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PROVISIONS FOR CERTAIN INFORMATION TO ACCOM-
PANY CHARITABLE SOLICITATIONS SENT THROUGH
THE MAIL

GOVERNMENT

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THE
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HEARING

BEFORE THE

COMMITTEE ON POSTAL FACILITIES,
, AND LABOR MANAGEMENT

OF THE

COMMITTEE ON
OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 5269

A BILL TO AMEND TITLE 39, UNITED STATES CODE, TO
PROVIDE FOR THE FURNISHING OF CERTAIN INFORMA-
TION WITH CHARITABLE SOLICITATIONS SENT THROUGH
THE MAIL, AND FOR OTHER PURPOSES

JULY 30, 1975

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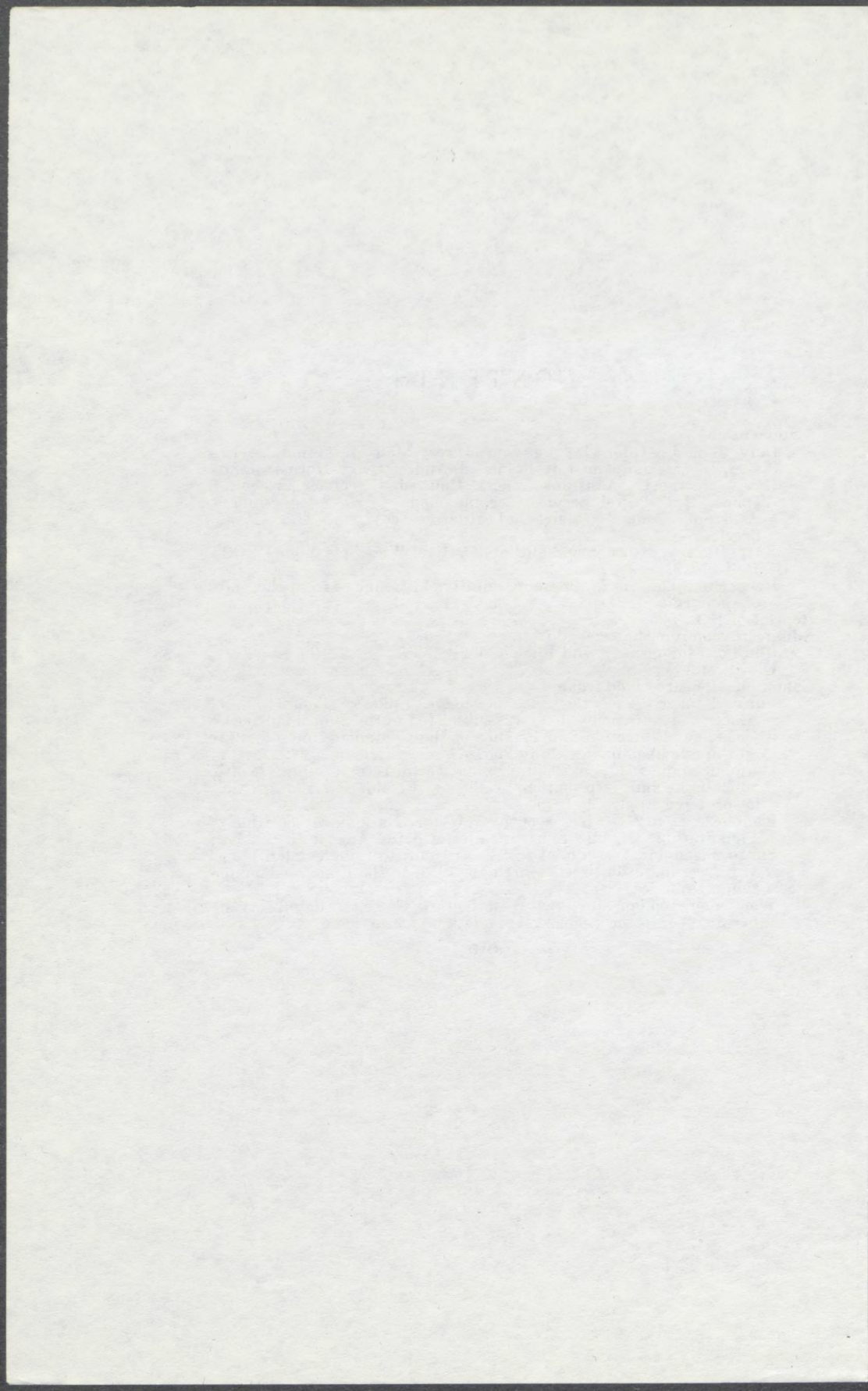
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(GEORGE B. GOULD, *Subcommittee Staff Director*, Room 122, Cannon Building—Ext. 53718)

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PROVISIONS FOR CERTAIN INFORMATION TO AC- COMPANY CHARITABLE SOLICITATIONS SENT THROUGH THE MAIL

WEDNESDAY, JULY 30, 1975

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL FACILITIES, MAIL,
AND LABOR MANAGEMENT,
Washington, D.C.

The subcommittee met at 10:10 a.m., in room 310, Cannon House Office Building, Hon. Charles H. Wilson (chairman of the subcommittee) presiding.

Mr. WILSON. The subcommittee will come to order. The other members will be here, I am sure, after the next quorum call. We will start the proceedings.

This morning the subcommittee will hear testimony on H.R. 5269, a bill sponsored by my good friend Tom Rees of California, which deals with charitable solicitations sent through the mail.

H.R. 5269 provides that any solicitation by mail for charitable contributions shall include certain information such as the purpose for the solicitation and the use of the contribution to be solicited, the need for the contribution—including reasons and figures—the expenses of the solicitation—including salaries and other items—the portion of the contribution collected which will remain for the specific purpose of the solicitation, and the amount of all contributions collected within the preceding calendar year.

It provides that any solicitor by mail shall furnish to the Postal Service such audit reports, accounts, or such other information as the Postal Service may require to verify the information required under the first subsection of the bill.

H.R. 5269 further provides that any applicable mailings which fail to comply with the provisions of the bill will qualify under the definition of unlawful matter under title 39, sections 3006 and 3007, United States Code.

Testifying before us today will be the bill's sponsor, Congressman Rees; Harvey Katz, who is the author of a book on charitable solicitations and was formerly a special counsel to Senator Mondale for charity legislation; George C. Davis, who is the Assistant General Counsel in charge of the Consumer Protection Office of the Postal Service Law Department; and John J. Daly, Francis S. Andrews, and Norman Lind, representing the Direct Mail-Marketing Association, Inc.

Our first witness will be Congressman Rees.

**STATEMENT OF HON. THOMAS M. REES, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. REES. Thank you very much, Mr. Chairman.

My major purpose in introducing this bill was that, although I think 95 percent of all mail solicitations are bona fide solicitations where the sponsors are trying to help their fellow man, I believe a certain percentage are not bona fide solicitations.

Another reason is that I think the giver has the right to know where his money is going. Usually the solicitation does not give the giver, the donor, the opportunity to know how the money is being distributed.

There have been quite a few scandals in the past. This packet of information I have here contains several major articles on some of the solicitations in the past where the cost of the solicitation ate up most of the funds that were raised. One of them was a kidney fund, another was "Friends of the FBI." The packet also includes another general article entitled "How Far Does Your Charity Go?"

In the city of Los Angeles, as far back as I can remember, any organization that wishes to solicit for charitable purposes must register with the social service department of the city of Los Angeles. Here is a booklet issued by the department of social services; you will note that, at least 10 days before the solicitation, a charity must apply to the social services department and more or less outline to the commission the purposes of the solicitation, how much is expected to be spent for fundraising, and how much is expected to be raised.

In the xeroxed material that is before you, the notice of intention is the notification which is sent by the solicitor to the city. If the charity has previously done business in the city of Los Angeles, it sends its past expense record to the department of social services. If the charity is a new one, the solicitor must figure out what they think they will raise and what their various expenses will be.

If the notice of intention is approved by the social services department, the charity is then allowed to go into business.

Now, on the third sheet there are several examples of the information cards that are required; these cards must be printed and sent with every piece of mail to a prospective donor. Some charities print the information at the bottom of the letter, or on the back of the solicitation, but wherever it's from, information provides the donor with an opportunity to find out what the purpose of the solicitation is, how much the charity expects to receive, and how much of that will be spent in overhead expenses, including promotions and direct mail.

Now, again, as I mentioned, if the charity is a new one and this is their first solicitation, they have to come up with estimates of their expenses. If it is a charity, such as the Heart Association, that has been raising money for a great many years, they not only know how much they expect to raise, but they know what their actual expenses were before. This information gives those of us who receive perhaps 5 or 10 solicitations a week the opportunity to really figure out where our charitable dollar will go.

If I am giving money for charity, I want some idea how much of that dollar is actually going to the cause, whether it be for kidney research or children in Bangladesh, and how much is going to fund-

raising expenses. My favorite charity, frankly, is the Salvation Army, because I have always found their fundraising expenses are very low. I will not give any money to a charity unless the information card is provided.

If I know what the expenses are, how much is being spent, and where that money is going, I will take my checkbook out and write a check. If I do not have that information I will not do it.

Now, there are some charities outside the city of Los Angeles that also show where the charitable dollar goes—for example, here is a letter I received from the Easter Seal people.

I received a similar solicitation from the Pearl Buck Foundation which stated where their charitable dollar goes.

But ordinarily, since I will not donate to a charity unless I know where the money is going, I am donating basically only to charities that have been approved by the social services department of the city of Los Angeles.

I do not think that my proposal would be a burden on those who are soliciting for charitable purposes. They would go to the Postal Service for approval, and I suspect the Postal Service would have the same type of administrative procedure as the social services department; the charity would have to give the Postal Service some idea of the purpose of the charity, how much they expect to raise, how much would go for direct mailing and promotional activities, and, also, if they are already in business, what their track record was last year. Then they would get the OK of the Postal Services and all of us would receive this information. We will know exactly where our money is going, and the percent that will be spent for fundraising activities.

You might call this a truth-in-fundraising piece of legislation; and I think it is necessary to protect the donor, because fundraising really is a million-dollar—probably a multibillion-dollar—operation.

I have here also the annual report of the social services department of the city of Los Angeles, which explains the entire procedure and gives you some idea of the various charities that are raising money in Los Angeles, and what percentage of the total funds raised goes into promotional activities. I think this is the type of information that should be made available.

Now, the charities will say, "Well, if you do this and the Postal Service comes in, it will really inhibit our ability to raise money." But this is not true.

If you will look at page 3 of the report here, you can see that in the city of Los Angeles overall giving is going up and has continued to go up. There was a slight dip in 1972 because of economic conditions, but last year something like \$160.7 million was raised in the city of Los Angeles.

And if you look at the bottom bar chart, you'll note that the cost per dollar raised is going down, so that now about 14.35 percent of every dollar raised goes to the cost of raising it; this is down from something like 18.3 percent in 1964.

I think you can see what the effect of this type of law would be. The donor, who I think is basically a sophisticated person—would have to be to run through 5 or 10 of these solicitations that you get every week in the mail—is becoming very conscious of the overhead expenses of raising money; and he wants to make his charitable dollar go as far as possible. Therefore, in Los Angeles he is giving more

money to those charities where he can see that the cost of fundraising is very low.

I think this is a motivation for others who are raising money to do everything possible to keep their overhead expenses down, and to make sure that the maximum amount of the charitable dollar raised actually goes to that charitable purpose.

If there is an argument against this type of approach, the rebuttal is on page 3 of the manual or report of the social services department.

I really do not think that this proposal would hurt any legitimate charity; in fact, I believe it would increase their ability to raise money, just as it apparently increased their ability to raise money in the city of Los Angeles, despite the procedure we have there.

There are others who say, "Well, if you want to know how much a charity is spending for overhead, why not write the charity and ask them to supply you with a copy of their annual report?" But I think that is impractical.

If I get a piece of mail in my mailbox for Easter Seals, for arthritis, or something, I am not going back to my office and dictate a letter and say, "Gee, will you please send us your annual report?" It's a lot easier and less time consuming for me to look at a little slip of paper that is required to be with the mailing and find out that this is a pretty good charity: they only spent 40 percent for fundraising, and 50 percent was spent for hospitals. "By gosh, I'm going to write a check."

I think that this legislation is in the best interests of those of us who believe in giving to charity. We do have some responsibility for our fellow man, and when we give, we want to make darned sure that most of that dollar goes for the purpose that was advertised.

Thank you very much.

Mr. WILSON. Thank you very much, Mr. Rees.

Looking at the report of the Los Angeles Social Services Department I see on page 17 they list major campaigns involving millions of dollars. I am surprised at the cost per dollar raised by an organization like the Campfire Girls, Boy Scouts of America, Helping Hand of Los Angeles, and so forth. Does the city try to police these charities in any way and set a maximum cost per dollar raised before they will authorize a solicitation?

Do they just require that the information be furnished to the public, and let the public make up its own mind?

Mr. REES. Well, they do exercise some judgment. Generally, they would like to keep the expenses down to less than 20 percent of total receipts; on special events, the figure is 50 percent.

Obviously, the first time you run your mailing list, the cost is relatively high. But as you build up that mailing list and reuse the mailing list, then your percentage cost goes down.

I think we find the same thing during our own political fundraising. I know I have a far better percentage on my present list than I did when I was first elected to Congress when I was in the process of building that list. But I do think a donor is well aware of that.

Now, on a special event—the kind of an event where you are sponsoring a dance or a theater party—there are, naturally, expenses that cause the expenses to go up toward 50 percent. The same thing happens in my fundraising; for example, if I raised \$100 for a political campaign by direct mail, my costs may be 17 cents; but if I decide I am going to have a theater party and a dinner, then my costs go up to

around 25 percent. That is what a special event is. It is usually a social or a show type of event, but the cost is higher.

Mr. WILSON. I think you ought to be commended for this legislation. We take so much for granted. We forget that there is a responsibility to the public to air as thoroughly as possible the costs of these charity fundraising affairs.

I find myself just automatically sending in money to causes which are suggested by a letterhead. Now, I am going to start doing a little checking, and find out what is actually happening to the money I give.

Mr. Simon, do you have any questions?

Mr. SIMON. Yes. First of all, I commend you. I think the idea, the concept, is an excellent one.

I am wondering about some practical problems, however. Let us just say that St. Thomas Lutheran Church, or St. Charles Catholic Church—two names that just hit me offhand right now—

Mr. REES. You are getting ready for something.

Mr. SIMON. They decide they want to send out a solicitation for additional help to their members. Does that mean that they have to go through this whole process of filing audit reports with the Postal Service, and all this?

Mr. REES. I would think that the Post Office Department would develop rules, just as the Social Services Department of the city of Los Angeles has, and they would exempt certain classes of solicitation.

