

Cause For Misgivings

By Kevin Begos
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This year, 19 states settled a lawsuit that accused a fundraising consultant of misleading people about charitable donations and won a \$400,000 payment and promises of reform.

Florida wasn't among those states, even though four of the charities were based here - including two in the Bay area.

Officials in Florida can't remember the last time the Legislature passed major charity reforms.

With nearly 11,000 charities to monitor and bare-bones staffing, the Division of Consumer Services struggles with basic oversight.

A Tribune investigation based on public records requests and an analysis of state and federal financial records found:

- Of the 20 major charities in Florida that rank the worst in terms of using donations to help the needy, 18 say they help police officers, veterans or other public servants. Those groups - including several based in the Bay area - took in more than \$24 million last year and used just \$20 of every \$100 in donations to help the needy. The majority of the money went to for-profit fundraisers.
- Florida-based charities raised nearly \$19.5 billion in the most recent financial year, but the state doesn't have a single full-time auditor to monitor their books. By contrast, after a scandal in 1995, Pennsylvania bolstered its charity investigation staff and it now includes five investigators, four auditors and a prosecuting attorney. Florida doesn't have a single investigator, auditor or prosecuting attorney devoted solely to charity monitoring.
- Thousands of Florida charities, small and large, operate successfully without high-priced

fundraisers or management.

Florida ranks fourth in the nation in the number of nonprofit organizations registered with the Internal Revenue Service, according to charity watchdog Guidestar, and 14th among states in terms of the amount of money given to charities, according to the Catalogue for Philanthropy.

Officials in Florida know there are shortcomings in oversight.

"We do as we can. We just don't have the manpower," said consumer services Director J.R. Kelly, who has asked the Legislature to fund more positions.

"It's a big problem. Probably billions of dollars are donated by Floridians, and some portion of it is a rip-off. Just what percentage is anybody's guess," said Terence McElroy, a state consumer agency spokesman.

McElroy made that statement to another newspaper seven years ago.

Little has changed.

"In most cases people will never know they're being ripped off by a charity," McElroy said recently.

St. Petersburg resident Terry Richards has tried over the past few years to get local and state officials to crack down on suspicious veterans charities.

"I laid it out and nobody did a damn thing about it," Richards said. "I've pretty much just about given up in trying to get something done about these charities."

He isn't the only one complaining.

Easy Target

Florida, with its large senior citizen population, presents an attractive target.

A fundraiser representing the Florida Highway Patrol Command Officers Association called David Solinske's 85-year-old mother, and "they kind of put words in her mouth that she would send a donation," he said.

The group took in nearly \$2.3 million in donations and spent just 5 percent on program services.

Solinske's mother hadn't agreed to anything, but "they called back and were kind of nasty with her, and they said, 'Well, you promised it.'"

Solinske alerted officials that laws designed to prevent the exploitation of seniors may have been broken. The case is listed by Florida as "Closed - Satisfactory."

Some Florida officials say little can be done to fight problem charities though other states have aggressively prosecuted and fined organizations.

In August, the Colorado attorney general's office filed a lawsuit against Fort Lauderdale fundraiser Xentel Inc., which uses telemarketing and direct mail to solicit donations. Xentel has paid charity solicitation fines of \$100,000 to South Carolina and \$75,000 to Missouri. Iowa officials launched an undercover operation targeting Xentel and reached a settlement after catching misleading pitches on audiotape.

When a Hernando County detective responded to a complaint about Xentel this year, he noted:

"The information does seem to indicate there may be some improper activity occurring involving the telecommunications company," which a woman said tried to pressure her into making a \$5,000 donation over the phone.

The state lists that case as "Closed - Satisfactory." No concessions were made by Xentel.

A Tribune analysis shows charities in the state spent \$347 million on fundraising in the most recent year. Florida hasn't filed a single criminal case against a charity fundraising business in recent years.

The consumer services department has investigators, but they're also responsible for policing motor vehicle repairs, travel agents, pawnbrokers, dance studios and some business scams. The division, which is part of the Department of Agriculture, has averaged about one criminal case a year against charities, in part because other high-profile consumer complaints take precedent.

Agriculture Commissioner Charles Bronson, who is seeking re-election Nov. 7, declined to be interviewed for this article.

Mac Smith records and monitors fundraising contracts for the Division of Consumer Services. Soon after starting that job, he was "absolutely amazed" by how much money fundraisers make, as opposed to charities, Smith said.

"I don't give to charitable organizations anymore. I just tithe through my church."

Where The Money Really Goes

The Disabled Police Officers Counseling Center, which until recently listed an office at 1502 West Busch Blvd. in Tampa, sounds like a good thing.

Operating under six names from a central office in Niceville, the charity took in almost \$2.4 million last year and used about 85 percent of that for fundraising and administrative costs, state records show.

An efficient charity spends no more than 25 percent of revenue on fundraising and administration, according to federal guidelines.

The majority of the center's money goes to out-of-state telemarketers, including Newport Creative Communications, the company that was accused of making misleading charity solicitations by 19 other states. Newport disputed that the mailers were misleading or that any laws were broken, according to the settlement.

Charity President Terry Morrison said though nobody likes to see fundraisers get most of the donations, "sometimes it's a necessary evil."

"People do get irritated" with the high costs, he said, and "I feel the same way, except I'd rather get 20 cents on a dollar than nothing."

