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Four Keys to Understanding How Crowdfunding Affects Your Charity

Today, a volunteer can create a fundraising page and start soliciting on behalf of a charity in minutes. So too can a fraudster. To protect yourself and your organization, make sure you understand your rights and obligations in this rapidly evolving fundraising environment.

Online charitable fundraising can take many different forms. It may involve email messages, social media, or your organization's own website. Another avenue is crowdfunding. Whether or not your charity has used crowdfunding, below are four keys to understanding how it can affect your organization.

1. Understand what crowdfunding is.

"Crowdfunding" generally means funding a project through the donations of a large number of people. It is typically conducted online, and in some cases, campaigns can go "viral" and quickly attract significant attention and money. (In 2014, a crowdfunding campaign to make potato salad reportedly raised more than \$55,000 from thousands of backers.)

A few common crowdfunding platforms include Kickstarter, Indiegogo, GoFundMe, and YouCaring, but an Internet search of "crowdfunding sites" will reveal many more.

2. Evaluate your existing online fundraising presence.

Your existing online fundraising presence may be more extensive than you know. Third-party fundraising platform websites give charities an opportunity to connect with donors and fundraise online, but they also allow individual supporters to raise funds for their favorite causes through peer-to-peer fundraising.

Some fundraising platforms acquire a database of all tax-exempt charities and allow supporters to initiate peer-to-peer fundraising, even without the charity's knowledge. Find out who is fundraising for your charity and what information and representations they are making on your behalf.

If your charity wants to receive funds from a fundraising platform that has your charity pre-listed in its database, contact the fundraising platform and claim ownership of your charity's presence on that website, so the site has the correct contact and bank account information.

If your charity does not want to be associated with a fundraising platform, contact the fundraising platform to request that it remove your charity from its website.

3. Check a crowdfunding platform's policies.

Charities generally can use third-party fundraising platforms to crowdfund a specific project or campaign, and a charity's supporters can initiate a peer-to-peer fundraising campaign through a fundraising platform to raise money on the charity's behalf.

In either case, evaluate a crowdfunding platform by considering the following:

- What fees will the website deduct from each contribution?
- Are charities provided with donors' information?
- How will the website use donors' information? Is a privacy policy in place?
- When will contributions be deposited into a charity's bank account or mailed to the charity? Solicitation laws in Ohio may require funds to be deposited in the charity's bank account within two business days.
- What happens to contributions that don't meet a certain threshold amount?
- What steps does the website take to prevent solicitation fraud?
- What kind of accounting will the website provide to a charity? If questions arise, what procedures are available for the charity to challenge the accounting?

Just as charities should evaluate third-party fundraising platforms, the platforms themselves also should conduct basic due diligence to discourage fraudulent use. For example, a third-party fundraising platform can check the IRS's website to confirm that a charity is tax-exempt, obtain a charity's written approval before collecting funds for it, and confirm that a person claiming to work for a charity is actually associated with the charity.

4. Consider (and protect) your brand.

Defend your charity's reputation, brand, and fundraising strategy. Your charity has the right to control the use of its name and brand. You may want to establish a policy that spells out who can fundraise on your charity's behalf and how someone can obtain such authorization.

In a majority of states, including Ohio, an individual supporter must get written consent from a charity before he or she uses its name when fundraising. If your charity gives consent, follow up with the supporter to verify that your charity received all donations.

Charities or donors who have questions about crowdfunding or other solicitations in Ohio are encouraged to contact the Ohio Attorney General's Charitable Law Section.

It's Bingo License Renewal Season!

Hundreds of charitable organizations across the state use bingo as a tool for raising funds to support countless programs and services that are important to communities. Each of those organizations holds a license from the Ohio Attorney General's office that permits them to engage in bingo.

Organizations have until Dec. 31 to submit a complete online renewal application in order to continue playing uninterrupted into 2016. Groups that submit incomplete applications or fail to file prior to Dec. 31 will have to stop their bingo operations until a license is issued, which may take several months.

All applications must be submitted through the online bingo licensing site, which is accessible through the Ohio Attorney General's website at www.OhioAttorneyGeneral.gov.

Charitable Law Section staff members are available to respond to questions about the application process and can be reached at 800-282-0515.

Organizations that are considering bingo should attend a Bingo School training in order to learn about the various requirements for recordkeeping and operations. Those trainings are held throughout the state. Participants must register in advance through the Attorney General's website. The training calendar for 2016 will soon be available.

Be Careful When Picking Images for Print or Online Publishing

The Internet has made mass communication faster and easier. However, that doesn't mean it's made things simpler or safer for groups and individuals who maintain a presence online or through social media.

One of the greatest challenges when choosing content for a website or post is figuring out whether it's safe and legal for you or your group to use. That often comes down to knowing whether the image or photo is protected by federal copyright law. Unfortunately, there is no simple way to find that out.