I do not think that a local church, which is generally soliciting among its own members or families of their members, would be required to file. The filing is meant for general solicitations rather than the special interest group you are talking about.

Mr. SIMON. You know, I agree that that ought to be the case. I am not sure that your bill as it is now written does include those two churches.

I wonder if there should not be some numerical solicitations below a certain number or authorizing the Postal Service to make exemptions, or something like that.

Mr. REES. In my many years as a legislator, I have yet to write a bill like a stone tablet. So I am always looking for ways that my legislation can be improved.

I think this is part of the legislative process. I see no problem with your suggestion at all. By definition, you can pretty well define the classes of solicitation that we would cover. I know the college I went to is in the city of Los Angeles, but for its alumni solicitations, the college is not required to go to the department of social services, because the alumni is a group that is well defined, it is a group that is attached by interest to the college.

As I say, I thought I would start with a very simple approach, and then we can modify it from there.

These two reports give the rules and regulations which guide the department of social services, but I think there is some difference between solicitation on a national level and solicitation on a local level, so we can't necessarily take these city regulations and put them into our law.

Mr. SIMON. Maybe there is another way of delineating the national and the local. I don't know, but I think this is something the staff would want to work out.

I favor the concept of what you are trying to do. I do think that somehow a local American Legion post soliciting for help for a chicken dinner that is coming up should not have to go through all kinds of paperwork to be able to send that solicitation through the mail.

Mr. REES. I can find out the details of this in Los Angeles, because I know my own American Legion post does not go through this either.

Mr. SIMON. Yes.

Mr. REES. I think we need some words of art to get through this, by definition.

Mr. SIMON. I am not sure that I should be directing this to you, but someone here should be representing the Postal Service. Right now, in order to get the special rate for a charitable organization, you file certain papers and you get a special rate. It seems to me that somehow this same requirement that you have here ought to be filed with the Postal Service in order to get that special reduced rate.

So that any citizen who wants to find out who is getting a special reduced rate, they can go and find out: are these really charitable organizations or nonprofit organizations, or are they not. So that in that sense I would favor expansion of your act, or your proposal, to include these other two areas.

Mr. REES. I think that is excellent.

Mr. SIMON. I have no further questions.

Mr. WILSON. Thank you, Mr. Simon, I think you have raised good points; and I am sure that we can work out through agreement with Mr. Rees the type of thing you have described.

Mr. REES. Let us exempt the Association of Former California Legislators, though.

Mr. WILSON. Oh, yes; we must exempt them.

[Laughter.]

Mr. Clay, is there anything you would like to ask Mr. Rees about this?

Mr. CLAY. Mr. Chairman, I just want to say I support the concept of what Mr. Rees is trying to do. I was not here for his testimony, so I will have no questions at this time.

Mr. WILSON. We would want to exempt congressional fundraisers, also; would that be possible?

Mr. REES. I think something was just done about that.

Mr. SIMON. That does fall in an area of charitable contributions, certainly.

[Laughter.]

Mr. WILSON. Thank you very much, Mr. Rees. Unless you have something further you want to add, we appreciate your excellent bill; we appreciate your appearance here. I support the legislation and I see no reason why we cannot adopt something along the line of what you have introduced here.

Mr. REES. Thank you. I appreciate the courtesy of the committee.

Mr. WILSON. Our next witness is Mr. Harvey Katz. He is an attorney, and the author of "Give! Who Gets your Charity Dollar?"—I have a few copies of it here. I am going to read it. Staff tells me it is very good, very revealing.

Mr. Katz?

STATEMENT OF HARVEY KATZ, ATTORNEY, AND AUTHOR OF
 "GIVE! WHO GETS YOUR CHARITY DOLLAR?"

Mr. KATZ. Thank you, Mr. Chairman, and members of the subcommittee.

I am Harvey Katz, writer and attorney. I served as trial attorney with the Department of Justice, and special counsel to Senator Walter Mondale's committee on charity legislation.

My knowledge of American charities derives mainly from the book you mentioned, Mr. Chairman, which is in essence a contributory guide to charities; and it required about 2 years' research while assisting Senator Mondale, and holding hearings on charities.

What I learned about American charity during the past 3 years, Mr. Chairman, is not good news. I learned that there are frauds, charlatans, and profiteers manipulating many organizations that call themselves charities.

For example, my book discusses a Washington fundraiser, Patrick Gorman, who arranges for these charitable organizations to enter into fundraising contracts, and then somehow manages to keep most—sometimes all—of the contributions for himself. It is not a bad business if we forget the thousands of people who invest their money and their faith in these Gorman enterprises.

I learned that thousands of respectable charitable organizations have been spending our contributions in very surprising ways. The Epilepsy Foundation of America gives its chief executive a free sports car every 2 years. While noted for flood and disaster programs, American Red Cross actually invests more money in resources aiding members of the Armed Forces than into any other program.

The Red Cross official admitted to me that they have deliberately given their most expensive program a low profile so as not to turn off contributors who may have opposed the Vietnam war. The Red Cross does not falsify its financial figures. Some organizations do.

The Pearl S. Buck Foundation deliberately understates its fundraising costs in each annual report by 25 percent. The David Livingstone Missionary Foundation fails to disclose \$1 million in fundraising expenditures in a recent report to Internal Revenue Service.

These are only a few of the many disturbing things about American charity that I have discovered, and I am only one individual who has researched the subject for a relatively short time.

Mr. WILSON. Mr. Katz, I regret to say this but I think we had better go and answer this rollcall. I think this is on the military procurement conference report. I hate to interrupt you, but I want to hear your whole statement.

We will recess for about 7 or 8 minutes and be back as promptly as we can.

[Recess.]

Mr. WILSON. We will call the meeting back to order.

Mr. Katz, you may proceed from where you were interrupted.

Mr. KATZ. Thank you, Mr. Chairman.

I went through some of the stirring things about American charity that I discovered in the past 4 years, Mr. Chairman; and I am only one individual who has been researching the subject for a relatively short time.

The fact of the matter is that these organizations that regularly appeal to the public in the name of public causes have practically zero public accountability and, human nature being what it is, some of the people who run our charities have taken advantage of the situation sometimes to fill their own pockets, sometimes to run their organizations in a highly plush and wasteful manner.

The solution to this problem is not, in my view, a Government watchdog that will in ways subtle or direct watch how these organizations shall be run. I am convinced that a viable, voluntary sector is an essential compliment to Government in various programs, medical research, and social welfare.

If we destroy the voluntary nature of these organizations we also destroy the energy and imagination and dedication that brought us cures for polio and tuberculosis, and have taken large steps toward solving other social ills. At the same time I believe that some sense of accountability must be imposed upon American charity in order to protect contributors first from being exploited, and second, from becoming so disillusioned that charities will be destroyed through disinterest.

The type of accountability I have in mind is to the contributors themselves. Every time an organization asks us for money, it should also give us meaningful and accurate financial information so that we will have some idea of how their organization has been spending our money. This is what I proposed last year in my book, and this, I am pleased to see, is the philosophy behind the bill that we are discussing here today.

If you haven't already discovered it, Mr. Chairman, let me warn you: There are a lot of people who have vested interests in the way charity operates today who will express vehement opposition to this bill. I am not saying that all or even most of them are bad people. A lot of them are dedicated to very worthwhile organizations, and they may honestly believe that those organizations can only survive by keeping contributors in ignorance.

They will tell you that charity investigations form pinpricks in American charity and that a bill like this will hurt a lot of good charities. They will tell you—and I am willing to bet on this, Mr. Chairman, because I have heard it time and time again—they will tell you that the American people are too ignorant to understand complex figures in charitable fundraising.

Let me suggest two things when you hear this kind of argument: First, no one—and I mean no one—knows how many charity frauds there really are in this country, or what percentage of the charity dollar they actually pocket. We are talking about very clever people, people who lie, people who falsify documents and reports, people who do everything they can to appear to be legitimate and very charitable people and organizations.

Until a bill like this becomes a law that is effectively enforced none of us will know how many charity crooks it is protecting us from.

Second, and most important, why must someone like me bear the burden of proving the need for a law like this? If we have no law making murder a crime, how many murders would I have to prove in order to pass such a law? There is no justification for asking someone for money without telling him how you are going to spend it.

It is wrong to make grand promises to a prospective contributor while knowing that those promises will not be kept and cannot be kept. And it is heinous to build a fund that is designed to exploit the ignorance of generous Americans.

As to what really goes on in American charity, a fundraising enterprise that could not survive with an educated and an aware contributing public is not needed.

These are the sins that are committed regularly by—even by the best of our charities—and these are the sins that this bill would eliminate. The only harm this bill would bring to worthwhile organizations is to force them to treat us as intelligent human beings, rather than as puppets. If this is harm, Mr. Chairman, it is very good harm for the American contributor.

There is one more thing you can expect to hear from people who have vested interests in the charity status quo, and this is that charities are now regulating themselves, they are providing financial information to the contributor, and they are establishing ethics that they are following themselves. This is not true.

In researching for my book, Mr. Chairman, I wrote to something like 84 charities, including our most respectable ones, for financial information. Less than half even bothered to answer my letter, and about half of those provided me with financial information.

As far as the establishment of ethics and following of ethics goes, Mr. Chairman, I picked up a list on the table over here of Fund Raising Council of the Direct Mail Marketing Association; included on this list—now this is the Direct Mail Market Association that says it's establishing ethics in regulating the people in their organizations: included on this list are two, V. J. Dicer Co. in Chicago; last year when I was serving as special counsel for Senator Mondale's committee, we held hearings on an organization called the Asthmatic Childrens' Foundation. During the hearings, testimony established that something like \$10 million was raised by this organization during the past 10 years; over \$8 million—over \$8 million—of this amount went to V. J. Dicer Co. for fundraising expenses.

Also included on the list are two employees of the Disabled American Veterans; there is a chapter in my book, Mr. Chairman, on Disabled American Veterans and I suggest you and the members of the subcommittee read that chapter in evaluating how effective this Fund Raising Council or Direct Mail Marketing Association is, or how expensive it can be.

Mr. Chairman, I have some specific comments about the bill that I would prefer to include in a letter to you, and that I would request be incorporated in my testimony. Most of these comments involve minor suggestions, but there is one major matter I would like to discuss now briefly.

This is an exemption that I suggest for the provisions of the bill for two types of organizations, one: membership associations soliciting money exclusively from members; and two: religious organizations soliciting exclusively for religious purposes.

I think the bill would be easier to enforce with these exemptions and it would avoid certain constitutionality problems.

The second type of exemption I stress should be exclusively for religious purposes. The Internal Revenue Service exempts from disclosure charities which are associated with a church. I know of

several nonreligious-type charities that have allied themselves with churches just to obtain that religious exemption. And from what I can tell most of them are very questionable organizations indeed.

So I would propose that when a religious exemption is included in this bill, it be limited to those organizations soliciting exclusively for religious purposes, and not organizations that are merely associated with a church.

I will make one final observation, Mr. Chairman: Taking up the cause of the American contributor can be a risky business. Several charity employees who testified before Senator Mondale or otherwise cooperated with his investigation lost their jobs immediately afterwards.

I have been accused of being a lot of terrible things by a lot of respected people because I happen to tread on the toes of their favorite charities. But I continue to believe that time will prove us right.

If a bill like this is passed we will find that the charity crooks can be put out of business without destroying worthwhile organizations in the process; that American charity is good enough and strong enough to prosper with the truth about itself.

I suggest to you, Mr. Chairman, this end result is worth the time, the effort, and the risk that we may have to face now.

Thank you.

Mr. WILSON. Thank you very much, Mr. Katz.

You made reference to exemptions for religious organizations "for religious purposes"; this is in line with what Mr. Simon was concerned about.

What was the other category?

Mr. KATZ. Membership organizations soliciting exclusively from its members; there is no point—a bill like this is to protect contributors who are unaware or who have no access to information. In a membership association, No. 1, it is soliciting exclusively from its members and not going out to the general public. Second, we are talking about people who are in a position to obtain information if they want it.

I was also pleased that Mr. Simon talked about dollar amount. I think that some ceiling might be placed; a small, local organization that is raising \$1,000 in a year, I do not think deserves the scrutiny of the Postal Service. So I suggest you also consider something like that.

Mr. WILSON. With these exceptions do you find this legislation fairly well complies with your recommendations in your book?

Mr. KATZ. Yes.

I might also point out Mr. Simon suggested something I personally disagree with, and that is—or Mr. Rees—putting some kind of fundraising cost limit. I think that is unfair to small organizations.

Some jurisdictions have 15 percent, or 20 percent, 10 percent, fundraising cost limits; it is ridiculous. You can't raise money, particularly if you are just starting out, at that level.

Mr. WILSON. Apparently the costs for raising funds is related in some way to the amount that is raised; so the smaller fundraisers' efforts have larger administration costs, I suppose?

Mr. KATZ. Well, Mr. Chairman, very honestly it is complex and unpredictable. Now, one argument in here—I think it is true—most people don't have the information and the awareness to cope intelli-

gently with this financial information. But, at the same time, I think that if a bill like this were passed our charities would start spending some money in educating contributors as to the meaning of these figures. And in some way that may be the primary benefit emanating from this—the information will become in the self-interest of the charity, to make sure contributors understand what fundraising is all about and what these figures are.

And I think, I believe very firmly, that that could be the end result of a bill like this.

Mr. WILSON. I might say that this vote now is on the Treasury and Post Office appropriations bill; I am going to keep the subcommittee going. I am going to forgo a vote on this. If the other members want to make the vote and come back, they may do so. We have to keep this going, otherwise we are going to delay all of our witnesses.

Mr. HINSHAW. I will be back, Mr. Chairman.

Mr. CLAY. I would like to make the vote, but I would like to ask a few questions before I go.

Mr. WILSON. Fine, why don't you go ahead?

Mr. CLAY. Particularly on the exemptions you talk about excluding membership organizations; what do you mean by "membership organizations"? Those who have a set membership fee, \$25 a year, \$10 a year?

Mr. KATZ. When it has a valid members—well, the important thing is that a membership organization is defined by statute in most jurisdictions; as opposed to a stock corporation you are a membership corporation.

Mr. CLAY. Would Common Cause be a membership organization?

Mr. KATZ. I am not aware but it seems to me they would be.

The important thing, Mr. Clay, is that solicitation be restricted to members of the organization. Common Cause, even if it is a membership organization, goes after the general public, to nonmembers, and asks for support; that type of solicitation would definitely not be exempt. They would have to, under this bill—

Mr. WILSON. They would be considered a charitable organization?

Mr. KATZ. My definition of a charitable organization is very broad. I think it would include patriotic organizations; charity is generally defined in the common language as "doing good for mankind" in some way, and that seems to me it would include charitable organizations and Common Cause—I don't abide by the narrow Internal Revenue Service definition.

