprofitpanel.org

www.independentsector.org
202-467-6100
202-467-6101 fax

Chairman WAXMAN. I thank all of you for coming today. That concludes our hearing. We stand adjourned.

[Whereupon, at 1:05 p.m., the hearing was concluded.]

[Additional information submitted for the hearing record follows:]

For the Record

In the Matter of December 18, 2007 Letter of Invitation by the United States House of Representatives Oversight Committee to Richard Viguerie, Chairman, American Target Advertising, Inc. to Produce Documents on January 7, 2008, to be Interviewed, and to Testify on January 17, 2008

Objection of American Target Advertising, Inc. to Production and Disclosure of Trade Secrets and Other Confidential, Proprietary Information, and on Constitutional Grounds

American Target Advertising, Inc. (ATA) hereby objects to the above-referenced invitation and request for information (the "Request") on the grounds, and to the extent, that it would require disclosure of ATA's trade secrets and other confidential, proprietary information. Such confidential information is not only protected at law, but is subject to confidentiality agreements between ATA and its nonprofit clients. The indiscriminate, blanket Request also raises some serious constitutional and jurisdictional concerns.

I. The Request Would Require Disclosure of Trade Secrets and Other Confidential, Proprietary Information

ATA is a direct marketing agency that provides direct marketing, fundraising, consulting and related services to nonprofit organizations, political committees and other entities that may solicit contributions from the general public.

ATA objects to the Request on the grounds that some information under the Request constitutes trade secrets and other confidential, proprietary information of ATA.[1] ATA and its nonprofit client, Help Hospitalized Veterans (HHV), for example, are contractually bound by confidentiality provisions that read as follows:

> The parties agree to keep confidential all information about Client's direct response programs and Housefile composition, and all the respective parties' trade secrets, techniques and strategies made known to the other by operation of this Agreement, except as necessary to be made known to vendors, agents and others to fulfill the operations under this Agreement.

[1] The Request extends to nonprofit clients and past clients of ATA that are not veterans' charities, and the data sought are therefore beyond the scope and purposes of the Committee's December 13, 2007 hearing on veterans' charities.

Disclosure of trade secrets and other confidential, proprietary information would constitute a breach of contract. ATA finds no authority that authorizes Congress to use its investigation powers to induce private parties to breach their contracts, and the Request makes no showing of such authority.[2]

ATA's contracts contemplate that it will provide various services based on its unique expertise that it first pioneered beginning in 1965 and which it has continued to pioneer.[3] One of the market niches and unique selling points of ATA is that it knows how to quickly develop large files of small-dollar donors and other respondents for its clients using direct marketing techniques. ATA has continued to develop with protection and security those techniques over its 42 years in business. The methods, strategies and research techniques by which ATA selects lists and uses components of list selects within

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[2] The Committee sought information from HHV, including its contracts, which are also publicly available anyway. Therefore ATA presumes the Committee is fully aware of confidentiality provisions, and that its Request constitutes a forced breach of a private contract to the extent the Request covers trade secrets.

[3] Germane provisions in ATA's contracts include the following examples:

> WHEREAS, ATA has extensive experience in consulting for the design and development of creative direct response membership, fundraising, and educational materials for the fundraising and educational efforts conducted by national non-profit organizations.
>
> Client hereby retains the services of ATA and/or its affiliates, assigns, successors, subcontractors and/or designees, with prior approval from Client of any and all assignments, of ATA (hereinafter 'ATA') to act as the direct marketing and fundraising consultant to Client in Client's conduct of its communications with the general public (hereinafter "prospect mailings"), and with Client's members, contributors, supporters and contacts (hereinafter "housefile mailings"). Respondents to such mailings shall be combined into a list containing Client's members, contributors, supporters, contacts and all related information (hereinafter "House File").
>
> Client acknowledges that it has been advised by ATA of the nature of expense which tax exempt organizations commonly incur in the accumulation of a donor base. Client acknowledges that the initial cost of accumulating the Client House File may exceed the proceeds realized. Client further acknowledges that decisions as to selection of packages, timing, lists, are affected by national and international events, current affairs, recession, inflation and other unknown developments and may have an unforeseen impact on the success of any program.

such lists is vital to its business model, the exposure of which could irreparably harm ATA financially and put ATA and its clients at a disadvantage with competitors and the general direct marketing and fundraising marketplace.

Since the methods by which ATA advises its clients, and selects lists and their components are critical underpinnings of ATA's method of business, ATA takes serious precautions and security measures to protect those trade secrets. Exposure of such trade secrets could also harm its existing clients, which rely extensively on ATA's business methods and trade secrets for the success of the services provided by ATA. ATA is not just entitled to protect its trade secrets; it is obligated to.

II. The Constitution Appears to Bar All or Portions of the Request

The face of the Request does not state the purpose of the Request, therefore ATA reserves the right to further object to whether the Request constitutes a legitimate exercise of congressional power under Article I of the United States Constitution, and whether the Request is issued based on a substantial government interest. However, ATA shall generally note that the investigative powers of Congress and government in general are not absolute. Objections to government subpoenas based on the **likelihood** that First Amendment rights would be violated by compelled disclosure may be sufficient to quash the subpoena or parts thereof.[4]

It is also well settled that charitable solicitations, which are a major focus of the Request, are protected by the First Amendment. Four times in the past 27 years the Supreme Court has made clear that

> "Prior authorities . . . clearly establish that charitable appeals for funds . . . involve a variety of speech interests – communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes – that are within the protection of the First Amendment . . . [and]

[4] "It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other forms of government action that] were thought likely to produce upon the particular constitutional rights there." *NAACP v. Alabama*, 357 U.S. 449, 462 (1958). "We think that the production order, in the respects here drawn in question, must be regarded as entailing **the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association**." *Id.* (emphasis added).

> that without solicitation the flow of such information and advocacy would likely cease."

Secretary of State v. Munson, 467 US 947, 959 - 960 (1984), citing *Schaumburg v. Citizens for Better Environment*, 444 US 620 (1980). The same First Amendment protections apply to charities' solicitation communications that are made as part of services rendered by professional agents hired by charities, and high-costing fundraising is constitutionally protected. *See, for example*, *Illinois v. Telemarketing Associates, Inc.*, 538 US 600 (2003); and *Riley v. National Federation of the Blind*, 487 US 781 (1988).[5]

The Committee should not mistake ATA's constitutional objections, nor should any third party use them irresponsibly, to suggest that ATA is being obstreperous. ATA of course does not suggest that no aspects of charities' works are subject to Article I review by Congress. ATA, however, respectfully notes that the Committee is entering areas that merit constitutional considerations, and where the Supreme Court has applied "exacting," i.e., the strictest, scrutiny.

The indiscriminate and blanket sweep of the Request appear to exceed the Committee's Article I authority, which is further limited by the First Amendment and Fourth Amendment's protections against unreasonable searches and seizures of papers and effects. That one witness may have failed to appear before the Committee is not grounds for the Committee to violate the First and Fourth Amendment rights of others.

Given that congressional investigations themselves can be intimidating, time-consuming, and expensive prospects for witnesses, ATA's concerns are that unless prospective witnesses in similar circumstances make proper objections, such investigations can become means to chill protected speech and even silence critics of government. The nonprofit sector is well known for being an effective critic of government, and without the First Amendment is highly susceptible to investigations meant to intimidate and coerce silence. "The general proposition that freedom of

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[5] The Supreme Court "rejected the State's argument that restraints on the relationship between the charity and the fundraiser were mere 'economic regulations' free of First Amendment implication." *Riley*, at 788, citing *Schaumburg*. "[A] direct restriction on the amount of money a charity can spend on fundraising activity . . . [is] a direct restriction on protected First Amendment activity . . . [subject to] **exacting First Amendment scrutiny**." *Riley*, at 788 – 789 (emphasis added).

expression upon public questions is secured by the First Amendment has long been settled by our decisions." *New York Times v. Sullivan*, 376 US 254, 269 (1964). The "debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *Id.*, at 270.

The petitioners in *NAACP v. Alabama* (see footnote 4 herein) did not assert a right to absolute immunity from government investigation, nor a right to disregard laws based on First Amendment protections, and they substantially complied with the production order.[6] That matter predated the Supreme Court's four decisions on the First Amendment protections for fundraising noted above.

In this matter, the **indiscriminate and blanket** Request targeted at charitable solicitations appears to be beyond the Committee's Article I authority, which authority is further and expressly limited by the First Amendment. The December 13 hearing on veterans' charities made this clear: in direct contravention of the standards expressed four times by the Supreme Court in the past 27 years, the Committee is not merely seeking to chill First Amendment rights by intimidating witnesses, but is actually attempting to **censor** certain charities.

III. The Legal Standard under *Ashland Oil* about Whether Congress May Compel Disclosure of Trade Secrets

Compelled disclosure of trade secrets under a congressional demand was the principal subject of *Ashland Oil, Inc. v FTC*, 409 F.Supp 297 (D.D.C.), *aff'd*, 548 F.2d 997 (D.C. Cir. 1976). In that matter, Ashland Oil, Inc. ("Ashland") had provided the Federal Trade Commission (FTC) data that included information Ashland claimed was "confidential and of a proprietary nature, such that disclosure would result in competitive injury." *Id.*, at 300. Ashland provided the information to the FTC "with the specific reservation that [Ashland] could claim its right to have materials therein provided 'accorded confidential treatment and be protected from disclosure.'" *Id.*

[6] 357 U.S. 449, 463.

A Member of Congress, and later a congressional subcommittee, sought production of Ashland's information from the FTC. The Secretary of FTC himself objected on the grounds that the request sought data that included "trade secrets and commercial or financial information . . . which were exempt from mandatory disclosure under the Freedom of Information Act." *Id.*

The court in *Ashland Oil* cites to the Restatement of Torts that "[a] trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors, who do no know or use it . . ." *Id.*, at 303, citing 4 Restatement of Torts section 757, p. 5 (1939). The court also cites to factors that may assist a court in determining whether particular data rises to the level of a trade secret:

> (1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of the measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

Id.

The court then reviewed the investigatory power of Congress, noting, "[a]lthough the investigatory power is 'penetrating and farreaching in scope' (internal cites omitted) it is not unlimited . . . Hence, the parameters of the inquiry may be no broader than the 'legitimate sphere of legislative activity.'" *Id.*, at 304 (internal cites omitted).

Citing to the standards set forth in *Wilkinson v. United States*, 365 U.S. 399, 408 – 09 (1961), the court in *Ashland Oil* said:

> (1) The Committee's investigation of the broad subject matter area must be authorized by Congress; (2) the investigation must be pursuant to "a valid legislative purpose"; and (3) the specific inquiries involved must be pertinent to the broad subject matter areas which have been authorized by Congress.

Ashland Oil, at 305. As noted above, the Request fails to state its purposes. ATA therefore cannot discern whether the Request meets the standards sets forth in *Wilkinson* as cited by the court in *Ashland Oil*.

In determining whether Ashland could obtain the injunctive relief of quashing the subpoena, the court relied on four factors, to-wit:

> (1) Has the petitioner made a strong showing that [he] is likely to prevail on the merits? . . . (2) Has the petitioner shown that without such relief, it would be irreparably injured? . . . (3) Would issuance of a stay substantially harm other parties interested in the proceeding? . . . (4) Where lies the public interest?

Id., at 307, citing *Virginia Petroleum Jobbers Association v. Federal Power Commission*, 104 U.S.App.D.C. 106, 259 F.2d 921, 925 (1958).

IV. Disclosure of Trade Secrets Could Cause Irreparable Harm to ATA

The irreparable injury and public interest standards are of particular importance to ATA, and it is especially here where the facts of the present matter may be distinguished from those in *Ashland Oil*. Ashland feared that public disclosure of its trade secrets would result if the FTC were to provide the information to the congressional subcommittee and in particular its chairman, whom Ashland alleged to have improperly disclosed other trade secrets to the public that were obtained under his official congressional duties. Ashland claimed that the potential public disclosure of its trade secrets obtained by the congressional subcommittee would cause irreparable injury. The court, though, explained away that concern:

> the transfer of such data from the FTC to the Subcommittee and the Subcommittee's review of that information, does not lead inexorably to either public dissemination or **disclosure to Ashland's competitors**. Moreover, the courts must presume that the **committees of Congress will exercise their powers responsibly and with due regard for the rights of affected parties**.

Ashland Oil, at 308 (emphasis added).

Members of Congress and campaign committees on which some Members sit engage in fundraising solicitations to the general public. Knowingly or not, many employ methods and techniques first pioneered and/or developed by ATA. ATA has been retained by Members of Congress or their challengers for their campaign communications and solicitations. Former ATA employees have gone on to be

employees of national political committees and fundraising consultants for Members of Congress or their challengers.