According to the umbrella organization's Web site, about 50 retired police officers get small grants or scholarships each year, amounting to less than 5 percent of the \$2.4 million in donations.

Morrison and his wife, Lorna, the vice president, make more than \$200,000 a year in combined salary and benefits from the group of Disabled Police Officers charities, according to tax returns. They've been doing the charity work for 10 years, he said.

"I just know it's not easy" to raise money, Morrison said. Lesser-known charities don't have many fundraising options, and telemarketers have a lot of expenses.

But the Tribune analysis of the state's database shows that thousands of charities do good work

with minimal fundraising or administrative costs - relying instead on volunteers and community-based fundraising, not telemarketing.

Jerald Mandell is chief operating officer of the Defeat Diabetes Foundation of Madeira Beach, which used the fundraising consultant taken to court by 19 states. He doesn't see any problem with the solicitation that so many states found deceptive.

Mandell said he knew about the lawsuit, but "we were told we were not a party" to it.

The Newport mailers contained phrases such as: "YOU ARE OUR \$6,000 WINNER. It's as simple as that. There are absolutely no strings attached" and suggestions that the envelope was a "tax document" and there were "serious consequences" for failing to respond.

"I go over every mailer with a fine-tooth comb," Mandell said.

Charity watchdogs say relying on high-priced telemarketers is the easy way out - and it erodes public trust.

Len Wolstenholme, a spokesman for Xentel, said "The fact is there are costs associated with raising money. The reality is people don't get out of bed in the morning and think about what charities to support."

He said the lawsuit that Colorado filed against Xentel in August "is about paperwork" and "there's no suggestion we misled anyone."

Wolstenholme said Xentel representatives make 60,000 to 70,000 calls a day (more than 20 million a year) and that the few complaints against the company are a testament to their quality-control program.

"On balance, we've been doing a pretty good job," he said.

Rick Cohen, until recently the executive director of the National Committee for Responsive Philanthropy, said too many good charities have ignored fundraising abuses.

"Other nonprofits should be blowing the whistle," he said.

The Key To Reform?

Charity fundraising is protected under free speech laws, and courts have ruled that it is not illegal for a charity to spend 99 percent of its revenue on fundraising and administration. Some charities - such as museums - provide a benefit to the public just by staying open or providing information.

Florida officials say such precedents make it difficult for the state to fight charity scams.

But bad charities and fundraisers commit a host of other wrongs, said Karl Emerson, director of the Pennsylvania Bureau of Charitable Organizations.

"We find that the [tax forms] are filled with all kinds of misrepresentations and omissions," he said.

Though courts have ruled that a telemarketer doesn't have to tell a consumer upfront how much of a donation is eaten up by fundraising, Emerson said that doesn't mean high-pressure salespeople can mislead consumers who ask such questions.

"That's where, very often, you get some very significant misrepresentation," Emerson said.
"That's where states can go after organizations."

Iowa did just that with Xentel.

In 2002, Iowa began taping calls from Xentel representatives after an elderly woman received so many unwelcome telemarketing appeals that state officials advised her to change her number.

One telemarketer said the woman's donation would go "right to" local firefighters in West Des Moines - even though it wouldn't. "In fact, probably right in your neighborhood somewhere," according to the tape.

"All of it [the donation] goes to the firefighters," another telemarketer said, when about 75 percent of the money went to Xentel.

When one person declined to make a donation, a Xentel representative used profanity before hanging up, according to the lawsuit.

Carol Walden of Wakulla County in North Florida was the recipient of a relentless series of calls from other charities recently.

After she retired on disability and started spending more time at home, she started keeping track of how many people were bothering her.

"I know I'm not the only one," said Walden, 60.

After making a few small donations, she noticed that calls came in every few weeks from telemarketers asking for more money. She started checking receipts and making complaints to the 800 numbers the supposedly different charities listed.

"The same woman answered all four numbers that I called back," Walden said. When she asked why, she got a vague response.

The state lists that case as "Closed - Filed for information only."

Florida officials only wrote a letter to the charity, Walden said.

"That's why I don't put Florida in the good one-third" of states that really monitor charities, said Cohen, of the National Committee for Responsive Philanthropy. "Until we put some real meat in terms of resources into government oversight, some of the worst players in the charitable system will survive."

Florida does little more than register the charities and make information about bad ones available to consumers, and that's just not enough, Cohen said.

McElroy said the Department of Agriculture makes charity information available to the public in its yearly "Gift Givers' Guide." However, the free print edition has been out of print for several months.

A Lesson In Oversight

Tampa's Rep. Bob Henriquez, vice chairman of the state House utilities and telecommunications committee, said he hasn't heard many complaints about charity fundraisers but now thinks more aggressive action is needed.

"I don't think it would cost an awful lot of money. That's probably something we can learn a lesson from," he said.

Emerson, the Pennsylvania official, said laws must provide strong protections to legitimate charity appeals and equally strong consequences for those who mislead donors. If those who are caught for questionable behavior balk at a settlement - including lifetime bans for the owners - he tells them, "If you don't settle this case, we're going to a hearing" before a judge.

Richards of St. Petersburg said it's clear Florida isn't doing all it can to fight charity fraud, and that sends a message.

"Basically they're telling people, 'Come to Florida and don't worry about getting caught because we won't even investigate,'" he said.

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