Mr. CLAY. Are you recommending an organization like Common Cause be exempt?

Mr. KATZ. I am recommending that a membership organization be exempt if it restricts its solicitation to people who are members of this corporation, and have a right to obtain financial information from the organization and participate in the activities of the organization; that would be pretty much my definition of the membership organization.

Now, Mr. Clay, we might, when members start reaching the millions, like the Red Cross has members—several million of them—I think we might start saying it is reaching a point where, really, we are not talking about a strict membership corporation; we are really talking about people that are members of the general public who happen to belong to this organization.

It would not bother me if you placed some numerical limit on the number of members in ruling what a membership organization is; I don't think an organization of several million members should be exempted from the provisions of the bill. And I certainly don't think, no matter how many members an organization has, that if they go out to the general public that they should be exempted.

Mr. CLAY. You do not think they should be exempted?

Mr. KATZ. No, absolutely not.

Mr. CLAY. Do you think some kind of a requirement to report those members who contribute substantial amounts ought to be provided for in this bill?

In other words if somebody donates \$25,000 to an organization that lobbies on this Hill exclusively do you think that they ought to be required to report that amount of money to the public, so that we know who it is that is paying the tab for their lobbying legislation?

Mr. KATZ. Well, I think we may be talking about a different kind of bill. This bill is designed to give information to potential contributors, and I, as a contributor, all I really want to know is how my money will be spent.

Mr. CLAY. I think that is in line with it. If I am giving \$10 a year to Common Cause and somebody else is giving \$250,000 to it, it would give me some kind of an inkling as to what bills they are going to lobby for, and what bills they are going to lobby against. And I would want to know that before deciding whether to contribute my \$10 to an organization where 51 percent of its total donations come from one source, and my \$10 is included in the other 49 percent.

Mr. KATZ. Well, very honestly I haven't given it any thought. I think the contributors have to be told what the organization is doing and how the money is being spent. So I don't have any opinion on whether that would help disclose that.

Mr. CLAY. I don't think we are on the same wavelength. They will tell you they're here lobbying, but we want to know what motivates the positions these organizations take.

Mr. KATZ. I would be happy with a simple statement like, "We're lobbying." It would be similar to the American Society saying "We're fighting cancer." That is not good enough.

Mr. CLAY. Then we are on the same wavelength.

Mr. KATZ. Very honestly, I don't have an opinion as to whether disclosing big contributors would actually aid that; if it would, then I would certainly be in favor of it.

Mr. WILSON. I would be interested to find out if the bill as now written would include an organization such as Common Cause. Perhaps as a public service lobby organization they should make more information about themselves available to the public.

Do you feel, Mr. Katz, that full financial disclosure as we have it in the bill would damage any charitable organizations in this country?

Mr. KATZ. I think it would certainly damage the frauds.

Mr. WILSON. It should not hurt a legitimate organization?

Mr. KATZ. Well, Mr. Chairman, it would hurt it I think initially for one reason: that people do not understand—there has been a lot of propaganda about fundraising costs, and people see fundraising costs and they panic. This is an unrealistic reaction. But it is the fault of our charities.

The myths that our charitable organizations have spewed out, they exist in a mythical land where every dollar you give them somehow, magically, you know, is transformed into meaningful charity. That is a myth.

You see a crippled child on television and they say, "Send a dollar to help this crippled child." The impression is your dollar is going to go to that crippled child, and that is not true.

I think that when a bill like this—I think something like this is going to be passed sooner or later because the time is ripe for it. People are more aware of it. And I think it has been building up for some time.

And I think that when a bill like this gets passed, that a lot of charities are going to start voting a portion of their resources to educating contributors, preparing them for the disclosure; and this is a desirable result if it is done properly. And the bill should not harm any worthwhile organization.

I think it is going to harm the frauds. I think it might do a lot of harm to some of our really inefficient organizations; but that is the purpose of it.

Mr. WILSON. Are you familiar with Senator Mondale's bill?

Mr. KATZ. I haven't seen it lately. There was a bill done by an ad hoc committee and it was unusual I think—the Congressman's intentions were good; I know they were. But I do not think you can expect a good bill to come out of a committee composed mostly of vested charity interests who view something like this very emotionally.

They, for the last 50 years, have been able to raise money on myths, and while there are financial statements available, I find most of them are unreliable. There are well-intentioned groups but much improvement is needed.

Mr. WILSON. Apparently there are a lot of blank exemptions in that bill that are perhaps not completely justified.

Mr. KATZ. I prefer a very simple and direct approach, and I prefer to see as few exemptions as possible. The two I mentioned I think are necessary, and one additional may be as far as the amount of money that is raised—under a certain dollar figure could be exempt; I don't know if that is necessary to put in the bill. It could be through regulation of some kind.

I think the religious exemption should be in the bill.

Mr. WILSON. Mr. Simon, while you were out on the rollcall, Mr. Katz, indicated he felt there should be two exemptions in the bill; one would exempt religious organizations which solicit for religious purposes only; and the other would be for membership organizations for solicitation within their own membership.

Have you further questions you would like to ask Mr. Katz?

Mr. SIMON. I tend to agree with those two exemptions. I am just curious: do you have any idea on the basis of your research what percentage of charitable contributions are solicited and received by mail, in other words, like Red Cross I think is largely a nonmail kind of thing; and some of them are through the mail in the sense they have ads in magazines that say, "Contribute to the Children's Crusade," or whatever it is.

Mr. KATZ. I don't know. I am sure the marketing people who will testify later will have figures. It is fair to say that direct mail solicitation is far greater, and the most common form. In the polio crusade

we had those marches, but that is pretty much out now because of crime in the city and women finding their rightful place in the employment market.

So what we have now is pretty much—and I think it will become almost exclusively—direct mail, and maybe some special fundraising.

Now, direct mail is a wonderful way to raise money, in a lot of respects because if you are a small group you have maybe a big research program and not a lot of personnel, it's a good way to raise money. You don't have to have people running around in the streets. You don't have to organize these massive campaigns, telethons—which, or course, is another way to raise money.

At the same time, Mr. Simon, it is a very dangerous way to raise money from the point of view of the contributor because it increases the distance between the organization and the people who are running it and the prospective contributor. At least in these mothers' marches and in a telethon you have some contact with the people who are running the organization.

You look at Jerry Lewis and say, "He's a compassionate guy," and you feel confidence in the organization. Or the same when a person comes to the door. But all you get in a direct mail solicitation is a piece of paper that has been gone over by experts. And I mean experts at how to—I don't want to use the word "exploit," how to "take advantage," make the most of people's weaknesses, their charitable instincts, their generosity; and some solicitations by patriotic organizations, their hate, their feelings of guilt.

And these experts sit down, they will rewrite this letter a thousand times. They will take the computer and take out names that they know are vulnerable to certain types of appeals because of the credit cards they use, or the churches they belong to; and this decreases the amount of accountability or the little accountability that used to exist between charities and contributors.

And that is the gap, the serious gap, and that is the gap I see a bill like this filling.

Mr. SIMON. My reason for asking the question is that it occurs to me that somehow in addition to the language of this bill that, in fact, Mr. Chairman, when we assist—as I think we should—second-class mail with a subsidy; in fact, when somebody has an ad in a magazine soliciting for funds, we are assisting that organization; and I am not sure but we should not require an organization that has an ad in a magazine that goes through the mails, that we should not require some kind of a statement on the part of that organization, too.

Mr. KATZ. And telethons, too; I agree with you.

Mr. SIMON. This committee doesn't have any jurisdiction over telethons; but I would again agree, you have again some jurisdiction there.

Mr. KATZ. I think it may not be in this committee, but it is there. And I don't know—I think that once the bill, even if it applies only to the mails, that that is a good point about the magazines. The magazines are sent through the mail and I think your jurisdiction would extend to that.

And there is no reason why an ad can't have a box on it that would provide financial information.

As I said to Mr. Wilson, I will make some suggestions in a letter—the type of information that is required is already available through these organizations if they solicit in any of 26 States now, they have to provide financial information. Most of it is filed away by the State agency and never seen. They all have to be prepared to render reports which are—again, I find these terribly useless in trying to find out where these organizations are spending their money. The information is there, but when you start comparing the documents and comparing the information, it's not good.

And the only question the charities and the fundraising people are going to raise is the impact of that information on the American public. I believe the American public, with a little education on what fundraising means, is capable of dealing with this kind of information, and is entitled to it—that is the most important thing.

Mr. SIMON. I have no further questions, Mr. Chairman.

Mr. WILSON. In order to expedite, so we get to other witnesses, I am going to let Mr. Hinshaw ask some questions. I also think you may have some suggested language on the exemption for religious organizations. This can get a little sticky, because in the Los Angeles County area and perhaps in Mr. Hinshaw's Orange County, we have every possible religious organization in the world. I would like to define the religious organizations we would give exemptions to.

Mr. KATZ. Well, I know but we have the Supreme Court and Constitution to deal with, Mr. Chairman. I could become a minister easily enough myself and I don't know if that poses a real threat to the contributing public. I do not think we are after the "street corner minister" or this sort of organization.

Mr. WILSON. Perhaps they don't mail as much.

Mr. KATZ. Well, it depends on how you define "street corner ministers," I suppose.

Mr. WILSON. Mr. Hinshaw, do you have some questions to ask?

Mr. HINSHAW. Yes.

Mr. KATZ, I want to thank you for the book. I am sure I will read most if not all of it.

In reading the bill and trying to understand the words as opposed to the intent of the bill, I wondered if you could help me a little bit on page 2, lines 9 through 12—if you have a copy of the bill there—it says, "a portion of the contribution collected as a result of solicitation which will remain available for application for the specific purpose of the solicitation." I wonder from a practical standpoint if it is impossible to predict—I will pose a hypothetical situation:

An organization mails out a solicitation and they wind up not having any returns at all; what then?

Mr. KATZ. It is not a provision I would put in the bill if I drafted it. I think the important difficulties are in predicting—the best gage of how an organization, particularly if that organization has been in business for several years, the best gage for figuring how they will spend a dollar this year is how they spent it last year.

I agree with you that this is particularly true for an organization that has been around for a while and is an expert in direct mail fundraising and other kinds of fundraising. And even organizations that have been around for a while, there is a large element of unpredictability. It is getting less; these people have computers, and they run tests; and they are becoming more and more expert in being able to predict in direct mail what a particular letter will bring.

Mr. HINSHAW. Would we have a problem with the unscrupulous types of organizations trying to comply with the intent of this bill as best they can by changing their organizational name every year so that they can say, "We are a new organization; therefore we don't need to comply with No. 5?" I wonder if there are some loopholes in the provisions for the unscrupulous practitioner that might not be overcome by the language as it is presently drafted?

Mr. KATZ. Well, one of the problems I am sure you are aware of it, and prosecutors come under this all the time is that in talking about common law fraud you have a lot of problems with charity fraud, because you are making broad promises; you are asking people to give away their money and not getting anything back in return for it. So the elements of common law fraud are missing.

One way to deal with that type of situation—and this is one of the suggestions I intend to put in my letter—is to require that before sending out a solicitation the organization or the individuals submit a sworn statement to the postal inspector setting out certain things about the fundraising contract he is operating under, the amount of money he will get from the solicitation. And if there are mistatements in that, that is a felony.

And although there may be some disclosure requirements for new organizations as far as the fundraiser and what his contract is, I think this is how you deal with the fly-by-night operator. If he is going to lie to the postal inspector, then the U.S. attorney will hear about it. And it is clearly a 5-year felony under the statute.

Mr. HINSHAW. Reading the bill itself doesn't give any answer to my question, which is this: Should this type of limitation be only civil, or do you think it should be limited to nonprofit organizations? This bill doesn't say anything about profit versus nonprofit.

Mr. KATZ. I think the important thing, Mr. Hinshaw, is the purpose for which you are asking people to give. If you are asking people to give for a charitable purpose in the broad sense, as I interpret it, "to do good for mankind," to give money to some kind of worthwhile cause, then whether the organization is profit or nonprofit, in my mind and in the viewpoint of the contributors, is really immaterial.

Mr. HINSHAW. I do not see a reference in the bill to the definition of a "charitable purpose" in any section. Am I correct in my understanding if there is not a definition of "charitable purposes" it seems to me we have left an extremely big loophole. Would you agree?

Mr. KATZ. I would.

Mr. HINSHAW. One of the provisions of this bill is that the Postal Service know that there is a mail solicitation for a "charitable purpose". Now, assuming they would have to put the "purposes" information on page 2 in the mailing itself, how would the Postal Service know that this was a charitable solicitation?

Mr. KATZ. One suggestion I have is that prior to mailing out the solicitations, the organization would have to submit the information, including the solicitation, under oath to the Postal Service—not for approval; I don't think the Postal Service should approve whether the solicitation should be sent. But, rather, to file away and keep the information there; if the information is false, the false information makes it a felony; and it can be used later by the investigators.

I don't propose that the Postal Service go through the mails or anything like that. I think an advance statement of the information to be included would suffice for that purpose.

Mr. HINSHAW. I am not an expert on all of the provisions of a first-class mailing, but the thought strikes me suddenly that there may be some provisions about personalized mail that would preclude the Postal Service from requiring advance information as to what is to be sent out in first-class mail.

And if my impression is correct, and if an unscrupulous operator wanted to mail it out under first-class mail, the intent of this bill could be completely obviated.

Mr. KATZ. The bill would require that whoever used the mail service to solicit money from the general public for charitable purposes, that it meet the conditions; and the Government can impose that kind of condition on any kind of service.

The Postal Service would not be approving in advance the information; they would just be given a copy of it. And that would meet the requirements of the bill.

Mr. HINSHAW. One of the problems I see in the bill is the charge of regulating private business. Do you see any problems with that possible charge?

Mr. KATZ. Well, I am more concerned about the Government dictating how the volunteer sector will run itself. That really bothers me. And it is something I want desperately to avoid; but I do not see that happening here.

In other words I feel—and that is why I object to some of these fundraising cost ceilings—I feel that if I want to give to supporting "Sugar Eaters in Cuba," I should have that right, even if their fundraising costs are 95 percent of receipts; I should have that option of supporting it. And maybe there are one or two people who would.

I don't think I should be denied the right to contribute to an organization because its fundraising costs have exceeded some arbitrary figure that is imposed.

Mr. HINSHAW. I agree.

Two further questions: Under the bill we are currently discussing would not the Postal Service have to have a substantial body of auditors to verify the information?

Mr. KATZ. I don't know how many. "Substantial" is a difficult word.

I think that the bureau of charity experts will have to be developed in whatever organization eventually is given the task. Now, one advantage I see to this bill as opposed to, say, one that would give IRS the overseeing and enforcement capability, is the Postal Service would be working with the U.S. attorneys' offices; and you can divide up the expertise a little bit, and have a cooperative arrangement with the U.S. attorney.