Members of Congress are squarely in the category of the many competitors -- ranging from professional fundraisers to charities to political committees -- from whom ATA wishes to protect its trade secrets and confidential, proprietary information. These trade secrets give ATA the opportunity of advantage over the marketing and fundraising solicitations used by those competitors. The communications of ATA's clients go to many citizens who receive fundraising requests from Members of Congress and congressional campaign committees such as the Democratic and Republican Congressional Campaign Committees. Virtually every day ATA and its clients are competing with Members of Congress, some or even many of whom employ direct marketing techniques that ATA first brought to political, charitable and cause-related marketing and fundraising.[7]

ATA is especially well known for building files for grassroots organizations through well-targeted communications that seek low-dollar contributions. Its expertise in strategy and list selection, therefore, is vital to its business model. While lists on the market are obviously available to nearly all who solicit contributions, not all who solicit know how to use them in the manner that ATA does. The information sought in the Request would disclose information about ATA's formulae, patterns, devices and compilations of information regarding how ATA makes its decisions and recommendations about which lists to use, the dollar selects within those lists, etc., the strategies of how and when its clients should mail certain communications, and suggested quantities.

The disclosure sought by the Request would also expose ATA's strategies about the timing of prospect (donor acquisition) mailings versus housefile mailings. Those, too, are protected trade secrets. **Especially** given the fact that lists are generally available

[7] This is of an even greater concern for other nonprofit organizations that may be critical of Congress, and where the temptation may be greater for Congress to use its powers to discourage, suppress or even censor criticism. In essence, then, the fundraising communications of many nonprofits not only compete for attention against the fundraising communications of Members of Congress, they may even be saying things that some or many Members would prefer not be said.

in the market, ATA's proprietary and confidential strategies distinguish it from its competitors.

ATA is justified in its desire and need to prevent exposure of such proprietary information to **any** competitor or potential competitor. The glut of candidate solicitations means that ATA's experience in political direct mail is especially valuable to its nonprofit clients, where well-timed solicitations can make the difference between netting and losing money. Exposure of ATA's timing and other trade secrets could be of great value to political candidates and congressional campaign committees that even Members of the Oversight Committee chair.

Since Members of Congress are in fact in the category of ATA's competitors, and disclosure could cause irreparable injury, ATA's objection is not a matter of its seeking to obstruct the Committee's investigation, but to protect its valuable information as it would in any commercial context.

Were ATA to seek injunctive relief, it would likely prevail on the merits. Such injunctive relief would **not** substantially harm other interested parties; it would in fact serve to protect its clients' and ATA's trade secrets and First Amendment rights in the conduct of charitable solicitation communications.

Given the fact that the Request smacks squarely on issues protected by the First Amendment, and Congress appears to have no, or certainly limited, Article I authority to regulate charitable solicitations, the public interest prong under *Ashland Oil* and *Virginia Petroleum Jobbers* favors ATA. This matter is therefore further distinguished from *Ashland Oil.* ATA respectfully suggests under the public interest prong, the Request, as it pertains to charitable solicitations, is at least constitutionally suspect on its face, and the indiscriminate, blanket sweep of the Request is at least in part precluded by the First Amendment.

V. Further Cause for This Objection

ATA questions whether the Committee has jurisdiction over certain matters that are the subject of the Request. Charitable solicitations are not government programs. The fundraising is not subsidized by federal funds.

Members' "informative" mail to their constituents under franking privileges is in fact "advertising" subsidized by taxpayers. Members' own campaign committees are tax-exempt, yet Members are not subject to the same disclosure requirements as charities. Members need not obtain and make public audited financial statements prepared by independent certified public accountants under AICPA standards. Their fundraising contracts are not required to be made public. Although Members do not disclose their costs of fundraising ratios, those ratios are lowered because Members host fundraising events at which lobbyists and industry political action committees pay large sums, often for access or other reasons. Since ATA has done work for both political and charitable clients, ATA is fully able and prepared to discuss the fundraising cost, practices and disclosure requirements for candidate and other political committees.

Congressional hearings on matters involving charitable solicitations must give due regard to the fact that the First Amendment limits the government's interceding in private communications among the people, the right of people to associate with causes, and even the important and sometimes prescient role that individuals or associations of individuals play in promoting causes, and alerting, informing and educating the public about policy and other matters. "The very purpose of the First Amendment is to foreclose public authority from assuming a guardianship of the public mind through regulating the press, speech and religion."[8]

Past congressional committees have, to be frank, irresponsibly caused harm to purveyors of direct mail fundraising solicitations in contravention of the constitutional issues raised herein. ATA has legitimate concerns of potential congressional meddling in matters protected squarely by the First Amendment, and for that reason alone this Objection merits serious consideration about limitations on the Request.

Therefore, ATA must urge the Committee to use the information garnered in response to the Request only for legitimate Article I reasons, and not for any other reason, including for the benefit of any individual Members or third parties. And certainly ATA needs to be assured that the Committee will not divulge its trade secrets to the public and its other competitors. ATA shall for now assume the good faith and honor of all Members of the Committee in those regards, but of course reserves its rights to seek

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[8] *Riley*, at 791.

injunctive relief if those guarantees and protections are violated or ATA perceives that those safeguards may be violated.

Direct mail, while more expensive than Internet and some other forms of communication, is the second most widely used form of advertising in the United States, even outside the context of charitable solicitations, for one very important reason: it works. In the context of cause-related marketing and fundraising, direct mail is especially important because it not only allows organizations to solicit contributions to sustain themselves, but is a medium by which organizations can explain in relatively good detail medical, religious, social, political, patriotic and other causes and needs.[9] It is a form of print publication, and therefore protected by the First Amendment freedom of the press.

VI. Conclusion

Although ATA could seek injunctive relief to block disclosure as noted herein, ATA instead respectfully urges the Committee to accord the information it is provided pursuant to its Request with due regard to, and respect for, the points raised in this Objection. ATA reserves all rights, claims, and causes of action, including those based on jurisdictional and constitutional considerations.

Respectfully submitted,

Mark J. Fitzgibbons
(DC Bar 415927)
President of Corporate and Legal Affairs
American Target Advertising, Inc.
9625 Surveyor Court, Suite 400
Manassas, VA 20110
Ph: (703) 392-7676
Fax: (703) 392-7654
mfitzgibbons@americantarget.com

December 24, 2007

[9] Direct mail is an especially important means of communication and fundraising for entities that do not (1) accept government or taxpayer financing, or (2) private foundation financing, but only rely on contributions, especially low-dollar ones, from the general public.

Testimony of David J. Harr, Ph.D, CPA
Before the Committee on Oversight and Government Reform,
United States House of Representatives
January 17, 2008

Thank you for the opportunity to inform the Committee about accounting and financial reporting standards for costs of not-for-profit organizations. Below is an overview of when cost allocation is appropriate, emphasizing the circumstances when not-for-profit activities include fund raising. Cost allocation matters because it affects the mathematical calculations (i.e., fund raising expenses as a percentage of contributions raised; program expenses as a percentage of total expenses) upon which a charity's "efficiency" is evaluated by users of financial statements and IRS Form 990 filings. My comments are based on my research and experience as a professor teaching not-for-profit accounting and reporting, an author of books and materials on cost allocation, and a consultant on cost allocation in the private sector.

In general, cost allocation is a process used to help provide information about the costs of activities and functions as well as the products and services delivered by any organization to enable users of that information to make informed decisions. Activities of not-for-profit organizations generally fall into functional expense categories of (1) program services, (2) management and general, and (3) fund raising.

Program services are those activities that result in goods and services being distributed to beneficiaries, customers, or members that fulfill the purposes or mission for which the organization exists. Those services are the major purposes for, and the major outputs of, the organization and often relate to several major programs. For example, a large university may have programs for student instruction, research, and patient care, among others. Similarly, a health and welfare organization may have programs for health or family services, research, disaster relief, and public education, among others.

Management and general activities include oversight, business management, general record keeping, budgeting, financing, and related administrative activities, and all management and administration except for those involving program services or fund raising activities.

Fund raising activities include publicizing and conducting fund raising campaigns; maintaining donor mailing lists; conducting special fund raising events; preparing and distributing fund raising manuals, instructions, and other materials; and conducting other activities involved with soliciting contributions from individuals, foundations, government agencies, and others.

In most instances, not-for-profit organizations are required to allocate costs to these three activities and report them as functional expenses when preparing financial statements in accordance with Generally Accepted Accounting Principles (referred to as GAAP) for external users such as donors, creditors, and regulatory and oversight organizations. GAAP in the United States are established by the Financial Accounting Standards Board (FASB) and the American Institute of Certified Public Accountants (AICPA) through due process that includes public comments on exposure drafts of proposed standards.

GAAP recognizes that techniques for allocating costs are common in general-purpose accounting and reporting, managerial accounting, tax accounting, and contract accounting of all entities. Thus, organizations may use existing cost allocation systems to provide the information necessary to prepare

financial statements in accordance with GAAP. In short, allocation is a mainstream, bedrock accounting principle.[1]

Not–for-profit organizations classified as 501(c)(3) and 501(c)(4) organizations under IRS regulations are generally required to file the Return of Organization Exempt From Income Tax (Form 990) and must report program, management and general, and fund raising expenses in Part II of the Form 990. This display generally corresponds to the requirement of GAAP for voluntary health and welfare organizations, which include 501(c)(3) organizations, to provide a functional expense statement as part of their external financial reports. For IRS reporting the organization's normal accounting method should be used. The amounts reported should be accurate and the method of allocation documented in the organization's records. Thus, again cost allocation is crucial to the reporting of program, management and general, and fund raising expenses on the Form 990 which is used extensively by oversight organizations to evaluate charities.

Not-for-profit organization activities that raise funds though direct mail present a special case for cost allocation. A direct mail package often includes materials that relate to both program and fund raising activities. In such a situation the direct mail is, in accounting terms, referred to as a joint activity. The costs of joint activities must be reported in external financial statements in accordance with GAAP, specifically AICPA Statement of Position (SOP) 98-2," Accounting for Costs of Activities of Not-for-Profit Organizations and State and Local Governmental Entities That Include Fund Raising". SOP 98-2 was promulgated in 1998 after two exposure drafts and six years of development. The SOP provides the general acceptance of respondents regarding the presentation and disclosure of costs of joint activities in external financial statements.

SOP 98-2 reflects the accounting profession's most recent refinement of allocation principles for joint activities in not-for-profit organizations. In 1964, the primary purpose rule predominated. This rule required all costs of materials and activities that included a fund raising appeal to be recorded as fund raising costs except the direct costs of educational materials. In 1978, AICPA Statement of Position (SOP) 78-10 moved away from the primary purpose rule and provided that when an organization combined the fund raising function with a program function, the costs were allocated to the program and fund raising categories on the basis of the use made of the materials or activity. The content of the material, the reasons for its distribution, and the audience to whom it is addressed were the factors used to determine the use made of the material. In 1987, AICPA Statement of Position (SOP) 87-2 provided criteria of purpose, audience, and content to determine when costs incurred for materials and activities that serve program or management and general as well as fund raising purposes should be allocated and reported as functional expenses.

Because it presumes that all costs of a joint activity such as a direct mail package are 100% fund raising unless certain criteria are met, SOP 98-2 is a very restrictive standard. A not-for-profit organization must provide documentation that some costs associated with the activity are in fact program expenses before allocation is required. To do so requires analysis and tests of the activity's purpose, audience, and content. If all the tests are passed, then a portion of the activity's expenses should be allocated to the program category. Excerpts from SOP 98-2 with detailed description of the criteria and a flow chart that depicts the tests necessary to determine when the costs of joint activities should be allocated are provided in Attachment I.

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[1]Not–for-profit organizations must also follow allocation principles when submitting reports of costs incurred under Federal awards including grants, cooperative agreements, cost reimbursement contracts and other arrangements. *See* OMB Circular A-122 – Cost Principles for Nonprofit Organizations.

Because of the wide range of not-for-profit activities, in general, GAAP does not prescribe any particular method (i.e., formula) on how to allocate costs. For joint costs, SOP 98-2 neither specifies nor prohibits the use of any particular cost allocation method, but indicates the cost allocation methodology used should be rational and systematic, result in an allocation of joint costs that is reasonable, and be applied consistently given similar facts and circumstances. The SOP illustrates three methods to allocate joint costs of an activity. They include the stand–alone method, the relative direct cost method, and the physical units method.

The stand-alone method allocates the joint costs of a joint activity to each category of program, management, and general, and fund raising expense in proportion to the stand-alone cost of accomplishing the joint activity independently of the program, management and general, and fund raising components of the joint activity (assuming it would be possible to do so).

The relative direct cost method uses direct costs incurred for program, management, and general, and fund raising to allocate the joint costs of the joint activity to each category of program, management, and general, and fund raising expense on the basis of the relative total direct costs incurred for program, management, and general, and fund raising activities. The direct method is commonly used by not-for-profit organizations.

The physical units method allocates the joint costs of a joint activity to each category of program, management and general, and fund raising in proportion to the number of units within the joint activity that can be related to each category. For a direct mail package, this could be the number of lines of copy in the mailing devoted to each category - program, management and general, and fund raising. The percentage of lines devoted to each is used to allocate the joint costs incurred.

A more detailed description of these methods is included in Attachment II.

When a not-for-profit organization allocates joint costs, it should disclose in the notes to the financial statements the types of activities for which joint costs have been incurred; a statement that such costs have been allocated; and the total amount allocated and the portion allocated to each functional expense category. Similarly, the organization should report on its Form 990 whether SOP 98-2 is being followed and the amounts of joint costs allocated to program services, management and general, and fund raising categories.

