

TO: Robert W. Healy
FROM: Paul J. Schlaver
THROUGH: Benjamin Barnes
DATE: May 30, 2002

RE: Council Order #18, dated 3/25/02

RE: The Cambridge Police Superior
Officers Association (CPSOA)
charitable contribution campaign
methods

The Cambridge Consumers' Council has been asked to report on how to deal with the pressure tactics and intimidation in solicitations; as to whether the Massachusetts Attorney General's Office has complaints about TCI, as to what other cities do to regulate such telephone solicitations and what Cambridge might do in response to this concern.

The Massachusetts Attorney General's Public Charities Division was contacted upon receipt of the above captioned Council order. That Division manages the registrations of both public charities in Massachusetts and the professional fundraising organizations that many of the charities turn to manage their fundraising campaign. TCI America, Inc. is a professional fundraising organization registered with and regulated by the Attorney General's Office. The Cambridge Superior Police Officers Association is also registered at the Attorney General's Public Charities Office. Attached please find a detailed response from Assistant Attorney General Laura Maslow-Armand in response to the City Council Order and the conversations I had with her and information shared with her.

I also contacted Transition House because the solicitation calls specifically named that local non-profit as a targeted charity that would receive funds from this campaign. Massachusetts General Laws Chapter 68 sets forth a requirement that two officers of a charitable corporation such as Transition House must provide in writing their approval for their organization's name to be directly mentioned in solicitation calls conducted by a professional fundraiser such as TCI America. Transition House staff reports to me that no such written approval was either requested by nor given to TCI America. There was direct telephone contact with the Cambridge Police Superior Officers Association about raising money for them and seeking their assistance with some text for a booklet that was to be produced as part of this effort. The Cambridge Women's Commission and Transition House produced a couple dozen pages of text and referral information regarding domestic violence and prevention efforts. The Transition House and the Woman's Commission each received less than 100 copies for distribution of the 70-page booklet that was produced. It was filled with ads and lists of donors and the 29 pages of text as it had been submitted. The information submitted by the Attorney General's Office indicated that 750 copies of the booklet were to be printed. Frankly, in my opinion, the booklet has little practical value as to serving the public with information and resources beyond what can be readily obtained through the Women's Commission, Human Services Department or other local entities. The Transition House received a check for \$10,000 from the CPSOA at the end of this process.

The law also requires that the donors are to be specifically told if a benefit event is to be held, a booklet to be printed and distributed or uniforms purchased for a youth team, etc.

and when and how this will occur. Further research would be needed to determine if all requirements were met by the fundraising organization in this campaign.

The Women's Commission and Transition House report a positive working relationship with the Cambridge Police personnel involved in this project but there are indications that all three parties had little contact with TCI personnel or knowledge of the rules TCI was to follow or any details of their solicitation methodology. I would say that any failings to follow requirements fall on the shoulders of TCI and not the CPSOA. Yet, if the CPSOA choose to do business again with this fundraising company it should make sure the laws are followed and monitor the solicitation process more closely.

The request of a telephone solicitor to a consumer to tape a check to their door or mailbox so that a runner can be sent right over to pick it up can only be viewed as a pressure tactic. There is no positive reason for a consumer that wishes to respond favorable to a telephone solicitation with a check to tape it to their mailbox or door for immediate pick up by a runner for the fundraising organization. In the opinion of this office all the reasons are bad ones:

- It short circuits the opportunity to carefully consider through discussion with a family member or other advisor of the wisdom of making such a donation;
- It keeps you from even "sleeping on the decision" over night;
- It prevents you from making a telephone call to the Attorney General's Office or other resource to investigate the record of the charity or fundraiser as to their status with the AG's Public Charities Division's requirements;
- It brings a presumably low paid, temporary hire of the fundraiser into your neighborhood and to your door armed with potential knowledge that you might be an elderly person living alone, etc. There is no requirement that this "runner" had a background check screening or is bonded by the fundraiser;
- If you change your mind and decide to NOT tape the check to the mailbox it could subject you to a knock on the door and demand from the runner (usually on commission based on checks picked up,) as to why you "did not keep your promise to donate;"
- You have no paper trail of receiving literature from the charitable organization that has arrived in the mail to consider or refer to later if necessary, nor do you even have a mailing address or telephone number of the fundraiser or charity.

The Consumers' Council strongly urges all Cambridge residents to only make charitable donations in response to telephone solicitations if they have paused twenty-four hours to consider the request and possibly do some actual research about the fundraising organization or charitable organization if it is not well know to them. This means NO "taping a check to the mailbox or door" and should mean requesting that the phone solicitor be told to "send me a pledge card and information and then I will decide."