But there is no doubt that right now as far as I know there are no real contributor-oriented experts in any Government agency. The capability is there, but it would have to be developed either in Postal Service, Internal Revenue, or Department of Commerce.

I would not support a bill without expecting or suggesting that it be enforced. It has to be enforced.

Mr. HINSHAW. I am going to rush off in just a moment for the next vote.

What would be your reaction to incorporating something like this into some part of Senator Mondale's bill?

Mr. KATZ. Well, it does not disturb me. I would like to see both bills go to the point where there might be some incorporation. Of course, Senator Mondale's bill—well there are problems with jurisdiction. It's in the Finance Committee and, therefore, IRS; this one goes to the Postal Service. I do not think, very honestly, that it makes too much difference which agency enforces the bill; as I see it, the enforcing agency will develop an independent or separate bureau that would be expert in this area.

I think that it is really not that material which agency develops that kind of ability.

Mr. HINSHAW. OK.

Thank you, Mr. Chairman.

Mr. WILSON. Thank you, Mr. Katz.

And I might say to the other witnesses that I am going to have to go to a meeting at noon. Any testimony you have here will be included in the record.

We have a bill on the floor that comes up at 12 o'clock of which I am the author. I want to be there to support my own bill.

Thank you again, Mr. Katz.

At this time we will hear from Mr. George Davis.

**STATEMENT OF GEORGE C. DAVIS, ASSISTANT GENERAL COUNSEL,
CONSUMER PROTECTION OFFICE U.S. POSTAL SERVICE LAW
DEPARTMENT, ACCOMPANIED BY W. ALLEN SANDERS, ASSIST-
ANT GENERAL COUNSEL, LEGISLATIVE DIVISION**

Mr. DAVIS. Good morning, Mr. Chairman. I have with me Allen Sanders, Assistant General Counsel for Legislation.

We have submitted a moderately lengthy statement and if I might suggest, in considering the amount of time we have, perhaps it might do not to read that, but I could range over some of the testimony we have heard this morning.

Mr. WILSON. We will put your statement in the record.

[The statement follows:]

STATEMENT OF GEORGE C. DAVIS

Mr. Chairman and members of the subcommittee, my name is George C. Davis. I am Assistant General Counsel in charge of the Consumer Protection Office of the Postal Service Law Department. With me this morning is W. Allen

Sanders, Assistant General Counsel, Legislative Division. We are here at your request to discuss H.R. 5269, a bill which would require certain information to be furnished with charitable solicitations sent through the mail.

In summary, I believe that if enacted with some modification, this bill would enable the public to make more informed judgments in respect to prospective contributions and facilitate enforcement of existing laws concerned with mail fraud and misrepresentation.

At present, two statutes permit the Postal Service to take action to prevent misuse of the mails by fraudulent or deceptive charities—39 U.S.C. § 3005, the postal false representation statute, and 18 U.S.C. § 1341, the mail fraud statute. However, each of these statutes has practical and legal limitations where charity frauds are concerned; and unlike H.R. 5269, each is designed to terminate an improperly operated solicitation rather than cause the publication of information by a presumably honest and sincere charity.

Under 39 U.S.C. § 3005, the Postal Service may, upon compliance with the Administrative Procedure Act, issue an administrative mail stop order against any person who "is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations." The mail stop order directs the Postmaster to return to the sender mail which is addressed to the operator of a misrepresentation scheme, and forbids the payment of money orders drawn to the operator of the scheme or his representative. These measures limit the harmful effects on the public of a fraud by shutting off the flow of money to its perpetrator. Section 3006 of Title 39—the proposed enforcement vehicle under the proposed legislation—is essentially similar. Both statutes are supplemented by a third statute—39 U.S.C. § 3007—which allows Federal district courts to enjoin the Postal Service from delivering mail to the operator of a scheme pending termination of the administrative case.

Proceedings under § 3005 are relatively expeditious and, we believe, effective. However, some experienced violators of the statute are adept in rapidly resuming the scheme under a new name and address, thus necessitating repeated administrative cases against the same promotor. Additionally, the effectiveness of § 3005 is directly related to how promptly we identify a violation and are able to take administrative action. In the case of schemes involving only a single solicitation, the promotor may be able to escape with much of the fruit of his venture before we catch up with him. In other words, a necessary deficiency in our existing authority—including the mail fraud statute—is that during the time the scheme operates without our knowledge and, thereafter, while we satisfy the necessary legal procedures, the public is being victimized and without any real chance to have their money returned. Like disabilities exist with respect to section 3006.

The criminal mail fraud statute, 18 U.S.C. § 1341, holds the threat of a five-year sentence and a \$1,000 fine for any person convicted of use of the mails in "any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent promises".

The mail fraud and false representations statutes are fully applicable to deceptive or dishonest charitable solicitations by mail. However, these are relatively infrequent and difficult cases for a number of reasons.

Effective enforcement of these statutes is largely dependent upon the public knowing that it has been victimized and reporting that fact to the Postal Service. In the ordinary fraud or misrepresentation case, the operator of the scheme fails to deliver promised goods or services, the victim thereby becomes aware of his injury, and we are informed. In charity schemes, the victimized contributor does not await any key event to tip off the fact that he has been taken.

It is exceedingly difficult for the public to gain awareness of a cleverly designed charity fraud. Most illicit operations are designed to be barely distinguishable from their legitimate counterparts and the contributing public will not ordinarily seek to determine whether the promoter has dedicated a disproportionate percentage of the contributions to his own use, or has misused the name or reputation of well-known persons or groups allegedly supporting the solicitation.

A major obstacle to the successful prosecution of a charity fraud under § 1341 is the difficulty of proving intent to defraud. Traditionally, it is left to the public to determine the merits of a particular appeal for contributions. No law directs the founding of a charity or the use of its income. The unscrupulous promoter undoubtedly finds this gray area hospitable. To avoid prosecution and to show his "good intentions", he merely has to keep his books in order and make sure that some portion of the receipts is devoted to the cause his "charity" ostensibly serves.

Moreover, United States attorneys are reluctant to prosecute all but the most flagrant cases of charity fraud. The ordinary cases generally lack jury appeal and the difficulties of prosecution are multiplied if the charity is affiliated with an ostensible religious organization.

In partial recognition of these conditions, in the past three years only 2 of approximately 400 cases initiated under the false representations statute and 75 of approximately 23,000 investigations initiated under the mail fraud statute were concerned with charitable solicitations. While these statistics reflect the difficulties I have mentioned they also suggest that most charitable solicitations by mail are honest.

In my judgment the only effective preventative of consumer deception is an informed public and the proposed legislation is an effort in that direction. It seeks to require each person mailing a solicitation for charitable contributions to include with the mailing information disclosing: (1) the purpose of the solicitation and the use of the contribution; (2) the need for the contribution, including supporting reasons and figures; (3) the expenses of the solicitation, including salaries; (4) the portion of the contribution to be applied to the specific charitable purpose; and (5) the amount of contributions collected during the previous calendar year, together with the use made of the funds.

While these categories of information would appear useful to the prospective contributor, we would suggest that some clarification of the language is necessary in order clearly to delineate the responsibilities of those subject to the bill and, perhaps, to avoid loopholes which might be used in circumvention of the intention of the Congress. For example, subsection (3) is not clear as to whether the expenses to be disclosed are only those which have been incurred at the time of the solicitation or include anticipated or budgeted expenses. Similarly, subsection (5) requires disclosure of all contributions effected by the solicitor or his agent within the previous 12 months and the expenditure or use of such funds. Literally applied, this subsection would appear to require a professional mailing agent to make this disclosure with respect to any and all fund appeals conducted for principals unrelated to each other and independent of the solicitation to which application of the requirement is being considered. We would be pleased to work with the committee staff to propose revised language more accurately reflecting the bill's apparent intent.

Disclosure of the information contemplated by the bill, as appropriately modified, will allow the recipient of a charitable solicitation to make a more informed judgment concerning the merits of the plea for funds. However, I would suggest that in order to be effectively informed, the recipient of a solicitation complying with the proposed legislation must make some comparative analysis of the various charities competing for his dollar. The costs and benefits paid by a particular charity have little absolute value. Their relevance is apparent only through comparison with other solicitations. The bill will provide the recipient this opportunity but it will not make his conclusions for him.

Disclosure would not appear to harm legitimate organizations, many of which already disclose much of this information but it would make life considerably more difficult for "fly-by-night" charities which appear to do little more than provide business for printer-mailer companies and advertising concerns.

In addition, H.R. 5269 would require a mailer to give the Postal Service, upon request, sufficient audit reports and other data to verify the information furnished along with his charitable solicitations. The Postal Service does not have subpoena power in cases arising under 39 U.S.C. §§ 3005, 3006. Accordingly, access to this information would not only enable the Postal Service to enforce mailer compliance with the disclosure requirements, but would also assist the Postal Inspection Service in its investigation of false or fraudulent charity appeals.

We interpret this provision as authorizing the Postal Service to demand particular information from specific charities in cases where it would seem appropriate in order to verify disclosed information or where a particular charity has failed to make a required disclosure. We do not interpret the provision as requiring charities, as a condition of using the mails, to furnish this information to the Postal Service or to require the Postal Service to receive and review reports from all charities using the mails to distribute their solicitations. The Postal Service does not seek and, we believe, the bill does not contemplate, a major regulatory program to be administered by the Postal Service. Rather, we interpret the bill as contemplating inquiry by the Postal Service when it has reason to believe that a particular charity may be violating the law. If our suspicions are confirmed by the inquiry or other investigation, we may take the action contemplated by the bill or, if evidence of mail fraud is disclosed, initiate appropriate action under the mail fraud laws.

At the request of the subcommittee, we have compared the provisions of H.R. 5269 with those of a somewhat similar bill, H.R. 1123. Although both bills have the public interest at heart, we believe that H.R. 5269 provides a superior framework for accomplishment of the underlying intent. A brief comparison of the provisions of these two bills should illustrate why we prefer H.R. 5269.

(1) H.R. 5269 requires certain information to be enclosed with a charitable solicitation, while H.R. 1123 would require similar disclosures within 30 days of a written request from the recipient of a solicitation. In our opinion, the disclosure of essential financial information concerning an organization would more effectively inform a greater number of prospective donors if made available along with the solicitation. We would anticipate reluctance in many donors to take the necessary action to secure the information. I would also suspect that some donors would elect not to donate to a fully valid and deserving cause if the solicitation were construed as requiring them to make such inquiry in order to be fully informed as to the nature of the organization. In addition, the operator of a counterfeited charity could use the 30-day grace period of H.R. 1123 not to prepare a reply to a request for information, but to make good his escape.

(2) H.R. 5269 applies across the Board to "any solicitation for contributions for a charitable purpose" sent through the mails. In contrast, H.R. 1123 contains broad exemptions for churches, church auxiliaries, institutions of higher education, and private secondary or elementary schools, thus permitting the perpetrator of a fraud to disguise his operation as a "school" or a "church" and avoid compliance with the bill's provisions. As we would oppose legislation discriminating against such organizations, we oppose any blanket exemption from compliance with the proposed legislation.

(3) The provisions of H.R. 5269 are relatively straightforward and, we believe, with minor modification, will be easy to interpret and apply. In contrast, H.R. 1123 contains varying definitions of "persons", and a somewhat confusing pattern of provisos and exceptions.

Accordingly, the Postal Service favors the enactment of an appropriately modified H.R. 5269. We believe that this measure will facilitate the accomplishment of our law enforcement responsibilities by making an informed public less susceptible to charity frauds, and by giving us access to data which will be useful in combating those who would prey upon the charitable impulses of the American people.

Mr. Chairman, this concludes my prepared statement. I would be glad at this point to attempt to answer any questions you may have.

Mr. DAVIS. Thank you.

First of all, Mr. Rees, in his testimony as I heard it or perhaps misheard it, was describing a regulatory scheme very different from that described in his bill. There is—as I read this bill—absolutely no authority given to the Postal Service to compel any submission of information as a condition of using the mails.

As I read the bill it would require of the mailer that he disclose five classes of information, and the Postal Service will have the authority to go to the mailer after he has made that disclosure, if the Postal Service sees need to, and obtain from him data which will ultimately, hopefully, verify his information.

Now, as I envision the bill, it would come into play in the Postal Service on an infrequent basis and only when we had reason to believe that a particular solicitation was not being properly operated, or that the information furnished is dishonest or incorrect. That is the way I am reading this bill.

It may be read other ways by other people, but I am the guy who may end up administering the bill. As I see it now that is a charge you would make of me. It would not authorize us to engage in a very substantial regulatory program of the type we have heard about this morning.

I am just saying that whatever that concept is, that we have heard of this morning, it is not in this bill.

Mr. WILSON. I think Mr. Rees was comparing the purpose of the bill to the program in Los Angeles; but the problems of the bill are greater.

Mr. DAVIS. The concept of having the Postal Service review mailing and grant permission or deny permission to mail based on our opinion of that mail bothers me substantially. I think that involves substantial constitutional problems, and particularly with religious organizations, as Mr. Katz suggested. And I do not think we would be in a constitutionally valid posture if we had that sort of a program.

Mr. WILSON. Would you agree with Mr. Katz on the two exemptions he suggests?

Mr. DAVIS. I agree with him in concept, but it is very difficult for me in practice: what is a "religious organization"? That is the question.

Last Friday we found it necessary to go to the U.S. District Court in Los Angeles and ask for an order allowing us to refuse to deliver mail to an organization that styles itself "Jackson State University," which is a subsidiary of the "Church of Universal Education." Jackson State University, we allege, is in the business of selling diplomas without any qualification to them whatever.

Mr. WILSON. We've really got them out there.

Mr. DAVIS. The Church of Universal Education is an organization that has been found tax exempt by IRS, so simply to adopt a statute or regulation that says a religious organization is one that is declared tax exempt by the IRS may not be very significant.

Mr. WILSON. You are prepared to assist us in the drafting of changes in the bill which, in your opinion, make it more practical and realistic for the Postal Service to administer?

Mr. DAVIS. Yes; certainly.

With respect to the potential exemption of membership organizations, I think the concept is very good. I think if you are a member of an organization and receive a solicitation from that organization that you find questionable, you have within the organization a method of going and finding out the true facts; and putting the necessary pressure on the leaders of the organization.

However, I do not know of any universally accepted definition for the phrase "membership organization." And I suggest it is possible that some organizations will send out a letter saying, "Dear Sir, You have just been made a member of my organization," and proceed to to rip him off.

Mr. WILSON. This is the type of thing, again, where I think Mr. Katz presents legitimate reasons why these two exemptions might be included. But in drafting the new language, we should be careful. Some type of definition of "religious organization" might have to be included.