Thus, cost allocation is a process employed by all organizations - both for-profit and not-for-profit - to provide information useful to interested parties for decision-making. Current guidance reflects general acceptance of existing practices for not-for-profit organizations as to when and how to allocate costs to functional expense categories. Because of its importance, GAAP, the IRS, and OMB require not-for-profit organizations to allocate costs to fulfill reporting requirements. Thus, to not allocate costs when required would not only fail to provide information useful to compare and contrast the financial performance of not-for-profit organizations but also would result in lack of compliance with existing standards, laws, and regulations. Finally, it would misrepresent the purposes of costs incurred by an organization by overstating some types of expenses and understating others.

I would be pleased to address any questions regarding cost allocation practices by not-for-profit organizations.

Attachment 1

Excerpts from Statement of Position (SOP) 98-2

Statement of Position 98-2, Accounting for Costs of Activities of Not-for-Profit Organizations and State and Local Governmental Entities That Include Fund Raising March 11, 1998

NOTE

Statements of Position on accounting issues present the conclusions of at least two-thirds of the Accounting Standards Executive Committee, which is the senior technical body of the Institute authorized to speak for the Institute in the areas of financial accounting and reporting. Statement on Auditing Standards No. 69, *The Meaning of* Present Fairly in Conformity With Generally Accepted Accounting Principles, identifies AICPA Statements of Position that have been cleared by either the Financial Accounting Standards Board (for financial statements of nongovernmental entities) or the Governmental Accounting Standards Board (for financial statements of state and local governmental entities), as sources of established accounting principles in category *b* of the hierarchy of generally accepted accounting principles that it establishes. AICPA members should consider the accounting principles in this Statement of Position if a different accounting treatment of a transaction or event is not specified by a pronouncement covered by Rule 203 of the AICPA Code of Professional Conduct. In such circumstances, the accounting treatment specified by this Statement of Position should be used, or the member should be prepared to justify a conclusion that another treatment better presents the substance of the transaction in the circumstances.

Summary

This Statement of Position (SOP) applies to all nongovernmental not-for-profit organizations (NPOs) and all state and local governmental entities that solicit contributions.

This SOP requires —

- If the criteria of purpose, audience, and content as defined in this SOP are met, the costs of joint activities that are identifiable with a particular function should be charged to that function and joint costs should be allocated between fund raising and the appropriate program or management and general function.
- If any of the criteria of purpose, audience, and content are not met, all costs of the activity should be reported as fund raising costs, including costs that otherwise might be considered program or management and general costs if they had been incurred in a different activity, subject to the exception in the following sentence. Costs of goods or services provided in exchange transactions that are part of joint activities, such as costs of direct donor benefits of a special event (for example, a meal), should not be reported as fund raising.
- Certain financial statement disclosures if joint costs are allocated.
- Some commonly used and acceptable allocation methods are described and illustrated although no methods are prescribed or prohibited.

Introduction

Some nongovernmental not-for-profit organizations (NPOs) and some state and local governmental entities, such as governmental colleges and universities and governmental health care providers, solicit support through a variety of fund raising activities. These activities include direct mail, telephone

solicitation, door-to-door canvassing, telethons, special events, and others. Sometimes fund raising activities are conducted with activities related to other functions, such as program activities or supporting services, such as management and general activities. Sometimes fund raising activities include components that would otherwise be associated with program or supporting services, but in fact support fund raising.

External users of financial statements including contributors, creditors, accreditation agencies, and regulators want assurance that fund raising costs, as well as program costs and management and general costs, are stated fairly.

This SOP establishes financial accounting standards for accounting for costs of joint activities. In addition, this SOP requires financial statement disclosures about the nature of the activities for which joint costs have been allocated and the amounts of joint costs.

Scope

This SOP applies to all nongovernmental NPOs and all state and local governmental entities that solicit contributions

Conclusions

Accounting for Joint Activities

If the criteria of purpose, audience, and content are met, the costs of a joint activity that are identifiable with a particular function should be charged to that function and joint costs should be allocated between fund raising and the appropriate program or management and general function. If any of the criteria are not met, all costs of the joint activity should be reported as fund raising costs, including costs that otherwise might be considered program or management and general costs if they had been incurred in a different activity, subject to the exception in the following sentence. Costs of goods or services provided in exchange transactions that are part of joint activities, such as costs of direct donor benefits of a special event (for example, a meal), should not be reported as fund raising.

Purpose

The purpose criterion is met if the purpose of the joint activity includes accomplishing program or management and general functions.

Program functions. To accomplish program functions, the activity should call for specific action by the audience that will help accomplish the entity's mission. For purposes of applying the guidance in this SOP, the following are examples of activities that do and do not call for specific action by the audience that will help accomplish the entity's mission:

- An entity's mission includes improving individuals' physical health. For that entity, motivating the audience to take specific action that will improve their physical health is a call for specific action by the audience that will help accomplish the entity's mission. An example of an activity that motivates the audience to take specific action that will improve their physical health is sending the audience a brochure that urges them to stop smoking and suggests specific methods, instructions, references, and resources that may be used to stop smoking.
- An entity's mission includes educating individuals in areas other than the causes, conditions, needs, or concerns that the entity's programs are designed to address (referred to hereafter in

this SOP as "causes"). For that entity, educating the audience in areas other than causes or motivating the audience to otherwise engage in specific activities that will educate them in areas other than causes is a call for specific action by the audience that will help accomplish the entity's mission. Examples of entities whose mission includes educating individuals in areas other than causes are universities and possibly other entities. An example of an activity motivating individuals to engage in education in areas other than causes is a university inviting individuals to attend a lecture or class in which the individuals will learn about the solar system.

- Educating the audience about causes or motivating the audience to otherwise engage in specific activities that will educate them about causes is not a call for specific action by the audience that will help accomplish the entity's mission. Such activities are considered in support of fund raising. (However, some educational activities that might otherwise be considered as educating the audience about causes may implicitly call for specific action by the audience that will help accomplish the entity's mission. For example, activities that educate the audience about environmental problems caused by not recycling implicitly call for that audience to increase recycling. If the need for and benefits of the specific action are clearly evident from the educational message, the message is considered to include an implicit call for specific action by the audience that will help accomplish the entity's mission.)
- Asking the audience to make contributions is not a call for specific action by the audience that will help accomplish the entity's mission.

If the activity calls for specific action by the audience that will help accomplish the entity's mission, the guidance in the next paragraph should also be considered in determining whether the purpose criterion is met.

Program functions. The following factors should be considered, in the order in which they are listed, to determine whether the purpose criterion is met:

a. Whether compensation or fees for performing the activity are based on contributions raised. The purpose criterion is *not* met if a majority of compensation or fees for any party's performance of any component of the discrete joint activity varies based on contributions raised for that discrete joint activity.

b. Whether a similar program is conducted separately and on a similar or greater scale. The purpose criterion is met if the program component of the joint activity calls for specific action by the recipient that will help accomplish the entity's mission and a similar program component is conducted without the fund raising component using the same medium and on a scale that is similar to or greater than the scale on which it is conducted with the fund raising.

If the purpose criterion is met based on this factor, the factor in the next paragraph should not be considered.

c. Other evidence. If the factors in the above paragraphs do not determine whether the purpose criterion is met, other evidence may determine whether the criterion is met. All available evidence, both positive and negative, should be considered to determine whether, based on the weight of that evidence, the purpose criterion is met.

The following are examples of indicators that provide evidence for determining whether the purpose criterion is met:

a. Evidence that the purpose criterion may be met includes —

- *Measuring program results and accomplishments of the activity.* The facts may indicate that the purpose criterion is met if the entity measures program results and

accomplishments of the activity (other than measuring the extent to which the public was educated about causes).

- *Medium.* The facts may indicate that the purpose criterion is met if the program component of the joint activity calls for specific action by the recipient that will help accomplish the entity's mission and if the entity conducts the program component without a significant fund raising component in a different medium. Also, the facts may indicate that the purpose criterion is met if the entity conducts the management and general component of the joint activity without a significant fund raising component in a different medium.

b. Evidence that the purpose criterion may not be met includes —

- *Evaluation or compensation.* The facts may indicate that the purpose criterion is not met if (*a*) the evaluation of any party's performance of any component of the discrete joint activity varies based on contributions raised for that discrete joint activity or (*b*) some, but less than a majority, of compensation or fees for any party's performance of any component of the discrete joint activity varies based on contributions raised for that discrete joint activity.

c. Evidence that the purpose criterion may be either met or not met includes —

- *Evaluation of measured results of the activity.* The entity may have a process to evaluate measured program results and accomplishments of the activity (other than measuring the extent to which the public was educated about causes). If the entity has such a process, in evaluating the effectiveness of the joint activity, the entity may place significantly greater weight on the activity's effectiveness in accomplishing program goals or may place significantly greater weight on the activity's effectiveness in raising contributions. The former may indicate that the purpose criterion is met. The latter may indicate that the purpose criterion is not met.

- *Qualifications.* The qualifications and duties of those performing the joint activity should be considered.
  - — If a third party, such as a consultant or contractor, performs part or all of the joint activity, such as producing brochures or making telephone calls, the third party's experience and the range of services provided to the entity should be considered in determining whether the third party is performing fund raising, program (other than educating the public about causes), or management and general activities on behalf of the entity.
  - — If the entity's employees perform part or all of the joint activity, the full range of their job duties should be considered in determining whether those employees are performing fund raising, program (other than educating the public about causes), or management and general activities on behalf of the entity. For example, (*a*) employees who are not members of the fund raising department and (*b*) employees who are members of the fund raising department but who perform non-fund raising activities are more likely to perform activities that include program or management and general functions than are employees who otherwise devote significant time to fund raising.
- *Tangible evidence of intent.* Tangible evidence indicating the intended purpose of the joint activity should be considered. Examples of such tangible evidence include
  - — The entity's written mission statement, as stated in its fund raising activities, bylaws, or annual report.
  - — Minutes of board of directors', committees', or other meetings.
  - — Restrictions imposed by donors (who are not related parties) on gifts intended to fund the joint activity.
  - — Long-range plans or operating policies.

— Written instructions to other entities, such as script writers, consultants, or list brokers, concerning the purpose of the joint activity, audience to be targeted, or method of conducting the joint activity.
— Internal management memoranda.

Audience

A rebuttable presumption exists that the audience criterion is not met if the audience includes prior donors or is otherwise selected based on its ability or likelihood to contribute to the entity. That presumption can be overcome if the audience is also selected for one or more of the reasons in the next paragraph. In determining whether that presumption is overcome, entities should consider the extent to which the audience is selected based on its ability or likelihood to contribute to the entity and contrast that with the extent to which it is selected for one or more of the reasons in the next paragraph. For example, if the audience's ability or likelihood to contribute is a significant factor in its selection and it has a need for the action related to the program component of the joint activity, but having that need is an insignificant factor in its selection, the presumption would not be overcome.

In circumstances in which the audience includes no prior donors and is not otherwise selected based on its ability or likelihood to contribute to the entity, the audience criterion is met if the audience is selected for one or more of the following reasons:

a. The audience's need to use or reasonable potential for use of the specific action called for by the program component of the joint activity
b. The audience's ability to take specific action to assist the entity in meeting the goals of the program component of the joint activity
c. The entity is required to direct the management and general component of the joint activity to the particular audience or the audience has reasonable potential for use of the management and general component

Content

The content criterion is met if the joint activity calls for specific action by the recipient that will help accomplish the entity's mission. If the need for and benefits of the action are not clearly evident, information describing the action and explaining the need for and benefits of the action is provided.

Information identifying and describing the entity, causes, or how the contributions provided will be used is considered in support of fund raising.

Allocation Methods

The cost allocation methodology used should be rational and systematic, it should result in an allocation of joint costs that is reasonable, and it should be applied consistently given similar facts and circumstances.

Disclosures

Entities that allocate joint costs should disclose the following in the notes to their financial statements:

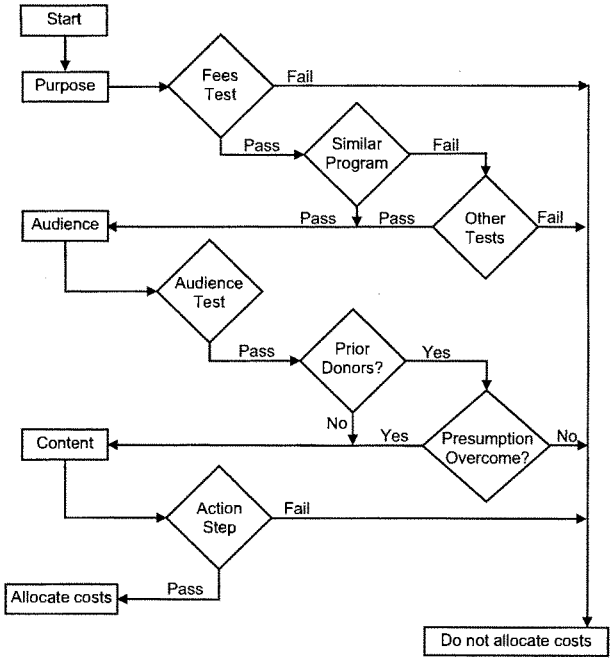
a. The types of activities for which joint costs have been incurred
b. A statement that such costs have been allocated

c. The total amount allocated during the period and the portion allocated to each functional expense category

This SOP encourages, but does not require, that the amount of joint costs for each kind of joint activity be disclosed, if practical.

