

## **PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION ON CHARITABLE SOLICITATION FRAUD**

Before the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce United States House of Representatives Washington, D.C.

November 6, 2001

Mr. Chairman and members of the Committee, I am J. Howard Beales, III, the Director of the Bureau of Consumer Protection of the Federal Trade Commission. I appreciate this opportunity to appear before you today to testify on behalf of the Federal Trade Commission regarding fraudulent solicitations of charitable contributions, especially solicitations relating to the recent September 11th tragedies.<sup>(1)</sup>

### **I. Introduction and Background**

The Commission recognizes the important role that charitable organizations play in providing valuable services, a role that has become even more critical in the wake of the September 11th attacks. Solicitations for charitable organizations, and corresponding donations, have increased noticeably in recent weeks. So, too, have concerns



scams and has worked with agents and investigators from a number of other agencies and organizations, including the Secret Service, FEMA, and the Red Cross, in investigating those cases that look genuinely problematic.(13)

In addition to monitoring Consumer Sentinel for complaints about fraudulent fundraising, the Commission has also monitored the database and actively surfed the Internet for other related consumer frauds. For example, the FTC has seen an increase in the number of entities marketing bioterrorism-related products. These include everything from dietary supplements sold as effective treatments against anthrax or small pox, and home testing kits for anthrax, to gas masks and water filters. The FTC, along with the FDA, EPA, and over thirty states, is making a concerted effort to search the Internet for deceptive claims about these products. Based on the results of this effort, the FTC will take follow-up law enforcement action as appropriate.

## **B. Information Exchanges with Watch-Dog Groups and Other Law Enforcers**

The Commission's efforts to track and analyze consumer complaints through Consumer Sentinel are complemented by a proactive program to uncover fraud and deception by partnering with other law enforcers as well as public- and private-sector charity watch-dog groups. For example, the Commission regularly participates in an e-mail discussion list that has over 100 subscribers from 40 states, consisting of government regulators and law enforcement officials involved in regulating charities and charitable fundraisers. Subscribers exchange daily messages about a variety of topics, including possible scams, registration requirements, and recent legal actions. The Commission also monitors other public Internet sources, including on-line discussions of charity issues.

In addition, since September 11th, the Commission, spearheaded by its Northeast Regional Office, has reached out aggressively to others in the New York-area law enforcement community. Further, as discussed below, the Commission's Northeast Regional Office has launched a full-scale consumer education campaign. Staff in the Northeast Regional Office has communicated regularly with a New York based consumer protection group that provides a venue for exchanging information about possible charity or other disaster-related scams. The ad hoc group also includes the New York City Department of Consumer Affairs, the Attorney General's Office in New York,

Acting within the parameters of its authority, the Commission has asserted a strong enforcement presence in the fraudulent fundraising arena. In the past decade, the Commission has filed over 25 cases in federal district courts challenging deceptive fundraising practices by for-profit solicitors. Many of these cases involved "badge fraud," where a telemarketer poses as a law enforcement officer or an affiliate and typically claims that he is raising money to support law enforcement efforts in the donor's local area. In fact, the telemarketer is not a law enforcement officer or



The commission is hereby empowered and directed to prevent persons, partnerships, or corporations . . . from using unfair or deceptive acts or practices in or affecting commerce. 15 U.S.C. § 45 (a) (2).

Section 4 defines "Corporation" to include:

any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members . . . 15 U.S.C. § 44.

5. See *Community Blood Bank of Kansas City, Inc. v. FTC*, 405 F.2d 1011 (8th Cir. 1969).
6. *Community Blood Bank*, 405 F.2d at 1019; *Ohio Christian College*, 80 F.T.C. 815 (1972).
7. See *FTC v. Saja*, 1997-2 Trade Cas. (CCH) ¶ 71,952 (D. Ariz. 1997). Cf. *California Dental Ass'n v. FTC*, 526 U.S. 756 (1999).
8. USA PATRIOT Act, Pub. Law No. 107-56, §§ 6102(a)(2), (3)(D), 6106(4), \_\_\_ Stat. \_\_\_ (2001).
9. *Riley v. National Fed'n of the Blind of N. Carolina*, 487 U.S. 781 (1988).
10. *Riley*, 487 U.S. at 800.
11. See [www.consumer.gov/sentinel](http://www.consumer.gov/sentinel).
12. The CRC now receives over 12,000 inquiries and complaints per week. They cover a broad spectrum - everything from complaints about get-rich-quick telemarketing scams and online auction fraud, to questions about consumer rights under various credit statutes and requests for educational materials. Counselors record complaint data, provide information to assist consumers in resolving their complaints, and answer their inquiries.
13. The number of complaints the Commission has received is lower than might be expected. This might be in part due to the fact that victims of fraudulent solicitations often do not know that they have been scammed and therefore do not file complaints. It might also be in part due to the Direct Marketing Association's request that its members that engage in charitable fundraising, and that solicit people and businesses with whom they do not have a previously existing customer relationship, cease outbound telemarketing fundraising through the end of September. The announcement about this directive can be found at: <http://www.the->