Mr. DAVIS. I do not feel we ought to consider exempting religious organizations from the type of bill Mr. Rees has introduced. It is just too easy to style yourself as a religious organization.

This bill as it now stands does not get into prior censorship; it does not get into prior restraint upon these mailers. It simply says "tell the prospective donor what you are all about, and do it, presumably, in language people can understand." Because I assume as a practical matter, if the donor cannot understand the language, he's going to throw the thing out.

I think some of the criticism of the bill, that you are requiring information the public will not understand, is not valid. I think these people will find it desirable to write so it can be understood.

Mr. WILSON. The bill as written would not give the Postal Service authority to, if they desired, to check mail periodically.

Mr. DAVIS. Not to check mail, no; first-class mail very clearly; no. If we are talking about third-class mail, as I understand the rate structure—and I am not an expert there—it is necessary now in order to obtain a lower postal rate to demonstrate to our rate people that you are a charitable organization. So we are doing that already. That is a condition for third-class mail.

But if you on the other hand wish to mail first class, there is absolutely no restraint whatsoever on what you mail. There is no authority in Postal Service to go out and find out what you are mailing. That is without a very specific order from the U.S. district court.

Now, the way this bill would operate, the mailer would have to disclose information which the recipient might indeed question; he might look at it and question and say, "This doesn't make sense." He could then get in touch with the Postal Service. We could then make a demand under the bill for verifying data.

If the company does not comply with our demand in a reasonable period of time, or whatever period of time you state, as I view the bill we have authority to go directly into the the U.S. district court and ask for an order that allows us to return to senders all mail addressed to that organization. That is pretty substantial pressure on the organization it seems to me; and because of that I think they are likely to comply.

Once we get to that I envision the Internal Audit Division of the Postal Inspection Service going over the thing, finding out whether or not it is legitimate; and if it does not look legitimate we would have under this bill authority to initiate an administrative proceeding that would allow us to return mail to senders. But I think we also have the right to avail ourselves of the existing statutes dealing with mail fraud.

One of the big problems with using the mail fraud statute, in addition to the ones Mr. Katz identified, is people just don't know they are being taken.

In buying something by mail, people have been taken by receiving the wrong item, or an item not as described, or not receiving anything, as the case may be. But in contrast, in a charitable solicitation, the victim has no way of knowing, as far as I know, that he has been taken. And if he does not know, the postal inspectors don't either; they rely on what is told to them. And this bill will do that.

Mr. WILSON. Would you agree that this bill would include lobbying organizations such as have been described?

Mr. DAVIS. One of the technical problems with the bill I think is that we do need to find out what we are talking about: what is a "charitable purpose"?

It could be defined that broadly. My own thought is that it might more appropriately be included in legislation dealing with lobbying. I am sure it would interact with other conditions and qualifications. Now, to the extent that a lobbying organization is making its impact on the public—not lobbying members of the Congress—but is lobbying the public for funds, then I feel that that should be included in this bill.

Mr. WILSON. I see.

Mr. DAVIS. In my definition that is within a broad definition of "charity."

Mr. WILSON. In other words, any public fundraising program should come under the jurisdiction of this bill?

Mr. DAVIS. Yes; I think so, offhand. We might find problems in working out the specific language that would require backup, but I think in a broad definition it is desirable.

Mr. WILSON. Could you explain which specific departments in the U.S. Postal Service would be involved in this bill?

Mr. DAVIS. Yes.

Well, as I now envision it, talking about the bill we have before us, that is not a bill that gets into examining the financial background of an organization before they use the mail; that kind of thing. We are talking about a law enforcement activity, which is what this bill is doing pretty much.

I would envision it would go along these lines: we would receive complaints from the public or inquiries from the public as to a disclosure made by a particular organization. That would be routed to the Postal Inspection Service in their office in the district in which the charity is operating. They would make an investigation to determine whether or not there is a basis for violation of this or any other postal statute.

If they conclude that violation is apparent they would conduct an investigation, prepare an investigative report which would be sent to me; and my office, if we agreed with the investigation that proceedings are called for, would initiate the proceedings called for. Those are administrative proceedings.

Mr. WILSON. Mr. Davis, I am going to have to adjourn the meeting at this time. I have to go to the floor. And I want to apologize to you, and to the witnesses from the Direct Mail Marketing Association for not being able to continue the hearing this morning.

As I said, we will put all the statements in the record.

We hope you appreciate our situation in trying to get the committee work done and the floor work done at the same time.

Thank you very much. We will stand adjourned.

[Whereupon, at 11:53, Wednesday, July 30, 1975, the hearing was adjourned.]

[The prepared statement of the Direct Mail-Marketing Association, Inc., along with other letters and statements submitted for the record, follow:]

Direct Mail/Marketing Association, Inc.
1730 K Street NW, Washington, D.C. 20006 - 202-347-1222



Statement of John Jay Daly
Senior Vice President
THE DIRECT MAIL/MARKETING ASSOCIATION, INC.
before the
Subcommittee on Postal Facilities, Mail & Labor Management
Committee on Post Office & Civil Service
House of Representatives

July 23, 1975

re

H.R. 5269

Introduced by Rep. Thomas M. Rees (D-CA)

"A BILL to amend title 39, United States Code, to provide for the furnishing of certain information with charitable solicitations sent through the mail, and for other purposes.

Chairman Wilson and Members of the Subcommittee:

Good morning, Mr. Chairman. For the record, my name is John Jay Daly. As Senior Vice President of the Direct Mail/Marketing Association -- more familiarly known as DMMA, I've been representing this national trade group since 1963. DMMA is the largest (1800 firms) and oldest (58 years) trade association representing firms which use a variety of media to sell all types of goods and services. Our members' firms range in size from one-man shops to giant corporations. They are located in 48 states plus 30 foreign countries and provide a variety of services for over 2800 individuals. To meet their needs DMMA provides educational meetings, special research and specific information about ways they can effectively sell their goods and services more efficiently. I have attached for the master committee record

a mini-roster of DMMA member firms. The roster can only give a glimpse of the variety of firms within the association.

A portion of DMMA's membership consists of organizations that raise funds through direct mail. They have formed a separate sub group called The DMMA Fund Raising Council and consist of organizations such as CARE, the American Bible Society, the American Foundation for the Blind and numerous others, all of whom are listed on Attachment A.

DMMA and our Council made up of fundraising members has been in the forefront of promoting ethical standards that will strengthen the trust and confidence that millions of Americans place in the many charitable organizations to which they contribute their hard earned dollars. Over a dozen years ago, the Association developed "Guidelines for Ethical Business Practice." As part of those Guidelines a separate "Supplemental Guidelines for FundRaisers" was drawn up covering the whole gamut of fund raising practises. A copy of our full ethical guidelines and the supplemental guidelines for fund raisers is attached for your information.

DMMA is pleased today to present two witnesses who have in-depth expertise in direct marketing techniques, with particular emphasis on fund raising. Together they bring to the witness table more than a half-century of professionalism.

Both will be speaking on behalf of DMMA's Fund Raising Council and of course, after giving their comments about the proposed legislation, they would be pleased to try to answer any questions you or the committee might have, if time permits.

Our first witness will be a member of DMMA's Board of Directors and its Executive Committee, Francis S. (Andy) Andrews, President of American Fund Raising

DMMA Testimony
Re 5269

Direct Mail/Marketing Association, Inc.

-- Page Three --
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Services, Waltham, Massachusetts. Mr. Andrews is a graduate of the University of Maine and has a Master's Degree from Harvard Business School. He also serves as the DMMA Board Liaison to the Fund Raising Council.

Mr. Andrews will be followed by Norman Lind, Director - Direct Mail, CARE, Inc. of New York City. Mr. Lind will be speaking, however, as the Chairman of the DMMA Fund Raising Council. Like Mr. Andrews, he has had over a quarter of a century experience in this field, the last eight of which have been with his present employer. Previously, he marketed publications on Wall St. for the Arthur Wiesenberger & Co., James Dines & Co., and Arnold Bernhard & Co.

* * * * *

Good morning, Mr. Chairman. For the record, my name is Francis S. Andrews and I am President of American Fund Raising Services, Inc. This company is a 25-year old firm of fund raising specialists who provide research, creative and mailing services for 50 of the country's leading nonprofit organizations, including hospitals, colleges, cultural institutions, religious groups, and health and welfare agencies. American Fund Raising Services, Inc. helps to raise more than 1 billion dollars each year for American charity, much of it by mail or in mail assisted campaigns.

As Mr. Daly indicated, I am here to speak on behalf of DMMA's Fund Raising Council and will now proceed with my testimony. (Attached)

STATEMENT BY FRANCIS S. ANDREWS, AMERICAN FUND RAISING SERVICES

House Bill 5269 seeks to accomplish a desirable purpose. The intent of the bill seems to be to assure the recipient of a direct mail fund raising solicitation that his contribution will be spent for charitable purposes as described in the mailing piece, and that the cost of raising funds is within a reasonable range.

No reputable charitable agency could quarrel with the right of the donor to know how his money is being spent and the proportion of his contribution which goes for fund raising expense.

All legitimate charitable organizations publish a financial statement providing much, if not all, of the information contained in the proposed bill.

The national health agencies operate under a standard accounting system so that their activities can be compared on comparable terms.

Colleges and hospitals are audited by certified public accountants and their statements are available. Cultural organizations such as museums, symphonies and ballet companies provide full disclosure.

Some religious groups provide such information voluntarily, but for constitutional reasons probably could not be required to provide the information called for in the bill. And religious groups account for nearly half of all money contributed to charity.

This leaves a tiny group of other organizations which might or might not provide full disclosure. Of this tiny group there are possibly fifteen or twenty charities which could be termed questionable, and these organizations are well known to postal authorities responsible for mail fraud.

In fact, it is remarkable that 25 billion dollars could be raised for philanthropic purposes each year with such a tiny proportion skimmed off by shady operators.

Yet, this bill and many others at the state and Federal level seek to impose on all charitable organizations a burden which belongs only to a few.

According to statistics, 88% of all American families now contribute to charity--and 75% of all American families contribute through the mails at one time or another.

Yet, except for an occasional scandal blown out of proportion to the total charitable effort, the public seems willing to maintain its level of giving and to increase it at least 10% per year.

The reason for this basic trust is that few people truly believe that their church, their Boy Scout troop, their college, their local museum, or their community hospital are involved in fraud by mail. And this is where the bulk of charitable funds go -- right to the community level where every citizen is a watchdog of his money.

The imposition of the provisions of H. R. 5269 would penalize all of these local charitable groups, yet would not catch the real crooks, the five or six men in this country who occasionally promote a dubious cause and abscond with the funds.

The first two provisions of the bill -- a statement of the purpose of the solicitation and the need -- are a standard part of every mailing piece. It is on this part of the presentation that the public decides whether or not to support a charitable group.

The remaining three portions deal with expenses and income, the costs of fund raising, and the expenditure of charitable funds.

It is in this area that problems arise.

I am sure that the members of this committee and all fund raisers wish there were a simplistic way of measuring the efficiency of any fund raising effort. And, if there were a magic figure, say 25%, then all charities raising funds over 25% would be automatically evil and those under 25% would be automatically pure.

The economics of charitable solicitation are not that simple. Every charity has a different cost of raising funds -- and that cost has nothing to do with salaries or postage or the cost of envelopes and paper.

If not, what is cost? Costs of fund raising are best stated as a percentage -- the number of pennies deducted from each charitable dollar for fund raising. The cost of a mailing piece has nothing to do with fund raising costs, except in terms of pulling power.

The cost of an envelope, letterhead, folder and postage stamp is the same for all organizations operating in a competitive environment. Yet, that same expense for materials will return more money for one charity than another, thus resulting in a higher percentage cost of fund raising for one organization over another.

For example, an appeal for cancer will bring an almost universal response and fund raising costs may be as little as 10¢ on the dollar. Yet, if that same mailing piece

with the same costs of envelope, letterhead, folder and postage talked about curing VD or leprosy, the costs of fund raising would skyrocket. These diseases are "unpopular" and do not pose an immediate threat to the reader of the mailing piece and his family.

In this example, all costs and salaries were the same. Yet, because fewer people were attracted by the solicitation, fund raising cost ratios would be higher for VD and leprosy and lower for cancer.

In complying with the provisions of the proposed bill, the outgoing mailing pieces for each organization would carry different fund raising costs -- 10¢ for cancer and perhaps 40¢ or 50¢ for VD and leprosy.

Does this mean that one organization is less reputable or efficient, or that the need for funds is less urgent? No ... one organization's fund raising cost is higher than another because of the priority the public places on the cure of one disease over another.

There is another reason for differing fund raising costs. All mailing pieces are not mailed for the same purpose. Charitable mailing pieces can be divided into two categories, both with totally divergent purposes and costs of fund raising.

One category of mailings is called "prospecting" -- the seeking of new friends and contributors who have never given before.

A community hospital might mail to every household in the surrounding towns, seeking new supporters, to reach new families recently moved in, or to build a list of people who are so interested in the cause of community medicine that they will contribute year after year to build and maintain a better hospital.

The return from such a mass mailing to prospects would be considered good if it makes a small amount of money or breaks even. A return of 1% or 2% is common.

If a community hospital mails 1,000 pieces to people who have never contributed before, it might receive a 2% response -- 20 gifts at an average of perhaps \$10 per gift. \$200 would be raised in this mailing. The cost of 1,000 mailing pieces might be \$100, a typical figure for nonprofit direct mail. Thus the "cost" of this fund raising is 50¢ on the dollar. Would this cost, if published in the mailing piece, inhibit the hospital's effort to build a list of long term friends and donors?

Yes, it would.

According to a survey conducted by the Gallup organization for the Epilepsy Foundation of America, 57% of those interviewed felt that 20¢ should be the ceiling placed on fund raising costs. Half of those interviewed think the figure should be lower, and among the better-educated, 35-49 year old age group, 10¢ or less was the limit.

Yet, in a recent study of more than 1,400 organizations filing reports in Illinois, conducted by Malvern Gross Jr., of Price Waterhouse & Co., the average fund raising cost ratio to total raised is 26%.

And I might add that this fund raising cost, including internal administration, is fairly typical of the best run charitable organizations.

On the other hand, there is a second type of mailing piece which re-solicits a previous contributor -- a long term friend who was discovered by the relatively expensive mass screening process that cost 50¢ on the dollar.

In the example I cited, the 20 donors who were obtained at a "cost" of 50¢ on the dollar would be resolicited in the second year. This time, instead of 1,000 mailing pieces sent out, only 20 would be sent -- with perhaps another 20 or 40 sent as followups to those who did not respond to the original request for a second gift.