The flowchart below highlights the tests and the order of consideration that an organization should follow when determining whether costs of a joint activity should be allocated.

Summary of SOP 98-2 Criteria



Attachment II

Summary of Common Joint Cost Allocation Methods

SOP 98-2 neither specifies nor prohibits the use of any particular cost allocation method. It indicates the cost allocation methodology used should be rational and systematic, result in an allocation of joint costs that is reasonable, and be applied consistently given similar facts and circumstances. The SOP illustrates three methods:

- Stand-alone method
- Relative direct cost method
- Physical units method

Each method is described below.

Stand-Alone Method

The stand-alone joint cost allocation method is based on relative costs. It allocates the joint costs to each activity in proportion to the stand-alone cost of accomplishing the activity independently of the other activities (assuming it would be possible to do so). For example, assume the costs for independently conducting three activities would be $500,000 for program, $400,000 for fund raising and $100,000 for management and general. Further assume $750,000 of joint costs was incurred to actually conduct the three activities, and no direct costs were incurred. The total of these "stand alone" costs, $1,000,000, would be used to allocate the joint costs of $750,000 to each activity as follows:

$$\Pr ogram: \frac{\$500,000}{\$1,000,000} \times \$750,000 = \$375,000$$

$$FundRai\sin g: \frac{\$400,000}{\$1,000,000} \times \$750,000 = \$300,000$$

$$Mgt\ \&General \frac{\$100,000}{\$1,000,000} \times \$750,000 = \$75,000$$

Relative Direct Cost Method

This method uses direct costs to allocate joint costs to each activity on the basis of their relative total direct costs. For example, suppose an organization has three activities and incurred direct costs [column (1)] and joint costs of $750,000 relating to three activities as shown below:

Activity	(1) Direct Costs	(2) Relative Share		(3) Joint Costs		(4) Allocated Costs	(5) Total Costs
Program	$2,500,000	$2,500,000 / $3,000,000	×	$750,000	=	$625,000	$3,125,000
Fund Raising	$300,000	$300,000 / $3,000.000	×	$750,000	=	75,000	375,000
Mgt &General	$200,000	$200,000 / $3,000,000	×	$750,000	=	50,000	250,000
	$3,000,000					$750,000	$3,750,000

The joint costs of $750,000 are allocated based on the relative share of the direct costs that each activity bears to the total direct costs – Column (1) above. Inherent in the method is the assumption that the joint costs are incurred in the same proportion and for the same reasons that the direct costs are incurred for each activity.

The direct cost method is commonly used in not-for-profit organizations.

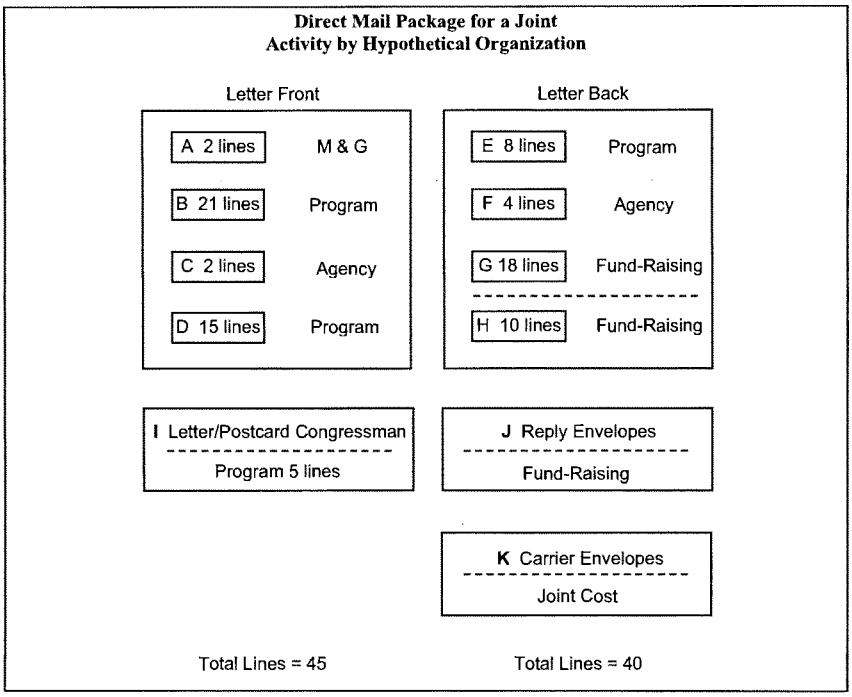
Physical Units Method

The physical units method is the most sophisticated of the three methods. It allocates joint costs to activities in proportion to the number of units of activity or output that can be related to each type of activity. The method assumes that the joint costs incurred are directly proportional to the output of some physical content measure of the activity or output. An example of the physical units method for a direct mail package is illustrated below.

This illustration is based on a hypothetical not-for-profit organization execution of a direct mail activity. The activity is designed to serve two major purposes:

- To request the public to urge congressional support for legislation to aid homeless persons; and
- To solicit funds to support the organization and its programs.

An information packet was created and printed for direct mailing to 2,000,000 citizens throughout the United States. Citizens who have shown an interest in the issues and solutions for the homeless cause were selected from mailing lists of similar advocacy organizations. The contents of the information packet are as follows:



As illustrated above, the packet contains a one-page letter (front and back) with information concerning the following:

- Problems of homeless people and the need to take action to pass new laws (items B and D);
- The not-for-profit organization (items A & C);
- An appeal for funds (item G) with a tear-off reply form to place in the reply envelope with a contribution (item H);
- A request for action to urge congressional passage of legislation (item E), and a notification that the recipient may request additional information about the issues (item F); and
- A form message on a business reply postcard (item I) for mailing to the recipient's congressional representative.

The number of lines of text contained in each item is also noted above.
A business reply return envelope (item J) for a contribution by the recipient and a carrier envelope (item K) complete the packet.

As shown above, an analysis of the letter and postcard provided to the citizen reveals that they contain a total of 85 lines. Forty-nine lines are classified as program since they discuss problems of the homeless and contain a call for action by the recipient, 28 lines comprise a fund raising appeal, and 8 lines relate to management and general matters.

A summary of these classifications and their percentages are as follows:

	Paragraphs	Lines	Percent of Total Lines
Program	B,D,E,I	49	57.7
Management and General	A,C,F	8	9.4
Fund Raising	G,H	28	32.9
Total		85	100.0

These percentages would be used to allocate the costs of the joint activity to each category of program, fund raising, and management and general services.

Statement

Submitted for the Record

Homer S. Townsend, Jr.

Acting Executive Director

Paralyzed Veterans of America

Before the

House Committee on Oversight and Government Reform

Concerning

Veterans' Charities

January 17, 2008

Chairman Waxman and members of the Committee, I appreciate the opportunity to submit the views of Paralyzed Veterans of America regarding veterans' charitable organizations and their fund-raising operations. Since its founding in 1946, Paralyzed Veterans has developed a worthy record of accomplishment, of which we are extremely proud. In recent months a self-styled "watchdog" entity has sullied our reputation by applying what we believe to be unjustified and arbitrary criticism of many charitable veterans' organizations and promoting its position in both the media and before a recent hearing of this Committee. We view this hearing today as a chance to refute the position taken by the American Institute of Philanthropy (AIP) in its broad-brush tarring of veterans' organizations and to set the record straight regarding the legitimacy of Paralyzed Veterans and our operations.

Background

Paralyzed Veterans was founded in 1946 by a small group of returning World War II veterans, all of whom had experienced catastrophic spinal cord injury and who were consigned to various military hospitals throughout the country. Realizing that neither the medical profession nor government had ever confronted the needs of such a population, the returning veterans decided to become their own advocates and to do so through a national organization.

From the outset the founders recognized that other elements of society were neither willing nor prepared to address the full range of challenges facing individuals with a spinal cord injury, be they medical, social, or economic. Paralyzed Veterans's founders were determined to create an organization that would be governed by the members, themselves, and address their own unique needs and the organization operates in this manner to this day. Being told that their life expectancy could be measured in weeks or months, these individuals set as their primary goal actions that would maximize the quality of life and opportunity for all veterans and individuals with spinal cord injury - it has remained so to today.

To achieve its goal over the years, Paralyzed Veterans has established ongoing programs of research, sports, service representation to secure our members and other veterans benefits, advocacy in promoting the rights of all citizens with disabilities, architecture promoting accessibility, and communications to educate the public about individuals with spinal cord injury. We have also developed long-standing partnerships with other veterans' service organizations. Paralyzed Veterans, along with AMVETS, Disabled American Veterans, and the Veterans of Foreign War, co-author *The Independent Budget*—a comprehensive budget and policy document that has been published for 22 years.

Service members who suffered a spinal cord injury during WWII returned home to a country unprepared to deal with them or their needs. The medical profession had no experience with the long-term treatment these individuals would require, or how to treat the secondary conditions that would result. Further, the hospitals caring for the spinal cord injured veterans of WWII had not been designed to accommodate wheelchairs. After hospitalization, these veterans were confronted by a society and an environment that had little or no accessible housing or transportation, few opportunities for employment or recreation, and elements of the public that were willing to consign them to neglect.

Paraplegic veterans organized into advocacy groups to address these issues and founded Paralyzed Veterans to coordinate efforts on a national basis and finally things began to change.

Just a few of our achievements over the years include:

- Helping to increase the life span of paralyzed veterans by working with this medical profession and advocating for new and appropriate modalities of care – we continue to do this today through our work in clinical practice guidelines, embraced by the broad medical community;
- Investing more than $50 million in research into a cure for paralysis;
- Securing more than $3 billion in veterans benefits for our members, their spouses and dependents, and other worthy veterans without taking even one penny in remuneration for this representation;
- Helping lead the charge for enactment of the Americans with Disabilities Act to ensure that our nation's streets, sidewalks, public accommodations, and recreational facilities are accessible for everyone; and
- Securing passage of the Air Carrier Access Act to preclude discrimination against disabled travelers in commercial aviation.

Today, Paralyzed Veterans is the only congressionally chartered veterans' service organization dedicated solely to the benefit and representation of veterans with spinal cord injury or disease. While some people have chosen to disparage this charter—even calling it a joke—it is important to note that the United States Congress recognized the importance our organization plays in the lives of veterans with spinal cord injury or disease. Any attempt to discount this charter also serves to discredit the actions of Congress. Our accomplishments are vast and impressive, and with our donor's support these accomplishments will continue.

Response to Recent Allegations and Criticism

Accountability is all about being answerable to those who have invested their trust, faith, time and money in Paralyzed Veterans. We are accountable to multiple stakeholders, including private and corporate donors; local, state, and federal agencies; volunteers; program recipients; and the public at large. There are many components to accountability — stewardship financial and regulatory compliance are among the most important.

Stewardship

Today's donors expect that an organization does more than issue receipts and steward their gifts. Many ask for a formal accounting of how the money they give is used to further the mission.

Paralyzed Veterans is very conscientious of the stewardship of its donor's dollars. We print more than 10,000 copies of our annual reports each year, which not only highlight our programmatic accomplishments but also lay out our financial information. We then mail our annual report to every donor that inquires about our financials. Additionally, we post our annual report and our Form 990 on our website so that anyone can view these financial records at any time.

Fund Raising Efficiency:

According to our most recent audited financial statements for the year ending September 30, 2006, 73 percent of all revenues generated to Paralyzed Veterans go to programs that support paralyzed veterans, the veterans' community as a whole, and the disability community. These programs include research, education, public outreach, advocacy on veterans' and disability issues, and sports programs designed to help reintegrate, through recreational rehabilitation, paralyzed and disabled veterans into society. Paralyzed Veterans takes very seriously the trust placed in us by our more than 3.7 million active donors (3,735,281 as of 1/8/08) for their generous support. Without the trust and generous support of these "small" donors who give an average of about $15 each, Paralyzed Veterans would be unable to continue providing the myriad services our members depend on.

Paralyzed Veterans has been making every effort to diversify our fund-raising efforts away from direct mail. Our New Ventures program has been expanding our events, creating sponsorship opportunities at an annual gala, a golf tournament, and even a charity poker tournament. We continually seek corporate partnership opportunities and have a wonderful relationship with UPS for the National Veterans Wheelchair Games and a new corporate partnership with Health Net Federal Services in our first Vocational Rehabilitation Center. (The center opened in July, 2007;

it currently has 74 clients/ paralyzed veterans and has already placed 7 in jobs: 10 percent in six months!)

Our Individual Giving program has developed many personal relationships with our high dollar donors. These relationships result in high-dollar, high-efficiency "investments" in Paralyzed Veterans and our mission, using such mechanisms as: charitable gift annuities, legacies and bequests, trusts, capital campaign contributions; and foundation support.

In addition, over seventy corporate sponsors support our programs ranging from vocational rehabilitation to wheelchair sports to spinal cord research and education.