If consumers heed this recommendation to pause for 24 hours and to also make donations by mail if a pledge card is received and return their donation check by US Mail it may not prove to be necessary that a perfect local ordinance is developed to protect our citizens from this "tape a check to the door" practice. Telemarketers can be very persuasive though, so consumer education may not be enough. The further information received from the Attorney General's Office offers some information and advice as to possible local ordinance options. *See attachments*



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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BOSTON, MASSACHUSETTS 02108-1598

TOM REILLY
ATTORNEY GENERAL

(617) 727-2200
www.ago.state.ma.us

May 20, 2002

Mr. Paul J. Schlaver
Executive Director
Cambridge Consumers' Council
831 Massachusetts Avenue
Cambridge MA 02139-3068

**Re: TCI America solicitation for Cambridge Police Superior Officers
Association**

Dear Mr Schlaver:

Thank you for your correspondence with the Division of Public Charities regarding the concerns of the Cambridge Consumers' Council and the Cambridge City Council relative to the solicitation campaign of TCI America on behalf of the Cambridge Police Superior Officers Association. Since you raise so many important issues of a general nature, I would like to try to provide answers to those questions now and to leave for another time our response regarding the above- referenced matter. We have started questioning the two Cambridge Police Sergeants who are listed as officers of the Cambridge Police Superior Officers Association and will share the results of that inquiry with you at a later date.

- Complaints regarding TCI America

We cannot comment on any specific complaint received by the Division or even whether the Division is currently investigating TCI America. Because TCI conducts fundraising campaigns for so many police and firefighter associations in so many towns, there have, of course, been a number of inquiries made to the Division over the years. Periodically, we have been made aware of the failure of TCI America to register a particular campaign or to timely report on the funds raised. These problems have usually been resolved without litigation. A suit was filed, however, in 1997 against Northeast Celebrity Sports, a professional fundraising corporation under the presidency of Mark Hayes, who is also the current president of TCI America, because it failed to file a financial report

required by M.G.L. c. 68, § 24(c). Northeast vigorously defended and then, a year later, defaulted and is barred from further fundraising.

- Exemption for non-charitable campaign

Pursuant to a 1986 Permanent Injunction (attached) obtained by TELCO Communications, the predecessor solicitor to TCI America, fundraising on behalf of the membership of an association without any charitable appeal does not require registration at The Division. Moreover, the association itself, if strictly a membership organization that does not provide charitable services, is also exempt from registering and reporting to the Division. The critical issue, therefore, for both the association and the fundraising campaign is whether there is a charitable appeal.

- The Cambridge Police Superior Officers Association

This organization is based at the Cambridge Police Department, 5 Western Avenue. It is registered at the Attorney General's Division of Public Charities and in compliance. It has a certificate to solicit which expires on May 31, 2002. Its Attorney General Account No. is 014930. All its filings are public record..

- Information that is public record regarding the above.

I have enclosed the registration of TCI America and its financial report for the campaign on behalf of the Cambridge Police Superior Officers Association. As you can see, the percentage of the net proceeds allocated to the Association is a contractual 41 percent. The enclosed annual Telemarketing Report indicates that the dollar average for all campaigns in 2001 was 35% . However, the average solicitation campaign for the same period allocated 28% to the charity. I refer you to the 1988 U.S. Supreme Court decision in Riley v National Federation of the Blind (enclosed) which bars state regulators from imposing either a specific percentage to be allocated to the charity or even from requiring fundraisers to affirmatively disclose that percentage.

- Consumer education

I have also enclosed a number of consumer education brochures that might be helpful. Advice on wise giving donors is extremely important and we are grateful for any assistance. We recommend that donors ask questions of the fundraiser, particularly how much of the donation will be retained by the fundraising organization. The donor could then check that percentage with the Division before making a contribution. Donors could also be encouraged to refuse taping their check to the door. A valid charity should not refuse to use the mail or to respond to any question regarding purposes and stewardship of charitable funds.

- Local ordinances

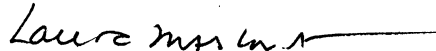
I think that all your suggestions are valid but cannot be certain that they will not be challenged as infringements on First Amendment protections for charitable solicitation. The outcome of a pending Supreme Court case concerning local permits will be instructive in this regard. You might consider joining with other towns in the area and adopting a similar permitting requirement. My suggestion is that you consult corporation counsel.

- Unlawful solicitation practices

The practices you describe in your correspondence are violations of Massachusetts law. Impersonating a police officer or threatening to withhold public services (either directly or by implication) are egregious violations of several statutes and regulations designed to protect citizens. We ask you to encourage donors to report such practices to the Division.