Thus, perhaps 60 pieces would be mailed, at a cost of 10¢ per piece, or a total of \$6.00 in this simplified example.

If all of the donors repeated their first gifts of \$10, the income would be \$200 and the cost only \$6, or a cost of fund raising ratio of only 3%.

If this figure were presented to the public via the disclosure provisions of this bill, then this mailing would be white and pure, as against the mailing which cost 50¢ on the dollar to get these loyal friends.

The only hitch here is that unless the 50¢ money were spent first, there would be no long term friends to provide funds at a cost ratio of 3¢.

The general public cannot be expected to understand these economics -- the same economics which prevail in all of the major mail order businesses and publishing houses.

Publishers are happy to spend a dollar to take in the first dollar. They know from experience how much profit will be realized from the first and future renewals. The same principle applies to fund raising by mail.

Charitable fund raising costs, like the costs of mail order business firms, are a mixture of the high costs of acquiring a new donor and the low cost of renewing him.

A charity can regulate its own fund raising cost by changing the "mix" of its mailings. It can reduce the volume of prospecting mailings and concentrate on renewing old donors. The fund raising cost will be low, but the charity will face a declining spiral of income as the old donors die, move, or lose interest.

On the other hand, a new charity will have a very high fund raising cost because all of its initial expenditures will be to find new donors and there will be no low cost renewal income available for a year or two to help balance off the high cost of getting in business.

Even the most efficient and popular causes -- like Ralph Nader's Public Citizen -- would be penalized by the publication of fund raising costs in a solicitation mailing.

It has been reported that Nader has set a limit of about 25¢ on the dollar for obtaining members. He will not rent mailing lists which produce new members at a higher cost.

Yet, how can he say that he will spend only 25¢ when he has test mailings that produce new members at \$.50 on each dollar spent? The whole purpose of testing is to find the best lists and the best copy. Some mailings are doomed to failure and some to outstanding success. While the costs of materials and salaries are the same, the productivity of different lists and different mailing pieces vary greatly.

Even if Nader were able to spend only 25¢ of each dollar for membership costs, the public (or 57% of it) would still feel that the costs were excessive. They would not contribute or join his organization, even though it is probably one of the best managed.

I will not labor this point. All organizations have different fund raising costs which have no bearing on efficient management or purity of purpose. No fund raising is free, even though this is a popular American myth. As yet, the American public has not been educated to understand the fund raising process or the reasonable costs associated with different charitable solicitations.

Even if the American public were sophisticated enough to take the mini-financial report called for by this bill and analyze it properly, the cost figures required by the bill could not be compiled.

Until a mailing has run its course, nobody can tell you what the return is going to be or how much money will be received. If I had this ability, I would be employed by every nonprofit organization in this country. Every mailing is affected by the copy, the list, the color of the stationery, the size of the requested gift -- even the day and the month the mailing is received in the home.

Even if costs could be determined in advance (and remember that we are talking about the costs of raising funds, not the cost of mailing pieces) the provisions of this bill would penalize new charities and eliminate the possibility of a new charity getting off the ground.

The disclosure procedure would favor the old-line, established charities and penalize the new pioneers like Jacques Cousteau who is building a new national organization to provide funds for research and education in the hope of saving our oceans from an almost inevitable destruction.

99.9% of all charitable organizations are run by honorable and dedicated people who are careful spenders of charitable dollars. The other .1% must be dealt with through existing laws against postal fraud.

Each charitable organization, as the price of receiving nonprofit income tax status, and the privilege of mailing at reduced nonprofit postal rates, could be required to publish an annual report under uniform accounting standards.

Such reports (or, in the case of a new charity a "prospectus") could be filed with the Postal Service, with the Council of Better Business Bureaus or could be made available on request.

Lionel Van Deerlin of California has introduced a bill which would provide for the publishing of such reports and provide a penalty for a charity which refused to supply the requested information after a reasonable period of time had passed.

Under his bill, each mailing piece would carry a notation that a complete report of the organization's activities, including about the same information as requested in this bill, would be supplied upon request. Thus, public disclosure, if desired by the prospective contributor, would be promptly available.

It should be noted that the so-called shady operators who solicit legally but unethically, perhaps a half dozen in all, will not be disturbed by the provisions of this bill.

These people own their own lists, mail under the privilege of first class privacy, and operate much the same as pornographers. They mail from blind "drops", collect their money and skip to the next post office box.

The United States Postal Service well knows the problems in trying to catch the pornographers and the same problems apply to charitable racketeers.

Just as there is a market for hard core pornography, there is a market for crackpot charitable solicitations.

There are people who will react to any wild charitable request, such as a contribution to the FUND FOR THE WIDOW OF THE UNKNOWN SOLDIER.

But, in the process of trying to protect this tiny minority of people from themselves, let's not bring down the house of legitimate nonprofit fund raising.

Our organizations and institutions may not operate as efficiently as we might like, but these dedicated, earnest and honest individuals who collect 25 billion dollars for philanthropic purposes each year are reliable stewards of our charitable contributions.

Let's help their efforts by carefully considered legislation, including a substantial revision in the disclosure provisions of H. R. 5269.

In closing, Mr. Chairman, let me thank you and the subcommittee for the attention you've given me this morning to what some might term a "mini-seminar" in direct mail fund raising. If there are any questions that you or other members of the subcommittee have, I'd be pleased to try to answer them, if your time permits.

* * * * *

STATEMENT OF MR. NORMAN LIND

As Mr. Daly indicated, for the record, my name is Norman Lind and I am here today to speak as chairman of the Fund Raising Council of the Direct Mail/Marketing Association in reference to H.R. 5269. We welcome this opportunity to give our views.

Some of my remarks might appear to duplicate Mr. Andrews' most comprehensive testimony. If so, it's simply to reinforce those areas which are commonly-known to direct mail fundraising professionals but seem not to be understood by neophytes.

I would like to begin by saying that we of the DMA Fund Raising Council -- the roster of 48 is attached to the master committee record -- find that mail solicitation plays a vital role in the whole structure of private and voluntary philanthropy in the United States. We have found it by far the most effective and economical method of reaching a broad sector of the community to attract new supporters to our charitable enterprises. We also find it invaluable in re-contacting our supporters to renew their giving.

And so, today, more than ever before, we, and every other legitimate charity in the country which depends in full, or in part, on direct mail for its funding are deeply concerned over three distinct and separate problems affecting the operations of our direct mail appeals.

1. Costs. The costs of mail solicitation have been soaring in our inflationary economy. We deeply feel that a maximum portion of the donor's dollar should go to the charitable purpose of the institutions we direct mail specialists serve. But our rising costs siphon off those dollars that could otherwise go to helping our causes. In this area we are almost helpless. We are as firmly tied to inflationary costs as is the commercial segment of our economy.
2. Fraud or Incompetence. We, as well as every other legitimate, well-run charity are concerned about the small group of unscrupulous manipulators who seek to prey on the charitable generosity of the American people. We are as equally distressed as you by those well-intentioned but inexperienced individuals who lack an understanding of the efficient use of the mails. Unfortunately, as small in number as they are, every fraud and every well-intentioned failure, tends to reflect unfairly on the legitimate charities, which lead to:
3. Public Misconceptions. Because of the sheer volume and its capability of delivering huge sums of donations, charitable solicitations by mail has given rise to growing public concern about the use of mail for fundraising.

It seems strange to us that some people seem much more unhappy about getting three or more solicitation letters than they are about the zany ads that are repeated in the electronic or print media, some of which insult human intelligence and dignity. Yet, these mindless slick commercials and ads flourish with nary a trickle of recognition that they are capable of laying low the intelligence of generations mired in basic response messaging.

In addition, editorial writers inveigh against the effects on our forests from the production of paper needed in the direct mail industry. Yet, these same publications in which the editorials appear often contain a large percentage of space devoted to advertising. Few criticisms are leveled against their use of our forests.

However, we are concerned for the safety of our natural resources, and for our donors. So the question we should ask ourselves is whether or not this legislation will help correct the misconceptions which now exist about a viable and proven medium: Direct Mail Marketing!

So, the question now is:

"Will this obviously well intentioned legislation actually produce the intended effect in curbing or eliminating some or all of the problems we have just mentioned?"

Here are some specific problems we see in H.R. 5269 which is now before this sub-committee.

Paragraphs 1 and 2. We cannot imagine an effective appeal which does not include or describe a need and the method by which the given charity hopes to solve the problems. Thus we can hardly object to its inclusion in the proposed legislation.

Taken at face value, the requirements of Paragraph 1 and 2 would thus add nothing to the honest character of the overwhelming majority of solicitations. We would ask therefore if the bill is intended to insure greater explicitness or greater accuracy of description so that prospective contributors can reach better judgments on the causes of institutions to which they give? Another question, then, is -- who will determine -- and by what criteria -- whether each appeal meets what standards of accuracy under these paragraphs?

If there are no predictable standards and no enforcement of such standards however unpredictable they may be, we wonder whether any additional purpose could be served by these provisions? On the other hand, any effort to set up these standards and enforce them against the small number of violators would require a large, tremendously well informed staff of experts on every conceivable social, medical, and educational level.

And even then as you know, Mr. Chairman, the First Amendment to our Constitution could raise formidable barriers to possible restriction on freedom of speech since, as written, the bill does not appear to draw a distinction among the various classes of mail. While the Postal Service, as this subcommittee knows so well, can and does promulgate regulations governing the use of privileged and deferred classes of mail, it cannot make rulings regarding the content of first-class mail other than such items as sexually-oriented mail to pre-specified addressees, use of the mails for fraud, extortion, etc. and other similar illegal ventures. Surely, as Mr. Andrews noted, the usual charitable solicitations wouldn't fit in with this ilk.

Paragraphs 3, 4, and 5. We feel these should be taken together. As required in Paragraph 3, there should be little problem in including an accurate estimate of the costs involved in any mailing. But the income projection sought in Paragraph 4 would have to be sheer guesswork. How, we ask, is it possible to ascertain whether anyone receiving a new appeal will in fact respond with a \$5, \$10 or \$25 contribution -- or any at all for that matter. The copywriter may have fallen in love with his or her copy, and an artist with his or her art work ... but it's fallacious to believe that all others who see and read it will react in the same glowing terms ... that is, with a contribution.

It's obvious, therefore, that well established organizations, with professional staffs and a good history of results may be able to project income from each mailing with a fair degree of accuracy, but without such tools it is folly to believe one can, with any correctness, accurately predict results before they come in.

As a matter of fact, it has been my professional experience that a mailing list which produced excellent returns in one year can lose some of its effectiveness the next, so even history can be misleading. Also, in the same vein, the same list for two different charities will produce widely different returns.

As a direct mail specialist working for an established agency with highly developed, mature mail solicitation programs, I may be able to estimate over-all results with a fair degree of accuracy when there is sufficient history.

But even my figures can be thrown off by poor mail delivery, recession, depressions, inflation, political or other events affecting the public's reaction.

As for a new charity, even experienced practitioners must probe and test extensively, sometimes for years, before they can be in a position to predict results with reasonable accuracy..

There are few charities or inexperienced mail users, we believe, who would tend to project their hopes and not reality. They are not cheats -- merely naive. The "cheats" on the other hand, we feel, would simply indicate whatever results they think would look good.

So by and large, Paragraph 4 appears impractical in that responsible agencies would need a highly polished crystal ball to foresee their returns accurately while the unscrupulous organizations will be undaunted and simply use appealing figures which may not be related to reality. We therefore believe the Committee should carefully consider the efficacy of paragraphs 3, 4, and 5.

However, another question arises: if the proposed bill becomes law, is it envisaged that the Postal Service would monitor the figures as to accuracy in some way? If so, how, and at what cost to the agency and the public at large? What is the contemplated enforcement mechanism that will distinguish among such factors as: a poor estimate, unforeseen circumstances, sheer fraud, or outright incompetence?

This sub-committee should, we believe, consider another aspect of loading each appeal with hard statistical bookkeeping. A person of modest means who has strong charitable impulses gets a mailing which informs him or her, among other things, that a charity which he or she would normally support is spending \$300,000 on a direct mail effort.

We feel that this person, who is able to afford \$10 or \$25 for his or her favorite charity, that \$300,000 (or any other figure that may seem astronomical to an average wage earner) may seem an enormous sum for an organization to spend on a mailing. And if, let us say, that a return of \$1,000,000 was expected, and indicated, we feel a donor might feel his or her \$10 or \$25 would not be missed in a sea of \$1,000,000 -- an astronomical sum in their mind. But I am sure we here in this room realize that in a program of fighting world-wide poverty or hunger, \$1 million is but "a drop in the bucket." Yet to the uninitiated it could mean a loss of a donation.

Charitable giving, we believe, is not motivated entirely by scientific analysis, it comes mostly from the heart. No matter how informative statistical figures on the cost-effectiveness of the mailing may be, its psychological impact may detract from the effectiveness of the appeal. Having to further justify arithmetical acrobatics would not only cost more in printing the appeal, but would also deny the appeal of its real contact -- the need to give.

The gain made by providing this information may have the negative effect of burdening charity appeals with accountant's statements and have a negative effect on the donors. But that is for you to judge. Yet, in that judgment, we hope you will give due consideration to this possibility:

If legitimate, well-run, honest charities receive less support from their "natural" publics because of the psychological effects I have talked about has the legislation achieved the purpose of full disclosure? We don't believe it will. For well-run charities it will merely lower the cost-effectiveness of their appeals in the interest of a doubtful gain in public understanding. It will still allow "the cheats" to cheat.

The necessity of having a donor wade through financial statements with each appeal also places additional burdens on the agency to prepare them for each appeal. The requirement of Paragraph 5 in sum has the defect of burdening each appeal with what we believe are unnecessary additional costs.

We of the DMMA Fund Raising Council have not underestimated the costs involved in an agency carrying out the provisions of this bill, all of which we believe will inevitably lessen the funds each charity can use for its stated purpose.

As paragraphs 3, 4, and 5 require costs and expected income, the experienced mail solicitor, we believe, will be well advised to separate the accounting section from the appeal section of his or her mailing to minimize the dampening effect a mind-boggling balance sheet can have in the body of an appeal.

From my experience, I estimate that at present prices, printing and inserting a 3½-inch by 5-inch information card as presently required by the Los Angeles Social Service Department in a mailing of 1 million pieces costs about \$3,000. So for each 1 million mailing, a charitable agency must part with \$3,000 of donations to pay for it. Essentially, this in effect deprives that sum of donor money for their programs.

In addition, the proposed bill requires statements for the calendar year. Agencies who work on a different fiscal year basis would likely incur additional costs for a separate audit for this purpose. Again, a waste of precious funds that could go toward the charities rather than to administration.

A much simpler regulation, we believe, and one potentially less damaging to legitimate charities would be to require a statement by the agency that they will promptly mail an audited report of its income and expenses for its last fiscal year to anyone who requests it.