Financial and Regulatory Compliance:

Paralyzed Veterans meets and exceeds the normal requirements for compliance. Nonprofit organizations are not required to apply the provisions of the Sarbanes-Oxley Act, but Paralyzed Veterans has adopted all 10 of the general principles of corporate governance:

- Role of the Board;
- Importance of Independent Directors;
- Audit Committee;
- Governance and Nominating Committee;
- Compensation Committee;
- Disclosure and Integrity of Institutional Information;
- Ethics and Business Conduct Code;
- Executive and Director Compensation;
- Monitoring Compliance and Investigating Complaints;
- Document Destruction and Retention.

Additionally, the state of California enacted a law (The Nonprofit Integrity Act of 2004) that created additional requirements for nonprofit organizations that fundraise in that state. These requirements relate to an annual audit and the establishment of both an audit committee and compensation committee. Paralyzed Veterans has also adopted these provisions. Further, Paralyzed Veterans is audited annually by one of the "Big Four" accounting firms. These auditors have always rendered an "unqualified opinion" on Paralyzed Veterans' financial statements, concluding that our "financial statements present fairly, in all material respects, the financial position, results of our operations, and cash flows in conformity with generally accepted accounting principles."

Furthermore, in October 2007, the Panel on the Nonprofit Sector, convened by the Independent Sector, released the guide, "Principles for Good Governance and Ethical Practice: A Guide for Charities and Foundations". The Panel on the Nonprofit Sector was created in October 2004 at the encouragement of the United States Senate Finance Committee. This guide outlines 33 practices in four main categories, legal compliance and public disclosure, effective governance, strong financial oversight and responsible fundraising, designed to support board members and staff leaders of every charitable organization as they work to improve their own operations. The guide represents the first time that charities and foundations, reflecting a broad cross-section of

the American non-profit community, have come together to develop principles of ethical conduct, accountability and transparency that they aspire to and encourage all organizations to follow.

Paralyzed Veterans is extremely proud of the fact that we meet all of these 33 guidelines.

History of Accounting for Costs of Activities that Include Fund Raising

In the testimony provided to this Committee on December 13, 2007 by Daniel Borochoff, President of the American Institute of Philanthropy, Mr. Borochoff calls into question an accounting rule called AICPA SOP 98-2. Without going into much explanation in his testimony, he provides some inaccuracies as to the intent of this accounting rule. Paralyzed Veterans would like to provide a history of how this rule came into place.

During 1987, the American Institute of Certified Public Accountants (AICPA) issued Statement of Position (SOP) 87-2, "Accounting for Joint Costs of Informational Materials and Activities of Not-for-Profit Organizations that Include a Fund-Raising Appeal." Many of the requirements included in this Statement of Position were difficult to implement and apply consistently in practice. Not-for-profit organizations had a lot of latitude in deciding what was a fund-raising activity and what was a program activity that is an activity related to another aspect of the entity. For example, the Statement of Position was unclear about whether it was necessary to meet all of the requirements of purpose, audience, and content in order to charge the costs of the activity to the program or to management and general.

In 1992, the Accounting Standards Executive Committee (AcSEC) undertook a project to supersede SOP 87-2, to provide clearer guidance than that provided by SOP 87-2, as well as to provide guidance that would improve on the guidance in SOP 87-2. In 1996, after redeliberating the issues based on the comments received and making certain revisions to the draft SOP, AcSEC conducted a field test of the draft SOP. Based on the field test results, AcSEC concluded that the provisions of the draft SOP, with certain revisions, would provide clear, detailed accounting guidance that, when applied, would increase comparability of financial statements. Those statements would also include more meaningful disclosures without incurring increased costs. Thus, in 1998, the AICPA issued SOP 98-2, "Accounting for Costs of Activities of Not-for-Profit Organizations and State and Local Governmental Entities that Include Fund-raising."

SOP 98-2 **requires** "if the criteria of purpose, audience, and content as defined in this SOP are met, the costs of joint activities that are identifiable with a particular function should be charged to that function and joint costs should be allocated between fund raising and the appropriate program or management and general function."

It should be noted here that, as part of Paralyzed Veterans's Congressional Charter, Public Law 105-225, one of the purposes of Paralyzed Veterans is "to acquaint the public with the needs and problems of paraplegics". Thus, when Paralyzed Veterans mails out requests for donations, we include information within the package regarding Paralyzed Veterans and their needs, as well as about paralysis in general.

It should also be noted that since this SOP was issued in 1998, Paralyzed Veterans has been audited by members of the Big Four accounting firms who have reviewed our accounting of how we allocate our joint costs, and all of them agreed with our accounting.

In fact, if Paralyzed Veterans were to account for our joint costs in the manner that the American Institute of Philanthropy advocates, our auditors would provide us with an "adverse" opinion on our financial statements because they would **not** "present fairly the financial position or the results of our operations or cash flows in conformity with generally accepted accounting principles." Since SOP 98-2 was issued, the auditors have always rendered an "unqualified opinion" on Paralyzed Veterans's financial statements, stating that our "financial statements present fairly, in all material respects, the financial position, results of our operations, and cash flows in conformity with generally accepted accounting principles."

In his testimony Mr. Borochoff is confusing the percentage retained by professional fundraisers and the requirements of SOP 98-2. He states that someone "donating $50 to charity through a professional fundraiser may have just paid $30 to be solicited and "learn" that they should buckle their seatbelt." It is evident that Mr. Borochoff doesn't really understand SOP 98-2, because as explained in paragraph 10.a of SOP 98-2, "The purpose criterion is not met if a majority of compensation or fee for any party's performance of any component of the discrete joint activity varies based on contributions raised for that discrete joint activity." In other words, if a professional fundraiser retains a set percentage of every dollar they raise for a charity, as most do, the charity **cannot** allocate any cost to program and all of the costs are considered fundraising.

Finally, it should be noted that our chief financial officer is a member of the Not-for-Profit Expert Panel of the AICPA. The role of this expert panel is to advise the AICPA on accounting for not-for-profits. In addition, he has over 27 years of experience in auditing and advising not-for-profits on their accounting.

Accounting for Donated Services

Paralyzed Veterans takes great exception to another statement made by Mr. Borochoff in his testimony – "Another technique that charities use to inflate the amount they report spending on program services is to include large amounts of donated goods and services in their financial statements". The accounting for contributions is delineated in Statement of Financial Accounting Standards No. 116 (SFAS 116), "Accounting for Contributions Received and Contributions Made" issued by the Financial Accounting Standards Board in June 1993. SFAS 116 paragraph a states that "Contributions of services shall be recognized if the services received (a) create or enhance non-financial assets or (b) require specialized skills, are proved by individuals possessing those skills, and would typically need to be purchased if not provided by donation". In its conclusion for recognition of contributed services, the Financial Accounting Standards Board believed "the conditions of paragraph a of this statement limit recognition to only those services that will provide information that is clearly relevant, clearly measurable, and obtainable at a cost that does not exceed the benefits of the information provided."

At Paralyzed Veterans, our largest program is our Veterans Benefits program. As part of its mission, and as stated in our IRS Form 990 "Paralyzed Veterans's National Service Officers (NSO), who work in 60 offices across the country, represent individual veterans who make claims and appeals to the Department of Veterans Affairs (VA) for benefits. NSOs also assist Paralyzed Veterans's medical staff of physicians and registered nurses in monitoring the health care provided by VA to veterans with spinal cord injury or disease at each VA medical center. NSOs also provide assistance on day-to-day services through VA and provide a voice and act as advocates for veterans and their families." This service is one of the core missions of Paralyzed Veterans. Where are these NSOs located? They are located in space at the VA hospitals donated by the hospitals. If the space were not donated, we would definitely purchase it. How do we value it for financial reporting purposes? We multiply the square footage being used by the NSO's by a rate per square foot provided by the nationally known real estate firm, Grubb and Ellis.

This is what Mr. Borochoff is referring to as "inflating" our results -- we think not! It should be noted that the reporting of donated services is only allowed for financial reporting purposes and is not allowed on our IRS Form 990.

Appropriate Oversight

We recognize that the number of charity watchdog agencies has grown in recent years. Rather than submit to the individual evaluation of every rating service, Paralyzed Veterans makes a complete submission to and is reviewed by the Better Business Bureau Wise Giving Alliance, an established, respected, and independent organization. The BBB utilizes a 20-point criterion to measure an organization's efficiency, stewardship, and transparency. Paralyzed Veterans meets all the standards for charity accountability, as set forth by the Better Business Bureau, including fair and honest solicitation practices, ethical conduct, and the advancement of its philanthropic goals.

Review of American Institute of Philantrophy Form 990

The American Institute of Philanthropy (AIP) is exempt under Section 501(c)(3) of the Internal Revenue Code. Section 501(c)(3) provides in part that an organization will not qualify for exemption unless "no part of the net earnings of [the organization] inures to the benefit of any private shareholder or individual". The regulations amplify the statutory language by stating the "[a]n organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals" and by clarifying that the words "private shareholder or individual" refer "to persons having a personal and private interest in the activities of the organization".

Paralyzed Veterans has obtained AIP's IRS Form 990's, not from their website but from another watchdog's website. AIP is unlike Paralyzed Veterans in that we clearly make our IRS Form 990 available as recommended by the Panel on the Non-Profit Sector referred to earlier in our testimony.

In our review of AIP's 990's, from 2001 to 2006, we noted that Mr. Borochoff's salary and benefits as a percentage of revenues was 28% in 2001 and 2002, 27% in 2003, 31% in 2004, 30% in 2005 and 27% in 2006. Paralyzed Veterans's top salaried employee represented .2% of Paralyzed Veterans's revenues. It seems to Paralyzed Veterans that there is a disconnect here in that such a large percentage of the revenues goes to Mr. Borochoff's salary which is clearly questionable as to why AIP is considered as exempt under Section 501(c)(3) of the Internal Revenue Code as a reasonable person would think this does violate the definition of "inurement" as described above.

In part II of the 990, the box is checked that AIP is following SOP 98-2 but not allocating costs. Yet in Statement 4 attached to the 990, it is very clear that AIP is allocating mail service costs to program services, management and general and fund-raising.

Congressional Charter

Recently there has been some question as to the value, purpose, and relevance of a congressional charter. It is important to note that until the late 1990s a congressional charter was necessary to conduct an accredited service program to represent veterans before the Department of Veterans Affairs. Paralyzed Veterans worked diligently to secure a charter in order to fully represent our members and other veterans with spinal cord injury or disease and finally secured passage of P.L. 92-93 (recodified as P.L. 105-225). This charter afforded Paralyzed Veterans access to office space in VA medical centers and regional offices and access to files to appropriately represent veterans.

We have taken, and continue to take, the mandates of this charter very seriously, believing that it is clear recognition of the uniqueness of our purpose. For example, on the issue of educational allocation, Paralyzed Veterans's congressional charter specifically mandates that Paralyzed Veterans "acquaint the public with the needs and problems of paraplegics." In addition, through a robust program of public service announcements, we are able, at very little expense, to inform the public about our mission and programs. This not only raises awareness of the pressing needs of America's veteran and disability community but also helps increase fund-raising efficiency by increasing "brand awareness" of Paralyzed Veterans.

Paralyzed Veterans publishes two magazines, *Paraplegia News* and *Sports 'n Spokes,* as well as a series of clinical practice guidelines and companion consumer publications to inform and educate the medical community; families and caretakers of paraplegics; our donors; and the general public.

Conclusion

Mr. Chairman, and Members of the Committee, Paralyzed Veterans of America appreciate the opportunity to submit this testimony and provide you, the Congress, and the American public with a clear understanding of who Paralyzed Veterans are and how we conduct our operations. It is our firm belief that if we did not exist tens of thousands of veterans with spinal cord injury or disease would have a lesser quality of life and, quite possibly, be languishing in a society that neither was aware of them nor cared about them.

Information Required by Rule XI 2(g)(4) of the House of Representatives

Pursuant to Rule XI 2(g)(4) of the House of Representatives, the following information is provided regarding federal grants and contracts.

Fiscal Year 2007

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— $301, 729.

Fiscal Year 2006

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— $244,611.

Fiscal Year 2005

Court of Appeals for Veterans Claims, administered by the Legal Services Corporation — National Veterans Legal Services Program— $193,019.

Paralyzed Veterans of America Outdoor Recreation Heritage Fund – Department of Defense— $1,000,000.

HOMER S. TOWNSEND, JR.
PVA ACTING EXECUTIVE DIRECTOR

Mr. Homer S. Townsend, Jr., began serving as PVA Acting Executive Director in July 2007. In March 2006, Mr. Townsend was awarded PVA's Speedy Award, the highest honor bestowed by the Paralyzed Veterans of America, in recognition of his significant contributions to improving the lives of America's paralyzed veterans.

Previously, Mr. Townsend served as PVA Immediate Past President from October 2000 through September 2004. Mr. Townsend served as PVA National President for two years, from October 1998 through September 2000. Mr. Townsend also served as PVA Senior Vice President for two years and National Vice President for four years. Mr. Townsend has served on numerous national PVA committees, including serving as chair of both the PVA Long Range Planning Committee and the PVA Field Advisory Committee.