I hope that this material is useful. We welcome your interest and cooperation in our enforcement efforts.

Yours truly,



Laura Maslow-Armand
Assistant Attorney General
Division of Public Charities
Public Protection Bureau
617-727-2200 ext 2119

Enclosures

DONATING DO'S AND DON'TS

A Guide to Charitable Giving

Office of Attorney General Tom Reilly

One Ashburton Place

Boston, MA 02108

617-727-2200

www.ago.state.ma.us



Most charities are reputable and worthy of your financial support. Charitable fundraising is a big business these days, however, and just like any big business, it has its share of questionable operators. With today's economy, it's more important than ever to make your donations carefully. Follow the tips outlined here before making a donation.

DO KNOW YOUR CHARITY. Never give to a charity you know nothing about. Ask for printed materials which clearly and specifically state:

- ✓ the name, address and telephone number of the charity;
- ✓ a specific description of how and where the charitable funds will be used;
- ✓ whether your donation is tax deductible as a charitable contribution; and
- ✓ the name, address and telephone number of the professional fundraiser, if any, the charity uses.

DO FIND OUT WHERE YOUR MONEY GOES.

- ✓ Ask how much of the money goes to the charity; a paid fundraiser may be involved.
- ✓ Beware of statements such as "all proceeds go to charity;" the "proceeds" may not be very much after expenses are deducted.
- ✓ Ask for financial statements which tell you how much of your charity dollar goes to fundraising or administrative and general expenses, and how much is left for the program you want to support.

DON'T BE FOOLED BY A NAME. Some phony charities, including for-profit companies, have sympathetic sounding names, or names that closely resemble those of respected, legitimate charities.

DON'T FALL FOR A "SOB STORY". The hard luck tale is a favorite ploy of the phony operator. A legitimate charity will tell you how it's using your money to make a difference for the better.

DON'T SUCCUMB TO PRESSURE. Take time to decide. The need is always there; make sure the organization will be there, too.

DON'T PAY BY CASH. Pay by check, and make it out to the charity (use its full name; don't use initials), not the fundraiser. Never give your credit card number to a fundraiser over the telephone. If the fundraiser comes to your door, always ask to see identification. Better yet, mail your check directly to the charity.

DON'T BE LURED BY "GOODIES." Household products and tickets to shows can be legitimate fund raising tools, but they do add extra costs. If you receive unordered items in the mail, don't feel obligated to make a donation.

It's against the law to demand payment for unordered merchandise.

**Watch out for sweepstakes as well:
you may end up "winning" very little or something you don't want.**

DO VERIFY THE INFORMATION GIVEN.

- ✓ **Call the Division of Public Charities at the Attorney General's Office in Boston (617) 727-2200, Springfield (413) 784-1240, Worcester (508) 792-7600, or New Bedford (508) 990-9700 to find out if the charity and its fundraiser are registered to operate in the Commonwealth. The Attorney General does not endorse specific charities but does collect financial information which is available for public inspection upon request.**
- ✓ **Call your local police department; some require organizations to register before soliciting; they may be able to tell you if they have received complaints about the solicitation.**
- ✓ **Call the beneficiaries of the charitable funds — local schools, shelters, workshops, etc. Find out whether they are aware of the solicitation and have authorized the use of their names.**

DO KEEP RECORDS, especially receipts and canceled checks, in case you have a complaint later. They also come in handy when you file your income tax returns.

**If you want to find out if a charity is registered in Massachusetts, call:
THE OFFICE OF THE ATTORNEY GENERAL**

**BOSTON:
DIVISION OF PUBLIC CHARITIES
(617) 727-2200**

**WORCESTER:
(508) 792-7600**

**SPRINGFIELD:
(413) 784-1240**

**Or call your local
Better Business Bureau
(508) 653-4800**

**NEW BEDFORD:
(508) 990-9700**

If you want more information about a national charity, contact:

**The Council of
Better Business Bureaus'
Philanthropic Advisory Service
4200 Wilson Boulevard
Arlington, VA 22203-1804
(703) 276-0100**

**The National Charities
Information Bureau
19 Union Square West
Department FT
New York, NY 10003-3395
(212) 929-6300**



4.

CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager

Richard C. Rossi, Deputy City Manager

June 10, 2002

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 02-20, regarding a report on issues surrounding telephone solicitation tactics, received from Consumers' Council Director Paul Schlaver.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec

S-178

Consent Agenda #4

**Awaiting Report Item Number
02-20**, regarding a report on the
issues surrounding telephone
solicitation tactics.

In City Council June 10, 2002.

PLACED ON FILE.