Copyright violation is what is called a "strict liability offense." It doesn't matter whether you or your organization knew the photo or image was protected. All that matters is that you used the image without permission. Although there are some affirmative defenses to an allegation of copyright infringement, such as fair use, they don't automatically protect your organization from being sued.

That's why Attorney General DeWine is urging Ohio businesses and nonprofit groups to be careful when selecting images to use online and in print.

If you or an organization you're affiliated with receives a letter from a company claiming you have committed a copyright violation, don't panic. First, make sure the letter identifies the right people and the right image. Second, see what the letter's asking for: is it asking you to remove the image, provide an acknowledgment of who created it, or pay a fee for its use? Third, consider whether you should obtain legal representation, pay the fee, or take other steps to protect yourself. One size does not fit all.

Attorney General DeWine would like to offer a few tips for protecting yourself from allegations of copyright infringement:

1. Know where the image or picture comes from before you use it. If you can't find out who created the image and get their permission to use it, you may be setting yourself up for trouble.
2. Public availability has no effect on copyright protection. Just because an image is publicly available on the Internet doesn't mean you can use it.
3. Understand that there's no requirement that an image bear a copyright mark, trademark, or statement of ownership to be protected under federal law.
4. Consider obtaining images and photos from websites and services that offer use free of charge and without attribution (crediting the image's creator by name).

If your organization needs specific types of images, consider entering into a contract with a company that provides access to stock photos and images. An internet search for "stock photos" can provide a good starting point.

AG Enforcement Actions Hold Organizations Accountable

The Ohio Attorney General's Charitable Law Section has taken several recent enforcement actions to ensure that charitable funds are used as intended. The actions include solicitor cases and charitable organization cases.

Solicitor cases:

- In the case of MVP Productions, Encore Music Productions, et al., the Attorney General filed a motion to enforce a settlement agreement against Martin Vernello and his professional solicitation company, MVP Productions, in Allen County Common Pleas Court. It was the latest enforcement

action in a 2013 lawsuit filed by the Attorney General against multiple professional solicitors, including Encore Music Productions and its owner Joseph Chiovitti. The Attorney General alleged that the defendants, while raising funds for police and firefighter charities, misled potential donors into thinking they were members of the local police and fire departments. In all, the Attorney General obtained multiple judgments or settlements against the defendants totaling millions of dollars in penalties and lifetime bans from soliciting in Ohio.

- Harris Marketing agreed never to apply as a professional solicitor in Ohio under an assurance of discontinuance that addressed various filing deficiencies. The Attorney General's Office had previously collected \$25,000 from the forfeiture of a bond covering Harris Direct, a predecessor company that went out of business.
- Hudson Village Pizza and owner James Frank McMillen agreed to pay \$7,000 to charitable organizations and to stop soliciting for charitable purposes in Ohio under an assurance of discontinuance addressing false or insufficient information about the solicitor's campaigns in Ohio.
- Show Promotions agreed to pay \$1,500 under an assurance of discontinuance related to numerous filing violations. It also agreed to tiered penalties for any future violations.

Charitable organization cases:

- Middletown Orioles Nest Energizing Youth Inc. (or "M.O.N.E.Y."), pleaded guilty to one felony charge of attempted mail fraud in federal court in October. Under the plea agreement, the corporation agreed to dissolve within the following three months, and its founder, Michael Wieser, agreed to forfeit \$159,250 to the federal government. In an assurance of discontinuance filed in the Franklin County Common Pleas Court, Wieser also agreed to dissolve the charity, to pay \$340,749.97, and to stop running bingo and charitable activities in Ohio.
- Regina Shields, of Cincinnati, was ordered to pay more than \$35,000 for violating Ohio's charitable trust laws. Shields operated Free Truth Enterprises, which was touted as a charity providing housing and job assistance for convicted felons, but the Attorney General's Office found no evidence that the group conducted any charitable programming, and instead found that charitable funds were used for personal purposes.
- Marie Dove, of Orlando, Florida, and her charity agreed to pay over \$3,500 and not to solicit for a charity in Ohio. Dove started Marie Dove Ministries in 2007 in Columbus. (She also operated under the names Royal Roses, Glory Keepers, Elizabeth's Womb, and The Rose Assembly.) The Attorney General's Charitable Law Section determined that Dove used some charitable money for rent, utilities, and food.
- Denasonja Crockett, of Cincinnati, agreed to pay \$915 and not solicit charitable donations or hold an officer or leadership position with a charity in Ohio, according to an assurance of discontinuance filed in August. Crockett was accused of using charitable funds to benefit her for-profit summer camp and giving donors the impression that their donations were tax deductible even though she had not obtained 501(c)(3) status.

Those who suspect misuse of charitable funds or solicitation violations should contact the Ohio Attorney General's Office at www.OhioAttorneyGeneral.gov or 800-282-0515.