Originally from Woodland, Maine, Mr. Townsend left to join the Marine Corps. He moved to Mesa, Arizona, after being medically retired after serving five and a half years. Mr. Townsend served as an aircraft electrician where he was retired as a staff sergeant. Mr. Townsend worked on F-4 Phantoms, A-4 Skyhawks, A-6 Intruders and AV-8A Harriers.

Mr. Townsend has served at every capacity on the chapter level except that of secretary and treasurer. During his tenure as chapter executive vice president, he was responsible for bringing the Access to the Skies Conference out of Washington, DC, to Phoenix, AZ, where it grew from 40 attendees to over 200--half being from the disabled community.

In addition to his PVA responsibilities, Mr. Townsend has also served as a member of the President's Committee on Employment of Persons with Disabilities, the Arizona Governor's Committee on Employment of Persons with Disabilities (1992-1996), and the Mesa Mayor's Committee on Handicap Awareness (6 years), which he chaired for two years. He was presented the key to the city by the mayor for his dedicated service. Appointed by the governor, he has recently completed a four-year term as a commissioner on the Arizona Veteran Service Commission.

Mr. Townsend currently resides in Arlington, Virginia while serving as PVA Acting Executive Director. His permanent residence is Mesa, Arizona, where he is an entrepreneur. Mr. Townsend has a son, Dale, a daughter-in-law, Melissa, and three grandchildren, Atticus, Hazel and Edith.

Help Hospitalized Veterans

36585 Penfield Lane • Winchester, California, 92596
(951) 926-4500 • Fax (951) 926-3569
www.hhv.org

Secretary of Veterans Affairs, Anthony J. Principi presents HHV's 20 Millionth Care Kit to Iraqi Freedom veteran Jason Wilting.

BOARD OF DIRECTORS

Founder & President: Roger Chapin

Vice-President: Robert Beckley
Businessman

Secretary Treasurer Leonard Rogers
Businessman

Director: Tom Arnold
Businessman

Director: Gerhard L. Black, III
Colonel, USA, Ret.

Executive Director: Mike Lynch

FRIENDS OF HOSPITALIZED VETERANS

Buzz Aldrin
Mario Andretti
Bob Barker
Yogi Berra
Ernest Borgnine
Pat Boone
Jeff Bridges
Dr. Joyce Brothers
Red Buttons
Jim Carney
Tim Conway
Cathy Lee Crosby
Arlene Dahl
Joyce DeWitt
Dan Blanchard
Phyllis Diller
Donna Douglas
Patty Duke
Barbara Eden
Samantha Eggar
Linda Evans
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Jeff Foxworthy
Tony Franciosa
Thi Gary
Carl Gowdy
Rocky Graziano
France Harris
Tippi Hedren
Charlton Heston
Bob Hope
(In Memoriam)
Paul Hornung
Shirley Jones
Janet Leigh
Carl Lewis
Art Linkletter
Loretta Lynn
Lee Majors
Patti Page
Arnold Palmer
Ara Parseghian
Jane Powell
Victoria Principal
Debbie Reynolds
Jeannie C. Riley
Brooks Robinson
Isabel Sanford
Willard Scott
Don Shula
Bart Starr
Roger Staubach
Lee Trevino
Bob Uecker
Al Unser, Sr.
Dick Van Dyke
Andy Williams
Jonathan Winters
Jane Wyman

December 12, 2005

Mr. Steve Bauman
Supervising Investigative Auditor
State of California
Department of Justice
Ronald Regan Building
30 South Spring Street, Suite 1702
Los Angeles, CA 90013

Ref: Your letter of 11/30/05

Dear Mr. Bauman:

Help Hospitalized Veterans did not give notice or seek approval of the Office of the Attorney General regarding a loan to Mr. Michael Lynch as per California Corporation Code Section 5236 (c). The loan granted to Mr. Lynch was for real property and secured through (a) deed of trust on the property; (b) his wages; and (c) his pension plan.

It should be noted, that as of June 24, 2005, Mr. Lynch paid in full the amount of the principle and interest due the corporation in accordance with the loan agreement..

Per your request, I have enclosed the following:

(a) Minutes of the board of directors authorizing the loan;
(b) Executed loan agreement;
(c) Certified copies of the corporation's general ledger that pertains to the loan for fiscal years ending July 31, 2004 and July 31, 2005;
(d) Copy of the Deed of Trust;
(e) Copies of check payments to Mr. Lynch;
(f) Copies of check payments to the Corporation from Mr. Lynch.

If you are in need of additional information, please do not hesitate to contact me or our Director of Administration, Ms. Wende Caha (951/926-4500).

Sincerely,

Leonard C. Rogers
Secretary/Treasurer

Encl

MEETING OF THE BOARD OF DIRECTORS
OF
HELP HOSPITALIZED VETERANS

July 28, 2003

A meeting of the Board of Directors of Help Hospitalized Veterans was held pursuant to notice July 28, 2003 at the Headquarters of the Organization, 36585 Penfield Lane, Winchester, California.

Directors present:	Roger Chapin Leonard Rogers Thomas Arnold
Directors via teleconference :	Robert Beckley
Directors absent:	Gorham Black
* Also present:	Mike Lynch

SEE PAGE 4 OF MINUTES

As the first order of business, the Board approved the minutes of March 20, 2003 meeting of the Board of Directors.

As the next order of business, Mike Lynch, Executive Director, gave a financial report for the current fiscal year. Lynch reported gross income for the current fiscal year through July 15, 2003 was $26,777,384 as compared to $27,941,092 for the same period of the previous year. Lynch stated that the gross income figure does not include the gift in kind received from the public service announcement which is an additional $5.2 million bringing the total gross income to well over $30 million for the fiscal year ending July 31, 2003. Lynch said the organization's donor file is at 686,325 as compared to 612,464 a twelve percent (12%) increase as compared to the prior year.

As the next order of business, Lynch reported on the direct mail programs of the organization. Lynch stated the house mailings are at ratio a 2.16 to 1 for the year on mailings of 17,320,829. Lynch reported the prospect mailings totaled 18,982,471 and reflects a four cent (-4¢) loss. President Chapin, stated that the overall mail program has done well and that the net for program services increased by 20% while sustaining the amount of donors on the file. Chapin said that the direct mail agencies have reported many other veteran non profit organizations have not been as successful in their direct mail response program.

As the next order of business, Lynch stated that as of July 15, 2003 the organization had delivered 826,630 craft kits to hospitalized veterans as compared to 748,781 delivered for the same period of the prior year. Lynch stated that the organization has delivered 19,744,603 craft kits since the inception of the program and that he anticipated that the twenty millionth craft kit would be delivered in calendar year 2003. Lynch said arrangements have been made with Anthony J. Principi,

Secretary, Department of Veterans Affairs to make a formal symbolic presentation of the twenty millionth kit to a hospitalized veteran on August 25, 2003. At the VA hospital in La Jolla, California. Lynch stated that the organization currently distributes 155 different therapeutic arts and crafts kits.

As the next order of business, Lynch gave a report on the Craft Care Specialists (CCS) Program and stated that VA hospitals have submitted letters requesting fulfillment of thirty-eight more positions. Lynch said CCS's are now in 32 facilities which has qualified the organization as a service organization within the Voluntary Service of VA. Director Arnold asked about the selection process as to which facility would receive a CCS. Lynch stated the process is based on the priority he has placed on the letters from the Medical Center Directors as it relates to the profile of the location, number of inpatients, and seniority of the application. Director Beckley stated, and the Board agreed, that based on the economic condition of the organization to fulfill positions, Lynch should continue to evaluate the need for CCS's within the military community and fill the positions as he deemed necessary in the best interest of the organization.

As the next order of business, Lynch reported that VA's Chief of Staff, Nora Egan will tour the organization's headquarters on August 28, 2003. Director Rogers stated and the Board agreed that Lynch is to be congratulated on his efforts to continue to create a strong bond with VA and that it will continue to prove valuable to the organization's future.

As the next order of business, Lynch stated that the organization has been approved to become an Associate Member of the Veterans Day National Committee. Director Arnold stated that such membership furthers relationships with VA and that being a part of such a committee is a very positive move for the organization. Lynch said he will be attending a meeting of all 60 organizations in Washington, D. C. September 25, 2003 at which he will present the organization's desires to the committee. Lynch said he is attempting to arrange a photo opportunity through the committee with President George Bush on Veteran's Day for such a photo would be valuable to the direct mail program. Lynch said he would report to the Board his progress at the next meeting.

As the next order of business, Lynch presented and suggested that the organization join other national veterans programs and become a national sponsor of the *Re-Creations* Stage Program. Lynch stated *Re-Creations* stages 300 performances per year at all VA medical centers and many corporate meetings. Lynch said that the young people who perform in the show are all volunteers and receive $115 per week for food and no other compensation through the F.O.R.-C.E.S. program of *Re-Creations*. Lynch said this is a visible program with VA Central Office and VA schedules their facilities for *Re-Creations*. Lynch said he believes that through sponsorship of *Re-Creations* it will bring HHV into further grace of VA as it not only touches many thousands of veterans, staff but also the corporate community. Lynch asked the Board to consider a contribution of $10,000 to the *Re-Creations* Stage Program. Chapin stated, and the Board agreed, that it would serve no purpose to donate $10,000 into the program initially and that the organization consider a $5,000 contribution the first year and revisit the

program next year. After further open discussion, a motion was made and seconded and it was:

RESOLVED, that the organization contribute $5,000 (Five Thousand Dollars) to the *Re-Creations* Stage Program.

As the next order of business, Lynch played the public service announcement (PSA) that was recorded by General Norman Swartzkopf and Kurtwood Smith of Fox Television. Lynch said that the last PSA generated a gift in kind contribution in access of $5.2 million at a production cost of $56,000. Director Arnold stated and the Board agreed, that with such a strong return on cost, the organization consider its PSA distribution into more markets. Lynch stated he would review the cost of extending the distribution from 150 television stations to 300 stations and report to Board.

As the next order of business, Chapin asked the Board for suggestions on acquiring the services of PFC Jessica Lynch, U. S. Army as a spokesperson for the organization to assist raising funds from corporations for the CCS program. Lynch said that he has some negative military and media concerns regarding utilizing such a high profile veteran and that he would like the input of Director Black before trying to secure here services. Lynch stated that he would contact Black and Walter Reed Army Medical Center for assistance in locating her whereabouts to best acquire an introduction. Chapin stated, and the Board agreed, the organization would benefit from her personal appearances, letter signing and usage in radiothons if she doesn't have a huge negative image. Lynch said that he and Black would report at the next meeting regarding PFC Lynch.

As the next order of business, Lynch gave a report on the matching gifts program in which the organization had received $18,000 in contributions. Lynch said employees of the various businesses chose to donate to the organization and their employer matches those gifts through payroll deductions.

As the next order of business, Chapin stated that American Target Advertising's contract will be up for consideration of renewal December 31, 2004 and that negotiations will be held as to better favor the organization. Chapin said that issues of concern is the organization's ownership of the its own donor file and the owner's share of list rental income. Lynch said that he and Russ Mason, Director of Development will review with Chapin the contract and report to the Board its finalization.

As the next order of business, Chapin suggested that Officers and Directors listings filed with various state agencies not include Honorary Board members. Rogers stated and the Board agreed, that it should be a standing policy that once a Board member is no longer a member, his/her name should be listed as an Honorary Board member for a 12 month period following the last meeting attended. After further open discussion, a motion was made and seconded and it was:

RESOLVED, that the organizations Board of Directors will be listed as Honorary Board members for a twelve (12) month period following a director's resignation.

As the next order of business, Chapin recommended that the organization execute a loan to Mike Lynch, the organization's Executive Director in the amount of $135,000 at six percent (6%) simple interest secured by a second deed of trust on his residence of 37430 Leon Road, Murrieta, California 92563. Chapin stated that the purpose of the loan is to provide Lynch the ability to purchase his ex-spouse's interest in his home. Chapin recommended that the loan would be payable in full no later than December 31, 2006. Rogers said that a loan of this nature is considered a minimal risk. Rogers stated, and the Board agreed, that money market funds are paying less than one percent and 6% interest is a good return on investment. After further open discussion, a motion was made and seconded and it was:

> RESOLVED, that the organization loan $135,000 (One Hundred Thirty-five Thousand Dollars) to Mike Lynch, Executive Director at six (6%) percent simple interest payable in full not later than December 31, 2006.

As the next order of business, the Board scheduled its next meeting at 9:00 a.m. October 11, 2003 at the Renaissance Oklahoma City Hotel, 10 North Broadway, Oklahoma City, Oklahoma 73102 the site of the National Veterans Creative Arts Festival.

There being no further business to come before the meeting, it was ADJOURNED.

LEONARD C. ROGERS
Secretary

LOAN AGREEMENT

This Loan Agreement ("Agreement") made this 1st day of October 2003 between Michael E. Lynch ("MEL") who maintains a principal residence at 37430 Leon Road, Winchester, California 92563 and Help Hospitalized Veterans, a California non-profit organization ("HHV"), which maintains a principal place of business at 36585 Penfield Lane, Winchester, California 92596.