Finally, the requirement for audited reports and accounts in Section (b) are almost inevitable if the other sections of the proposed bill are deemed effective for the intended purposes. Most charities -- except the smallest and the religious ones -- now file financial reports (Form 990) with the Internal Revenue Service. Such reports are available for public inspection at the regional and Washington, D.C. offices of IRS. A number of states and municipalities now require the filing of additional financial data. If it would serve a useful purpose to have the headquarters of the Postal Inspection Service get an extra copy of what is filed with IRS we would have no objection to this additional requirement since as stated earlier, we recognize our responsibility to the general public. Considering USPS' already huge deficit, this subcommittee naturally may want to learn what the additional costs to the taxpayers will be to obtain, maintain and disseminate such duplicate information -- which is already on file with another Federal agency.

We appreciate the intent of Section 3012 (b) to require filing with the USPS data for verification but would urge the language be amended to allow duplicate submission on request of IRS Form 990 or other annual reports so as to preclude the not inconsiderable costs and time involved in developing a special set of data for the U.S. Postal Service.

In closing let me repeat the DMMA Fund Raising Council whole-heartedly believes that charities requesting support from the public have an obligation for accountability to that public.

But, surely, there should be some other way of satisfying that obligation without loading such charities down with duplicative, overlapping and uncoordinated accounting requirements. Surely the detail, frequency and form of accounting now required by the IRS for the determination of tax-deductibility would be sufficient for accountability.

Another simple way, we believe would be to require charities to respond within a reasonable time to any individual's request for the latest simplified annual report or Form 990 of the group or organization making the solicitation.

Again, thank you for your courtesies and attention this morning, and, if your time permits, I'd be most happy to try to respond to any of your questions.

CLOSING STATEMENT OF JOHN JAY DALY OF DMMA:

Mr. Chairman: As expressed by DMMA's two witnesses who were here this morning, we appreciate the opportunity of appearing before your Congressional subcommittee so we can help set the record straight about the many harmful elements contained (no doubt unwittingly) in this well-intentioned measure to curb abuses, however small, in the charitable fund raising process in this country. We can well understand that this subcommittee's jurisdiction is limited to the mails, but we do feel that if it is appropriate for the Congress to delve into this matter it is equally appropriate for them to study all methods by which this vital function of fund raising is performed. When all is said and done, it would seem the essential purpose of Mr. Rees' bill is to answer the legitimate and oft-asked question: "Is this charity o.k.?" The answers will have to come from each potential donor. It would seem the best way to get the answer is to examine the written record, and a synopsis of that record should be easily available on written request to any potential donor -- without any extra, duplicative data being filed with yet another Federal agency in a form different from that already required. We thank you for your courtesies.

national association of philanthropic organizations, inc.

suite 5620, 350 fifth avenue, new york, ny 10001

August 13, 1975

Representative Charles H. Wilson, Chairman
Subcommittee on Postal Facilities, Mail and Labor
122 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Wilson:

Thank you for requesting a written statement on HR 5269 which concerns the furnishing of certain information within charitable solicitations sent through the mail. As a result of the committee's rescheduling the hearing from July 23, the National Association of Philanthropic Organizations had the opportunity to review the testimony of several witnesses and concur with most of their comments.

Since the testimony submitted by these witnesses generally parallels the viewpoint of the National Association, preparing and submitting testimony which is repetitive of that which has been given, would serve only to burden your staff with additional paper and reading material. However, we recognize a slightly different approach in stating a position or analyzing the content/effect of legislation may be helpful to you. Accordingly, N.A.P.O. remains anxious to submit its views if such action contributes reinforcement to the conclusions voiced by our colleagues.

Highlighting the items N.A.P.O. would include in a written statement are:

- I. Is the proposed bill constitutional? By not exempting religious organizations, for example, the legislation if enacted infringes on Freedom of Religion. Accordingly it would be subject to challenge on those grounds and be held

national association of philanthropic organizations, inc.

suite 5620, 350 fifth avenue, new york, ny 10001

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up from enforcement.

- II. Is the bill discriminatory? No provision is made to encompass other methods of charitable solicitation such as telethons, phone appeals, broadcast appeals, or newspaper/magazine advertising yet response to those methods would in most cases be by mail. Between organizations who mail their solicitations, the bill inadvertently favors large mailers over the smaller, less popular cause appeals.
- III. Does the bill detract from the cause being espoused? In charitable giving, it is not the cost of the dollar raised so much as the value of the charitable work it buys that should be the criteria used.
- IV. Does the bill incur unnecessary costs? Most charitable organizations are required to prepare an annual report which complies with accepted standards of accounting. To produce, print and enclose a mini-report, revised for each appeal, will incur a wasteful burden of time and money. Certainly it would suffice to offer every prospect a copy of a comprehensive (annual) report. Legislation requiring compliance with such requests within sixty (60) days would be reasonable. At its most effective, more than 80% of those solicited in a given appeal will not contribute, for a multiplicity of reasons. Actually, less than 5% of those solicited will react to a given appeal for funds yet this proposed bill will cause the charity to be accountable to 100%.
- V. Is the anticipation of income a valid premise? If a charity knew the effectiveness of its appeal in advance, they would

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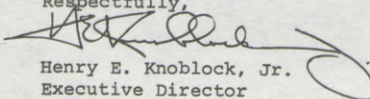
mail only to donors who reacted 'as though a bill was being paid'. There are too many psychographic factors in mailed solicitations to be accurate and avoid misrepresentation.

- VI. Is the intent of the legislation served? Bona-fide organizations have nothing to conceal although some actions they take may need extensive explanations. Yet fraudulent "charities" which might fail the test if placed under the scrutiny of the serious donor would not be deterred by this proposed legislation. Certainly any operation intending to make a quick buck will not stop from developing a novelist's dream financial report. The fraud is encouraged and his actions practically condoned by compliance with the proposed accountability.

N.A.P.O.'s statement if fully prepared and submitted would conclude that it seeks uniform accountability, and favors the elimination of frauds. When federal legislation is proposed to standardize reporting acceptable at lower levels by interstate charitable solicitations, N.A.P.O. will be most happy to support and encourage enactment. Unfortunately HR 5269 does not meet this end.

If the Subcommittee desires a full, formal statement, it is our pleasure to submit one for the record. In whatever way the National Association can assist your Subcommittee, or other committees reviewing information on charitable giving, it would be an honor to be of help and service.

Respectfully,


Henry E. Knoblock, Jr.
Executive Director



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August 1, 1975

Honorable Charles H. Wilson
U.S. House of Representatives
Washington, DC 20015

Dear Congressman Wilson:

On Wednesday, July 30, in testimony before your subcommittee Mr. Harvey M. Katz is reported to have stated that "the Epilepsy Foundation of America gives its chief executive a free sports car every two years."

This is not true. The Foundation has never given its chief executive a sports car or any other kind of car.

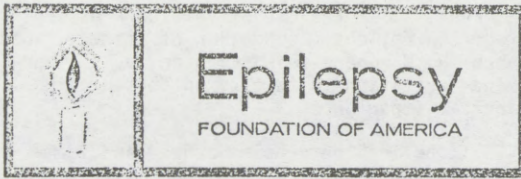
We appreciate this opportunity to set the record straight.

Sincerely,

James E. Gorman
Associate Executive Director
Public Health Education & Information

JEG:jj

Epilepsy—The more you know about it, the more you want to help.



Suite 406 • 1828 L Street, N.W. • Washington, D. C. 20036 • (202) 293-2930

STATEMENT

SUBMITTED TO

THE SUBCOMMITTEE ON CONSUMER PROTECTION AND FINANCE

OF

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
U.S. HOUSE OF REPRESENTATIVES

MAY 22, 1975

BY

PAUL E. FUNK
EXECUTIVE VICE PRESIDENT

My name is Paul E. Funk. I am the Executive Vice President and the Chief Executive Officer of the Epilepsy Foundation of America, whose headquarters are at 1828 L Street, N. W., here in Washington, D. C., and I sincerely appreciate your kind invitation to testify on this Bill HR 1123 which I consider to be of great importance.

I am always pleased to be in "the peoples house" and I am particularly pleased to appear before this Subcommittee because so many of your distinguished members and members of the Committee on Inter-State and Foreign Commerce have always been extremely helpful to us in many ways over the years as we go about the task of interpreting the person with epilepsy -- and his needs -- to the society in which he lives.

Within a very few days the House will be voting once again on HR 4925, the Health Revenue Sharing and Health Services Act of 1975 which, among other things, provides for a National Commission on the Control of Epilepsy and its Consequences and the development of a National Plan. This is the same Commission approved by the House, 376 to 14, in November, 1974 and I sincerely hope that the House will reaffirm its conviction that we need a national policy on the epilepsies.

The Foundation was formed in 1968 by a group of citizen volunteers, many of whom were persons with epilepsy or parents of children with epilepsy. All were active in two predecessor organizations (Epilepsy Association of America and The Epilepsy Foundation) anxious to create one strong, unified national organization devoted to solving a major national health problem affecting at least four million Americans.

The Foundation's activities, under its latest bylaws adopted November 30, 1973 are charted and guided by a 43 member Board of Directors. The Board consists of 10 Directors elected by 161 local chapters throughout the United States; 10 Directors elected by a Professional Advisory Board made up of 50 distinguished physicians and specialists; 19 representing the general public; and 4 who are Directors by virtue of their positions in the organization.

All of these people are volunteers who serve with no compensation except myself as the full-time paid officer responsible for staff and the implementation of Board policies and directives.

Incorporated under the laws of the State of Delaware, the Epilepsy Foundation of America is a 501(c)(3) tax exempt corporation and contributions to it are deductible for Federal income tax purposes under the Internal Revenue Code of 1954.

Dues from local chapters and contributions from 1,045,328 individual private citizens -- averaging \$3.12 each -- as well as gifts from numerous firms, and 230 charitable foundations support the work of EFA headquarters in research, fellowships, training programs, counseling, vocational rehabilitation and public information and education.

The Foundation has no contract or agreement between persons making solicitations and persons on whose behalf the solicitation is made which in any manner --

- A. Bases the amount of receipts received by the person on whose behalf the solicitation is made on the amount of number of contributions received from the solicitation; or
- B. Bases the fee or other charge of the person making the solicitation on the amount or number of contributions received.

All of the information which I have conveyed to you thus far ... plus a listing of EFA's official purposes as carried in our Articles of Incorporation, plus a breakdown of revenues, plus the cost of solicitations, administrative, managerial and certain fixed costs of doing business and running programs; a listing of program expenditures and a list of Officers and Directors is given to donors, potential donors and the general public via this small blue printed sheet and in various other forms which within our organization have become known as "the Van Deerlin disclosure."

In short, let me state at the outset, as quickly and forthrightly as I can, that the Epilepsy Foundation of America is in favor of this proposed legislation ... and is already following it in many areas. We believe you have performed an extremely valuable -- and incisive -- public service in your efforts to provide full -- but reasonable -- disclosure of the financial operations of non-profit organizations. For we agree with Thomas Jefferson, "when a man (or an organization) assumes a public trust, (he or it) should consider himself as public property."

This legislation provides consumer protection through full "freedom of information" ... and has also balanced need-to-know with right-to-know; public interest with private right-to-support causes of an individual's own choice.

I applaud your approach.

Having said that, I pondered what else I could -- or should -- say which might be helpful to your Committee in your deliberations as you evaluate and shape this bill. I know you will come to the right conclusions. For I have an abiding faith in the foresight and collective wisdom of this chamber.

You have scheduled testimony from a wide range of experts. I note, for example, the Attorney General from my own home state of Ohio will appear.

All of use owe him a debt of gratitude for the thorough and scholarly report entitled "The Status of State Regulation of Charitable Trusts, Foundations and Solicitations" developed late last year for the Commission on Private Philanthropy and Public Needs. Although I do not agree with all of its conclusions, it is excellent. The Council of Better Business Bureaus is also doing exceptionally fine work in this area. I believe that the National Society of Fund Raisers -- of which I am a member -- is also scheduled to appear.

But there are some thoughts that I would like to offer for your consideration, for this is a complex subject with many ramifications.

More precisely to this Subcommittee's interest, however, is the fact that the Epilepsy Foundation has been implementing your intent -- on a test basis for the past two years. The small single disclosure sheet, which can be readily inserted into a business envelope, was used in our replies to inquiries about financial data. Further, to a limited extent, the disclosure sheet was actually enclosed in direct mail solicitation.

In one direct mail test, mailed March 25, 1974, we tried the following:

75,000 total mailings divided as follows:

- ° 25,000 without the financial data enclosed
- ° 25,000 with the financial data enclosed
- ° 25,000 with the financial data enclosure and with a question to the recipient inquiring about their interest in such information.

The results were inconclusive. The cost ratios did not vary significantly. Apparently, the enclosure neither helped nor hurt. A second test mailing of 124,000 which was mailed November 4, 1974 to verify the first test, produced essentially the same results.

We have included financial data in other test mailings -- such as the newsletter which accompanies this statement. While the dollar results of these mailings were good because of other test factors, we can only state that based on what we now know the disclosure of financial data does not seem to have any detrimental effect. This is the primary conclusion we draw from our limited experience.

In January, 1975, EFA tested the newsletter version of disclosure in its prospect mailings. 250,000 test mailings were sent out. The disclosure has appeared to have no adverse effect on these mailings and in some instances appears to increase response and/or average of gifts.

50,000 names of EFA's donor file was also mailed the newsletter version in January and the test results from that mailing indicate a higher average gift and a lower cost ratio.

As a result of the 1975 tests, EFA has moved toward mailing the newsletter as a basic part of its mail program. Nearly all the solicitation letters to be mailed in 1975 will contain the disclosure statement in one form or another.

Our policy of full and open disclosure will not come as news to the members of this Subcommittee. On March 19, 1974, a letter to the Foundation from a staff member in Congressman Van Deerlin's office stated, "Congressman Van Deerlin and I are delighted to note that you incorporate in this appeal all the requirements contained in legislation the Congressman has introduced to provide for the dissemination of financial information by charitable organizations soliciting funds through the mail."

"... Some contended that the requirements would be too onerous and impossible to fulfill. These contentions have been demonstrated to be groundless by the actions of the Epilepsy Foundation of America which has fulfilled them almost exactly."

We are not certain as to what organizations should be exempt from the requirements of this bill and are inclined to believe that legislation pertaining to financial and accounting reports and solicitations should be equally applicable to all non-profit organizations. However, this is a matter best settled after full public hearings by this Committee.

Further, in reviewing Section 6 it would appear that the unusual sanctions for violation are rather severe and need, I believe, further clarification and review. For example, the words "willfully" and "knowingly" should be incorporated in the text in order that persons be protected from inadvertently violating the law due to the circumstances outside the control of the individual.

