



NONPROFITS: FUNDRAISING & DEVELOPMENT

Charities in the Courtroom15: NY Goes After “Bottomfeeders”

10.17.17 | Linda J. Rosenthal, JD



The New York State Attorney General, Eric Schneiderman, has emerged as a key leader of state officials committed to going after fraud and abuse in charities.

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Doing so has been a big favor to New York’s nonprofits, as it draws a high-profile distinction for the public between legitimate and illegitimate activity in the sector.... He has named his office’s attempt to pursue scam artists that make use of ‘shell’ nonprofits ‘Operation Bottomfeeder,’ rhetorically distancing bad actors from legitimate nonprofits.

Among the cases pursued in the program is the American Foundation for Disabled Children (AFDC), described as a “shell charity that claimed to provide ‘resources to schools, shelters and other agencies providing long and short-term care to special children.’” In August 2016, the NY Attorney General’s Charities Bureau shut down this operation which regulators characterized as having “served mainly as a source of money for its fundraisers.”

Another success of the “Operation Bottomfeeder” Program is a November 2016 settlement with the National Vietnam Veteran’s Foundation and its founder and president, John T. Burch. Under that agreement, the organization closed down and paid damages. Burch also issued a public apology.



Notwithstanding this *mea culpa*, the former organization's leader was indicted recently for wire fraud by the U.S. Department of Justice.

In June 2017, AG Schneiderman's office informed the public of yet another major case closed. The Charities Bureau took action against Dr. Yulius Popylansky, president of the Breast Cancer Survivors Foundation (BCSF), which was started in 2010. The organization began soliciting in New York soon after and, by 2014, BCSF was raking in some \$3 million a year – nationwide – from its telemarketing and direct mail campaign.

The government alleged that this group bilked donors out of millions of dollars which these people believed were going to a legitimate cancer charity.

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The Attorney General's investigation found that Dr. Poplyansky started BCSF at the encouragement of Mark Gelvan, a professional fundraiser and longtime family friend whose relationship with Poplyansky's family dated back to the 1970s. Dr. Poplyansky had no training or experience in managing or leading any type of charitable enterprise. He and the other board members of BCSF allowed Mark Gelvan to run BCSF and turn it into a cash cow for Gelvan and his businesses. Mark Gelvan has been barred from the professional fundraising industry in New York since 2004, following litigation brought by the Attorney General.

According to admitted facts in the settlement documents, Mr. Gelvan had a significant – if not the primary – role in the scheme, notwithstanding that the agreement settling the charges was made with Dr. Popylansky only.

The settlement, though, did not include Gelvan, “the alleged puppetmaster of the BCSF,” who “has a long history of [fraudulent] activity.” In an article in the Nonprofit Quarterly, the editor angrily protested about the lack of action against Gelvan.

Conclusion

Alone, and in cooperation with other attorneys general, Eric Schneiderman has been highly successful in shining a light on false and fraudulent practices in the charitable sector and bringing wrongdoers to account.