RECITALS

Whereas, MEL desires to borrow funds from HHV to be used as a property buy-out as it relates to a personal divorce settlement;

Whereas, HHV is willing to loan such monies upon the terms and conditions set forth herein.

Whereas, MEL and HHV acknowledge the loan agreement of July 7, 2003 in the amount of Twenty-five Thousand Dollars ($25,000) will become part of this agreement and subject to the terms as set forth below.

Now, therefore, in consideration of the monies loaned, the repayment of such monies by MEL to HHV, and the agreements, promises, representations, warranties, and convenants contained herein, the receipt of sufficiency of which is hereby acknowledged, the parties agree as follows:

1. HHV will loan the sum of One Hundred Thirty-five Thousand Dollars ($135,000) to MEL for the purpose of a property buy-out as it relates to a personal divorce settlement. MEL acknowledges receipt of Twenty-five Thousand Dollars ($25,000) on July 9, 2003, therefore the funding shall be the balance of One Hundred Ten Thousand Dollars ($110,000).

2. MEL will pay HHV six percent (6%) simple interest.

3. MEL will repay loan principal and interest in full not later than December 31, 2006. MEL agrees that if any extension of maturity date is needed, it shall be requested from the President of HHV who has authority of approval or disapproval.

4. MEL agrees that this loan will be secured through a Deed o Trust on the property commonly known as 37430 Leon Road, Murrieta, California 92563 (APN 958-130-016) with a loss payee of Help Hospitalized Veterans.

5. MEL agrees this loan is secured through his salary and pension benefit earned as an employee of HHV and any delinquency of this loan will result in garnishment of salary until the principal and interest are paid in full.

6. Each party agrees to execute further documents (if needed) and take such further actions as may reasonably be required in order to give full force and effect to the terms of this agreement.

LOAN AGREEMENT
(Page 2)

7. Neither this Agreement nor any of its provisions may be changed, waived, discharged, or terminated orally, but only by a statement in writing signed by each party against whom enforcement of the change, waiver, discharge, or termination is sought.

8. The provisions of this Agreement shall be construed in accordance with the laws of the State of California.

9. If any term convenant, or condition of this Agreement or the application thereof to any person, entity, or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, or condition to persons entities, or circumstances other than those to which it is held to be invalid or unenforceable, shall not be affected thereby, and each such other terms and provisions shall be valid and enforceable to the fullest extent permitted by law or equity.

BY _____ 10-1-03
Mike Lynch Date

BY _____ 10-1-03
Roger Chapin, Founder/President Date
Help Hospitalized Veterans

HELP HOSPITALIZED VETERANS
General Ledger
08/01/03 to 07/31/04

Acct	Date	Description	Document	I	Cus/Ven	Activity
1105	08/01/03	Accts Receivable Employee Ln				25,000.00
	10/20/03	*MIKE LYNCH	22322	D	*MIKE	110,000.00
	04/26/04	LOAN PAYMENT ML	6215	R		(16,381.19)
	07/31/04	Adj employee A/R	AJE00010	G		3,833.33
	07/31/04	Debits/Credits Total	113,833.33/(16,381.19)			97,452.14
	07/31/04	Accts Receivable Employee Ln				122,452.14

Certified to be a true copy of General Ledger account 1105
fiscal year ending 7/31/04.

Wende Caha 12-12-05
Wende Caha
Director of Administration
Help Hospitalized Veterans

HELP HOSPITALIZED VETERANS
General Ledger
08/01/04 to 07/31/05

Acct	Date	Description	Document	J	Cus/Ven	Activity
1105	08/01/04	Accts Receiveable Employee Ln				122,452.14
	01/28/05	Payroll thru 1/25/05 ML	7356	G		(400.00)
	02/11/05	p/r ending 2/9/05 ml	7401	G		(400.00)
	02/25/05	p/r ending 2/25 ml	7451	G		(400.00)
	03/08/05	P/R ENDING 3/8/05 ML	7457	G		(400.00)
	03/25/05	payroll thru 3/22/05	7479	G		(400.00)
	03/31/05	Interest Inc Aug to March	7529	G		5,040.77
	04/05/05	p/r ending 4/5/05m lynch	7514	G		(400.00)
	04/23/05	Payroll we 04.22.05 ml	7545	G		(400.00)
	05/06/05	PAYROLL WE 05.06.05 ML	7592	G		(400.00)
	05/20/05	PR WE 5.17.05 ML	7616	G		(400.00)
	06/07/05	PR WE 06.03.05 MLynch	7645	G		(400.00)
	06/20/05	Payroll we 06.17.05 ml	7673	G		(400.00)
	07/31/05	Rec MLynch loan payment	YEJE0009	G		(123,092.91)
	07/31/05	Debits/Credits Total	5,040.77/(127,492.91)			(122,452.14)
	07/31/05	Accts Receiveable Employee Ln				0.00

PAYMENTS MADE THROUGH PAYROLL DEDUCTIONS.

Certified to be a true copy of General Ledger account 1105;

Fiscal Year ending 7/31/05

Wende Caha 12-12-05
Wende Caha
Director of Administration
Help Hospitalized Veterans

Promissory Note (2nd Trust Deed)

Date July 9, 2003

Total Principal Amount of Note: $135,000 State of California

FOR VALUE RECEIVED, the undersigned hereby promises to pay to the order of Help Hospitalized Veterans, 36585 Penfield Lane, Winchester, California 92596 the sum of one hundred thirty-five thousand U. S. Dollars ($135,000.00), together with interest thereon at the rate of percent 6% per annum on the unpaid balance. Help Hospitalized Veterans will fund two payments of this note (1) $25,000 and (2) $110,000 at the date(s) requested by the borrower of funds but not to exceed $135,000.

For consideration of this note, Michael E. Lynch conveys and assigns his personal residence commonly known as 37430 Leon Road, Murrieta, California 92563 (APN 958-130-016) as collateral held if a default of full repayment occurs. This note is to serve and be held as conveyance as a 2nd Deed of Trust attached to said property to the Help Hospitalized Veterans Organization.

This note may be prepaid, at any time, in whole or part, without penalty. This note shall, at the option of Help Hospitalized Veterans, be immediately due and payable upon the occurrence of any of the following:

1. Employment with Help Hospitalized Veterans termination by resignation or for cause.
2. Sale of property described as 37430 Leon Road, Murrieta, California 92563.
3. Not Later than December 31, 2006.
4. Upon the death or liquidation of assets of Michael E. Lynch whose Social Security Number is 450-90-8925.
5. Upon the filing by Michael E. Lynch an assignment for the benefit of creditors, bankruptcy or for relief under any provisions of the Bankruptcy Code; or by suffering an involuntary petition in bankruptcy or receivership not vacated within 30 days.

In the event this note shall be in default, and placed with an attorney for collection, then Michael E. Lynch agrees to pay all reasonable attorney fees and costs of collection. All payments of this note shall be made to Help Hospitalized Veterans via payroll deductions or as deemed reliable and convenient to Michael E. Lynch and management of Help Hospitalized Veterans until full principal and interest have been paid. Under no circumstances shall repayment of principle and interest exceed the date of December 31, 2006.

Help Hospitalized Veterans will release interest in the collateral property immediately once principle and interest have been paid in full.

The undersigned and all other parties to this note, whether as endorsers, guarantors or sureties, agree to remain fully bound hereunder until this note shall be fully paid and waive demand, presentment and protest and all notices thereto and further agree to remain bound, to this note. No modification or indulgence by any holder hereof shall be binding unless in writing; and any indulgence on any one occasion shall not be an indulgence for any other or future occasion. Any modification or change of terms, hereunder granted by any holder hereof, shall be valid and binding upon each of the undersigned. The rights of any holder hereof shall be cumulative and not necessarily successive. This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of California. The undersigned hereby execute this note as principals and not as sureties.

Michael E. Lynch
37430 Leon Road
Murrieta, California 92563

Leonard C. Rogers, Secretary and Treasurer
Help Hospitalized Veterans, Inc.
36585 Penfield Lane
Winchester, California 92596

Jan. 15. 2008 10:10AM No. 7803 P. 24

HELP HOSPITALIZED VETERANS, INC.
30585 PENFIELD LANE PH: 909-926-4500
WINCHESTER, CA 92596

22281
22281

WELLS FARGO BANK, N.A.
16-24-1220

8-8-3000

Twenty-Five Thousand and 00/100 Dollars

DATE
07/09/03

AMOUNT
$25,000.00

PAY TO THE ORDER OF
*MIKE LYNCH
29774 CALLE PANTANO
TEMECULA CA 92591

⑈022281⑈ ⑆122000247⑆06500750 2⑈ ⑈0002500000⑈

HELP HOSPITALIZED VETERANS, INC.
30585 PENFIELD LANE PH: 909-926-4500
WINCHESTER, CA 92596

22322
22322

WELLS FARGO BANK, N.A.
16-24-1220

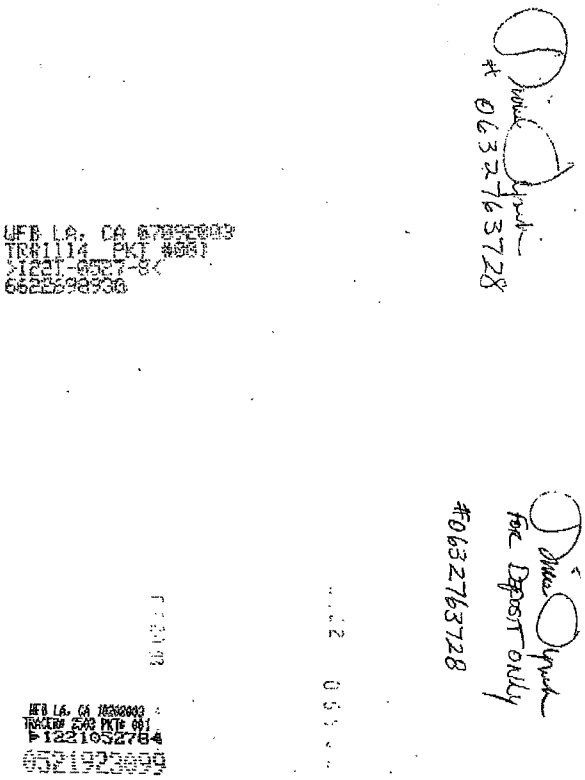
One Hundred Ten Thousand and 00/100 Dollars

DATE
10/20/03

AMOUNT
$110,000.00

PAY TO THE ORDER OF
*MIKE LYNCH
29774 CALLE PANTANO
TEMECULA CA 92591

⑈022322⑈ ⑆122000247⑆06500750 2⑈ ⑈0011000000⑈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FOR DEPOSIT ONLY
#0632763728
UFB LA, CA
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View Check Copy

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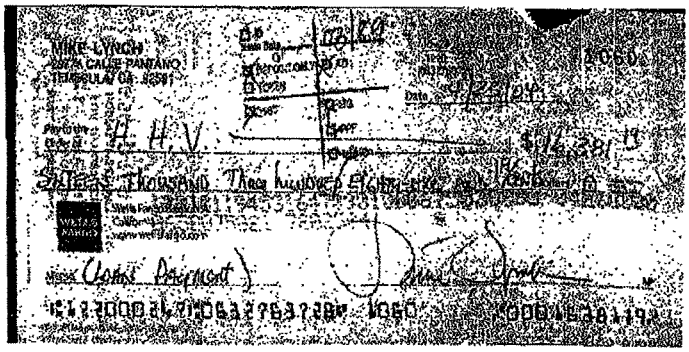
1060	04/26/04	$16,381.19	CHECKING 083-2763xxx



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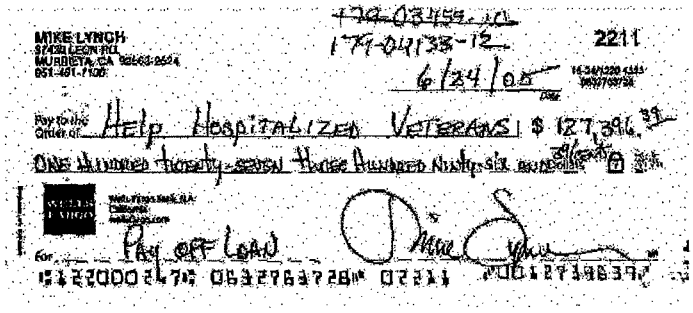
WELLS FARGO

View Check Copy

Check Number	Date Posted	Check Amount	Account Number
2211	07/08/05	$127,396.39	CHECKING 063-2763xxx


MIKE LYNCH
STADELEZKIRL
MURRIETA, CA 92563-0504
951-461-7100

~~179-03459.10~~
179-04133-12
6/24/05
2211

Pay to the Order of Help Hospitalized Veterans $ 127,396.39
One Hundred twenty-seven Three Hundred Ninety-six and 39/100 Dollars

Wells Fargo Bank, N.A.
Otsuka
wellsfargo.com

For Pay off Loan

⑆122000247⑆ 0632763728⑈ 02211 ⑈0012719639⑈

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NAME OF LOAN OR TITLE

AMOUNT BORROWED.....	$135,000.00
MONTHLY PAYMENT.....	$0.00
INTEREST RATE.....	6.00%
NUMBER OF PAYMENTS.....	0
FIRST PAYMENT DATE:	
MONTH.....	8
DAY.....	31
YEAR.....	2004