It has been an honor, Mr. Chairman, to appear before this Committee and I am deeply grateful for the opportunity. EFA wants to convey to you its warm good wishes for the success of these hearings and their translation into meaningful legislation beneficial to our society.

We would request of the Subcommittee that if there is anything that we could be doing better, or more effectively, in our dedicated mission as spokesman and advocate for those with epilepsy, we would be most grateful for your guidance. We exist to serve the 4 million people with epilepsy and the members of their families and the many, many professionals and other workers who are seeking to overcome this disorder.

For them -- and in their name -- we thank you for inviting us to be here today. If there is any further information I can provide, I would be most pleased to respond to your questions.

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2300 ON OF THE EPILEPSY FOUNDATION OF AMERICA: YAHW

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All of the above are volunteers who serve with no compensation with the exception of the last named who is the full-time paid officer responsible for staff and the implementation of Board directives.

12/31/73

WHAT THE EPILEPSY FOUNDATION OF AMERICA IS AND DOES

The Epilepsy Foundation of America, with national headquarters at 1828 L Street, N.W., Washington, D.C., was formed in 1968 by a group of citizen volunteers, many of whom were persons with epilepsy or parents of children with epilepsy. All were active in two predecessor organizations (Epilepsy Association of America, and The Epilepsy Foundation) anxious to create one strong, unified national organization devoted to solving a major national health problem affecting at least 4,000,000 Americans.

EFA's GOAL

The purposes of the total organization are to:

- (1) Encourage, conduct, and support research; (2) Make known available treatments;
- (3) Improve educational and vocational opportunities; (4) Educate and provide information to the general public; (5) Encourage and support clinics, schools, and other facilities or means for treating, educating, training, obtaining employment for, caring for, or otherwise helping persons with epilepsy; (6) Provide financial support to individuals and other organizations engaged in activities that further any of the purposes of the Epilepsy Foundation; (7) Make known, through public health education, the means by which epilepsy can be prevented.

EFA ACTIVITIES

The Foundation's activities, under its latest by-laws adopted November 30, 1973, are charted and guided by a 43 member Board of Directors. The Board consists of 10 directors elected by 160 local organizations throughout the United States; 10 directors elected by a Professional Advisory Board made up of 50 distinguished physicians and specialists; 19 representing the general public; and 4 who are directors by virtue of their positions in the organization.

Incorporated under the laws of the State of Delaware, the Epilepsy Foundation of America is a 501(c)(3) tax exempt corporation and contributions to it are deductible for federal income tax purposes under the Internal Revenue Code of 1954.

MANAGEMENT AND FINANCES

Dues from local chapters and contributions from 1,045,328 individual private citizens — averaging \$3.12 each — numerous firms, and 230 charitable foundations support the work of EFA headquarters in research, fellowships, training programs, counseling, vocational rehabilitation, and public information and education.

The Foundation has no contract or agreement between persons making solicitations and persons on whose behalf the solicitation is made which in any manner —

(a) bases the amount of receipts received by the person on whose behalf the solicitation is made on the amount or number of contributions received from the solicitation; or

(b) bases the fee or other charge of the person making the solicitation on the amount or number of contributions received.

PROGRAM AND OPERATING EXPENDITURES

The total income and total expenditures of the Foundation vary from year-to-year, but the most recent financial statement audited by Price Waterhouse & Co., and as published in the Annual Report released in November, 1974, shows the following as categorized by the standards of the National Health Council, of which EFA is a member.

REVENUES (including all chapters) \$5,211,291

Costs of solicitations, administrative, managerial and certain fixed costs of doing business and running programs. \$2,396,022

NET AVAILABLE INCOME \$2,815,269

PROGRAM EXPENDITURES AND ADDITIONS TO FUND BALANCES

	Total	Percent Net Available Income Allocated
Research	\$ 204,180	7.3%
Professional Education and Training	264,302	9.4%
Public Health Education	573,746	20.4%
Community Services	878,490	31.2%
Patient Services	688,197	24.4%
Additions to Fund Balances	206,354	7.3%
TOTAL	\$2,815,269	100.0%

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 Alfred N. Watson, Ph.D., New York
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 The Honorable Barbara Jordan, Washington, D.C.
 E. Douglas Kenna, Washington, D.C.
 Peter N. Kyros, Washington, D.C.
 The Honorable Robert E. Mathias, Virginia

Services & Activities of the Epilepsy Foundation of America

The Epilepsy Foundation of America is a non-profit, non-governmental organization composed of local Chapters dedicated to the understanding and control of epilepsy.

PATIENT SERVICES

The Epilepsy Foundation of America's Patient Services includes • Counseling • Information and Referral • Public Education • Financial and Public Assistance • Transportation • Employment and Vocational Rehabilitation • Treatment • Medical Education and Training.

RESEARCH, PROFESSIONAL EDUCATION AND TRAINING

Each year, research grants, fellowships and other financial assistance is provided at the professional level to further medical investigations into the causes and control of epilepsy.

PUBLIC HEALTH EDUCATION

Public information and awareness is part of the medical prescription for epilepsy. Anticonvulsants merely control seizures. They cannot change public attitudes or erase the stigma often associated with the disorder. This is the task of public information and education programs. The Foundation newspaper, "National Spokesman," "Epilepsy Newsletter," radio and television discussions and informative booklets and leaflets serve to disseminate information to millions of Americans.

CHAPTERS

Local chapters work together on a regional basis at conferences, workshops and professional seminars. It is through these local chapters that many of the true accomplishments of the Epilepsy Foundation are measured. Concerned citizens are encouraged to become active members of their local chapter, and aid their community.

GOVERNMENT LIAISON

The Foundation serves as an information resource for congress and agencies of the government.

NATIONAL HEALTH COUNCIL

The Epilepsy Foundation of America is an active member of the National Health Council, a group of 70 major organizations concerned with our nation's health. It establishes standards and provides coordination and leadership for national organizations in the health field.

MEMORIALS

The Epilepsy Foundation of America accepts bequests and memorials in your name to help support its services and activities.

WHAT CAN YOU DO?

Become a participant in the national epilepsy movement. Join a local chapter and work with other cooperating organizations. Support the Epilepsy Foundation of America.

TAX STATUS

The Epilepsy Foundation of America is exempt under Section 501 (c) (3) of the Internal Revenue Code. All contributions to the Epilepsy Foundation are deductible for income tax purposes. The Foundation is also registered under the District of Columbia's Charitable Solicitation Act, #6-07-375.

Here's How Contributions Are Put To Work For The Benefit of People With Epilepsy

The combined fund-raising cost ratio for chapters and headquarters has steadily dropped from 35.6% in 1971 to 31.7% in 1973. A continued decline in this ratio is a primary goal of the Foundation.

In 1973, as shown in this report in detail, the following amounts can be categorized according to the standards of the National Health Council, of which EFA is a member:

REVENUES (including all chapters)	\$5,211,291	PROGRAM EXPENDITURES AND ADDITIONS TO FUND BALANCES	Total	Percent Net Available Income Allocated
Costs of solicitations, administrative, managerial and certain fixed costs of doing business and running programs	\$2,396,022	Research	\$ 204,180	7.3%
NET AVAILABLE INCOME	\$2,815,269	Professional Education and Training	264,302	9.4%
		Public Health Education	573,745	20.4%
		Community Services	878,490	31.2%
		Patient Services	688,197	24.4%
		Additions to Fund Balances	206,354	7.3%
		TOTAL	\$2,815,269	100.0%



1828 L Street, N.W.
 Washington, D.C. 20036

LIONEL VAN DEERLIN
41ST DISTRICT, CALIFORNIA

COMMITTEE ON INTERSTATE
AND FOREIGN COMMERCE

SUBCOMMITTEE:
COMMUNICATIONS AND POWER

8427 HAYWARD HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

DISTRICT OFFICES:
815 L STREET, SUITE 205
SAN DIEGO, CALIFORNIA 92101
(714) 233-8529

750 THIRD AVENUE, ROOM 112 SOUTH
CHULA VISTA, CALIFORNIA 92010
(714) 426-6353

Congress of the United States
House of Representatives
Washington, D.C. 20515

March 19, 1974

Miss Marianna Paige
Manager, Government Liaison
Epilepsy Foundation of America
1828 L Street, N.W.
Washington, D. C. 20036

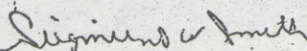
Dear Miss Paige:

I was pleased indeed to receive the copy of the Epilepsy Foundation appeal which you sent to me with your letter of March 18. Congressman Van Deerlin and I are delighted to note that you incorporate in this appeal all the requirements contained in legislation the Congressman has introduced to provide for the dissemination of financial information by charitable organizations soliciting funds through the mail.

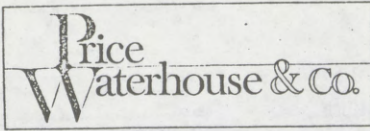
As I told you, our attempts to draft suitable legislation to provide for such disclosure met with considerable resistance on the part of many charitable organizations. Some contended that the requirements would be too onerous and impossible to fulfill. These contentions have been demonstrated to be groundless by the actions of the Epilepsy Foundation of America which has fulfilled them almost exactly.

I shall be in Los Angeles on March 21 to speak on behalf of Congressman Van Deerlin to the Southern California Society of Fund-Raisers, Inc. I shall take great pleasure in citing the actions of the Epilepsy Foundation as an example of what can be done to generate public confidence in the charitable organization.

Sincerely,



Siegmund W. Smith
Administrative Assistant



1801 K STREET, N. W. WASHINGTON, D. C. 20006-202-286-0800

November 5, 1974

Mr. Paul E. Funk
Executive Vice President
Epilepsy Foundation of America
Suite 406
1828 L Street, N.W.
Washington, D. C. 20036

Dear Paul:

As you are aware, Harvey Katz visited us in our office on the afternoon of May 6, 1974 to discuss the work that we do relating to expense allocations in connection with our annual examination of the financial statements of the Epilepsy Foundation of America. Kent Wood and I met with Mr. Katz. During the course of our discussion, we advised Mr. Katz that our audit is conducted on the basis of generally accepted auditing standards and includes tests and other procedures to the extent we believe necessary in the instant circumstances. In this regard, we explained that our 1972 examination included a review of the Foundation's allocation of expenditures to their functional identities in order to satisfy ourselves as to the reasonableness of such expenditures and allocations. We further advised Mr. Katz that on the basis of the work done we did satisfy ourselves with respect to the amounts expended in 1972 and the allocation to the various functional classifications. We did not tell Mr. Katz that we had "simply accepted the figures of the EFA...".

As stated in his report dated July 12, 1974 and quoted in your letter to me of November 1, 1974, Mr. Katz has erroneously characterized our discussion relating to any revised auditing procedures. In fact, our explanation was that in planning the audit scope for future examinations we would certainly be cognizant of the attention that has been directed to expense allocation and in all probability would extend our work in that area because of such attention. We viewed our explanation as little more than the application of the "prudent man" concept common to business considerations.

Please let us know if we can provide any further explanation in this matter.

Sincerely,


William Warshauer, Jr.

94TH CONGRESS
1ST SESSION

H. R. 5269

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 1975

Mr. REES introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 39, United States Code, to provide for the furnishing of certain information with charitable solicitations sent through the mail, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) chapter 30 of title 39, United States Code, is
4 amended by adding at the end thereof a new section to read
5 as follows:

6 **“§ 3012. Mailing of charity solicitations**

7 “(a) Whoever for himself, or by his agents or assigns,
8 mails or causes to be mailed any solicitation for contributions
9 for a charitable purpose, shall include with such mailing
10 information which shows the following:

1 “(1) the purpose of the solicitation and the use of
2 the contribution to be solicited;

3 “(2) the need for the contribution proposed to
4 be solicited, including the reasons and figures, if any,
5 supporting the need;

6 “(3) the expenses of the solicitation, including
7 salaries and other items, if any, regardless of what funds
8 are used for the payment of such expenses;

9 “(4) the portion of the contribution collected as a
10 result of the solicitation which will remain available for
11 application to the specific purpose of the solicitation;
12 and

13 “(5) the amount of all contributions collected or
14 received by such person, or by his agents or assigns,
15 within the calendar year immediately preceding the date
16 of the mailing, and the expenditure or use made of such
17 contribution.

18 “(b) Whoever for himself, or by his agents or assigns,
19 mails or causes to be mailed any solicitation for contributions
20 for charitable purposes shall furnish to the Postal Service
21 such audit reports, accounts, or such other information as
22 the Postal Service may require to verify the information
23 required under subsection (a) of this section to be furnished
24 with any charitable solicitation sent through the mails.”

1 (b) The table of contents of chapter 30 of title 39,
2 United States Code, is amended by adding at the end thereof
3 the following:

“3012. Mailing of charitable solicitations.”.

4 SEC. 2. Section 3006 of title 39, United States Code,
5 is amended by inserting “or for a charitable purpose without
6 complying with the provisions of section 3012 of this title,”
7 immediately before the words “the Postal Service may—”.

8 SEC. 3. Section 3007 (a) of title 39, United States
9 Code, is amended by striking out “3005 and 3006” and
10 inserting in lieu thereof “3005, 3006, and 3012” and by
11 striking out “either section” and inserting in lieu thereof
12 “any such section”.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUN 9 1975

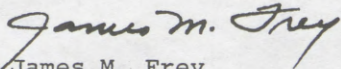
Honorable David N. Henderson
Chairman, Committee on Post
Office and Civil Service
House of Representative
207 Cannon House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Office of Management and Budget on H.R. 5269, a bill "To amend title 39, United States Code, to provide for the furnishing of certain information with charitable solicitations sent through the mail, and for other purposes."

For the reasons stated by the Postal Service in its report to you on this bill, the Office of Management and Budget would have no objection to enactment of H.R. 5269.

Sincerely,


James M. Frey
Assistant Director for
Legislative Reference



LAW DEPARTMENT
Washington, DC 20260

May 14, 1975

Dear Mr. Chairman:

This responds to your request for the views of the Postal Service on H.R. 5269, a bill which would amend title 39, United States Code, to provide for certain information to be furnished with charitable solicitations sent through the mail. This bill incorporates fully our suggestions for beneficial amendments to an earlier bill to achieve the same purpose, H.R. 9584, 93d Cong., 1st Sess. (1973).

The Postal Service is in accord with the objectives of H.R. 5269 to diminish the use of the mail for false or fraudulent charitable solicitations, and we have no objections to the enactment of this legislation.

Sincerely,

W. Allen Sanders
Assistant General Counsel
Legislative Division

Honorable David N. Henderson
Chairman, Committee on Post Office
and Civil Service
House of Representatives
Washington, D. C. 20515