PAYMENT DATE	PMT #	0.50% INTEREST	TOTAL PAYMENT	PRINCIPAL REDUCTION	UNPAID BALANCE
					$122,452.00
31-Aug-04	1	$612.26	$0.00	$0.00	$122,452.00
30-Sep-04	2	$612.26	0.00	$0.00	122,452.00
30-Oct-04	3	$612.26	0.00	$0.00	122,452.00
29-Nov-04	4	$612.26	0.00	$0.00	122,452.00
29-Dec-04	5	$612.26	0.00	$0.00	122,452.00
28-Jan-05	6	$612.26	400.00	$0.00	122,452.00
27-Feb-05	7	$612.26	800.00	$0.00	122,452.00
29-Mar-05	8	$612.26	800.00	$0.00	122,452.00
28-Apr-05	9	$612.26	800.00	$0.00	122,452.00
28-May-05	10	$612.26	800.00	$0.00	122,452.00
24-Jun-05	11	$474.01	800.00	$0.00	122,452.00 ***
		$6,596.61	$4,400.00		

	Interest Receivable	Note Principal	Total
Balance 7/31/04	2,747.64	122,452.14	125,199.78
Accrued interest 8/1/04-6/24/05	6,596.61		6,596.61
Payments	(4,400.00)		(4,400.00)
Payoff at 6/24/05	4,944.25	122,452.14	127,396.39

Certified to be a true copy of Loan Reconcillation

Wende Caba 12-8-05

Wende Caba
Director of Administration
Help Hospitalized Veterans

1105/1043

MIKE LYNCH
37430 LEON RD.
MURRIETA, CA 92563-2624
951-461-7190

2211

6/24/05
Date

16-24/1220 4323
0632763728

Pay to the Order of Help Hospitalized Veterans $ 127,396.39

One Hundred twenty-seven Three Hundred Ninty-six and 39/cents Dollars

WELLS FARGO
Wells Fargo Bank, N.A.
California
wellsfargo.com

For Pay off Loan

⑆122000247⑆ 0632763728⑈ 02211

Promissory Note (2nd Trust Deed)

Date July 9, 2003

Total Principal Amount of Note: $135,000 State of California

FOR VALUE RECEIVED, the undersigned hereby promises to pay to the order of Help Hospitalized Veterans, 36585 Penfield Lane, Winchester, California 92596 the sum of one hundred thirty-five thousand U. S. Dollars ($135,000.00), together with interest thereon at the rate of percent 6% per annum on the unpaid balance. Help Hospitalized Veterans will fund two payments of this note (1) $25,000 and (2) $110,000 at the date(s) requested by the borrower of funds but not to exceed $135,000.

For consideration of this note, Michael E. Lynch conveys and assigns his personal residence commonly known as 37430 Leon Road, Murrieta, California 92563 (APN 958-130-016) as collateral held if a default of full repayment occurs. This note is to serve and be held as conveyance as a 2nd Deed of Trust attached to said property to the Help Hospitalized Veterans Organization.

This note may be prepaid, at any time, in whole or part, without penalty. This note shall, at the option of Help Hospitalized Veterans, be immediately due and payable upon the occurrence of any of the following:

1. Employment with Help Hospitalized Veterans termination by resignation or for cause.
2. Sale of property described as 37430 Leon Road, Murrieta, California 92563.
3. Not Later than December 31, 2006.
4. Upon the death or liquidation of assets of Michael E. Lynch whose Social Security Number is 450-90-8925.
5. Upon the filing by Michael E. Lynch an assignment for the benefit of creditors, bankruptcy or for relief under any provisions of the Bankruptcy Code; or by suffering an involuntary petition in bankruptcy or receivership not vacated within 30 days.

In the event this note shall be in default, and placed with an attorney for collection, then Michael E. Lynch agrees to pay all reasonable attorney fees and costs of collection. All payments of this note shall be made to Help Hospitalized Veterans via payroll deductions or as deemed reliable and convenient to Michael E. Lynch and management of Help Hospitalized Veterans until full principal and interest have been paid. Under no circumstances shall repayment of principle and interest exceed the date of December 31, 2006.

Help Hospitalized Veterans will release interest in the collateral property immediately once principle and interest have been paid in full.

The undersigned and all other parties to this note, whether as endorsers, guarantors or sureties, agree to remain fully bound hereunder until this note shall be fully paid and waive demand, presentment and protest and all notices thereto and further agree to remain bound, to this note. No modification or indulgence by any holder hereof shall be binding unless in writing; and any indulgence on any one occasion shall not be an indulgence for any other or future occasion. Any modification or change of terms, hereunder granted by any holder hereof, shall be valid and binding upon each of the undersigned. The rights of any holder hereof shall be cumulative and not necessarily successive. This note shall take effect as a sealed instrument and shall be construed, governed and enforced in accordance with the laws of the State of California. The undersigned hereby execute this note as principals and not as sureties.

Michael E. Lynch
37430 Leon Road
Murrieta, California 92563

Leonard C. Rogers, Secretary and Treasurer
Help Hospitalized Veterans, Inc.
36585 Penfield Lane
Winchester, California 92596

Help Hospitalized Veterans

2065 Kurtz Street, San Diego, California 92110-2092
(619) 291-5846 / FAX • 291-3842

Bob Hope presents an HHV Craft Kit to hospitalized veteran Eugene Gardner.

BOARD OF DIRECTORS
Founder and President: Roger Chapin
Vice-President: Robert Frishman Businessman
Sec./Treas.: Edward Fletcher Businessman
Director: William Barnett Businessman
Director: Irv Stevens Businessman

Executive Director: Mike Lynch
Director of Special Gifts: Melvin Weinman

FRIENDS OF HOSPITALIZED VETERANS
Joey Adams
Eddie Albert
Gene Autry
Mario Andretti
Milton Berle
Yogi Berra
Pat Boone
Vice Blue
Red Buttons
Art Carney
Wilt Chamberlain
Bob Cousy
Cathy Lee Crosby
Phyllis Diller
Joe DiMaggio
Patty Duke
Samantha Eggar
Linda Evans
Roberta Flack
Tony Franciosa
Annette Funicello
Curt Gowdy
Rosey Grier
Franco Harris
Charlton Heston
Bob Hope
Anna Lee
Ceci Lewis
Art Linkletter
Loretta Lynn
Lee Majors
Robert Mitchum
Patti Page
Arnold Palmer
Ara Parseghian
Jane Powell
Debbie Reynolds
Jeannie C. Riley
Brooks Robinson
Willard Scott
Don Shula
Mark Spitz
Robert Stack
Bart Starr
Roger Staubach
Payne Stewart
Lee Trevino
Johnny Unitas
Al Unser, Sr.
Jonathan Winters
Jane Wyman

December 1, 1997

Ms. Lynn Luong
Registry of Charitable Trusts
1300 I Street, Suite 125
P. O. Box 903447
Sacramento, Ca. 94203-4770

Re: File No. CT-13082

Dear Ms. Luong:

Enclosed please find the information requested.

In response to your item 5(a) & (b), Mr. Lynch was utilizing the loan to eliminate personal debt and for use as a down payment on a home. The loan was secured by Mr. Lynch's salary as an employee of HHV. Mr. Lynch repaid the full amount of the loan, including the interest, July 1, 1997.

If you are in need of additional information, please do not hesitate to call me at (619) 488-2911

Sincerely,

Roger Chapin

ROGER CHAPIN
Founder/President

enclosures

Enclosures Were:
① GL on Repayment of Acct #1050
② Minutes Highlighted
③ Audited Statement FY July 97
④ CT-2
⑤ Loan Agreement

REGISTRY OF CHARITABLE TRUSTS

Schedule D—Schedule of Changes in Fund Balances	UNRESTRICTED (LINE 85)	RESTRICTED (LINE 86)	ENDOWMENT (LINE 87)	LAND, BUILDINGS AND EQUIPMENT (LINE 88)
Fund Balances, Beginning of Year. (Must agree with ending balances on prior report)				
Other Changes (Describe)				
Fund Balances, End of Year				

Schedule G—Contributions, Grants, Etc., Made During Year or Approved for Future Payment			
DONEE'S NAME AND ADDRESS	RELATIONSHIP TO ANY TRUSTEE, OFFICER OR SUBSTANTIAL CONTRIBUTOR	CONCISE STATEMENT OF PURPOSE OF CONTRIBUTION OR GRANT *	AMOUNT
Made during year:			
		Total—enter here and on line 61	

*IF GRANT WAS MADE FOR THE GENERAL PURPOSES OF THE DONEE WITHOUT RESTRICTION, THEN ENTER "GENERAL." IF GRANT WAS FOR SPECIFIED PURPOSES, I.E. BUILDING FUNDS, STAFF DEVELOPMENT, TRAVEL, THEN STATE THAT SPECIFIC PURPOSE.

Schedule H—Notes Receivable	NOTE 1	NOTE 2	NOTE 3
Name of maker:	Mike Lynch		
Relationship to any trustee, officer or substantial contributor	None		
Original amount:	$35,015		
Balance due:	0		
Date of note:	6-14-96		
Maturity date:	7-31-97		
Repayment terms:	In Full By Maturity		
Interest rate:	8.5%		
Security:	Employee Salary		
Purpose of loan:	Personal debt/Home Down Payment		
Was a non-cash asset exchanged for the note?	No		
Was this note received as a donation?	No		

* If there are more than three notes receivable, show the additional notes receivable on a separate sheet using the same format as above.

Jan. 15. 2008 10:08AM No. 7803 P. 9

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

RONALD REAGAN BUILDING
300 SOUTH SPRING STREET, SUITE 1702
LOS ANGELES, CA 90013

Public: AREA CODE/PUBLIC NUMBER
Telephone: (213) 897-2184
Facsimile: (213) 897-7605
E-Mail: steve.bauman@doj.ca.gov

November 30, 2005

Board of Directors
Help Hospitalized Veterans, Inc.
36585 Penfield Lane
Winchester, CA 92596

RECEIVED
DEC 2 2005
BY:

RE: Loan activities

Dear Board of Directors:

The Office of the Attorney General has the duty to supervise charitable organizations under California Corporations Code section 5250, and Government Code sections 12580 through 12598. Upon review of the IRS form 990 for year end July 31, 2004 we have some questions regarding the loan activity between Help Hospitalized Veterans (HHV) and Michael Lynch.

This IRS form 990, reflects on line 50, a balance of $25,000 in loans at the beginning of the year and a balance of $122,452 at the end of the year. This 990 also reflects (statement #8) that this note is from Michael Lynch, dated October 1, 2003 and earns 6% interest. Did HHV give notice or seek approval from the Office of the Attorney General? If so, please provide copies of all correspondence with our office related to the loan. If not, Please provide copies of the following documents to me within **30 days** of the date of this letter.

1. Board minutes which disclose the boards' discussion and approval of this loan;

2. Schedule reflecting all payments to Michael Lynch regarding this loan. This schedule should reflect the date of the payment and the amount;

3. Schedule reflecting all repayments made by Mr. Lynch. This schedule should include the date of the repayment, the amount and the outstanding balance;

4. Proof of the repayments (copies of canceled checks from Mr. Lynch);

5. The promissory note relating to the loan;

6. Documentation reflecting that the loan was secured.

Thank you for your cooperation. If you have any questions I can be reached at (213) 897-2184.

Sincerely,

STEVE BAUMAN
Supervising Investigative Auditor

For BILL LOCKYER
Attorney General

Jan. 15. 2008 10:08AM RECEIVED NOV 24 1997 No. 7803 P. 8

DANIEL E. LUNGREN
Attorney General

State of California
DEPARTMENT OF JUSTICE

1300 I STREET, SUITE 125
P.O. BOX 944447
SACRAMENTO, CA 94203-4770
Public: (916) 445-2021
Facsimile: (916)444-3651
(916)324-8512

November 14, 1997

Board of Directors
Help Hospitalized Veterans, Inc.
2065 Kurtz Street
San Diego, CA 92110

File No. CT-13082

Dear Directors:

The California Attorney General has a duty to monitor public benefit corporations for the public interest. In this regard, your Periodic Report of the year ended July 31, 1996 was selected for a correspondence audit.

Please refer to the loan receivable of $35,015 due from Mike Lynch. Please detail this loan by doing the following:

1) Complete and submit the enclosed Form CT-2s, Schedule H;

2) Furnish a full copy of the loan receivable;

3) Furnish board meeting minutes that will show the board discussed and approved the loan receivable;

4) Furnish audited financial statements of said year ended;

5) Answer the following questions:

   a) What was the purpose of the loan?

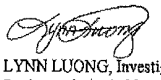
   b) Why was the loan unsecured?

6) If Mr. Lynch has repaid the loan, please provide copies of his canceled checks.

Please provide the above information within 30 days from the date of this letter.

Sincerely,

DANIEL E. LUNGREN
Attorney General



LYNN LUONG, Investigative Auditor
Registry of Charitable Trusts

Enclosure