

PENNIES FOR CHARITY

WHERE YOUR MONEY GOES

Fundraising by Professional Fundraisers



NEW YORK STATE OFFICE

of the

**ATTORNEY
GENERAL**

CHARITIES BUREAU

December 2016

New York Donors Make a Difference

New Yorkers are generous in their giving and that generosity is increasing. In 2013, New York ranked only behind California in total charitable contributions, with more than \$17.2 billion in reported donations.¹ The multitude of charitable organizations, foundations, charitable trusts, and other not-for-profits reflects both the need that exists as well as New Yorkers' willingness to answer it. The range of causes is as striking as the degree of support. New Yorkers have recognized and answered needs—big and small, local and global—in education, health, the arts, housing, the environment and a host of other areas. The wholehearted support these initiatives receive helps make our communities more vibrant, sustaining and enriching places.

While individuals and communities benefit from New Yorkers' giving, the state's economy does as well. The New York Bureau of Labor Statistics reported in 2012 that not-for-profit jobs make up over 18 percent of New York private sector employment. More than 1.25 million workers are on non-profit payrolls and were paid more than \$57 billion in wages.² Jobs at nonprofits grew by 17 percent from 2000 to 2010.

New Yorkers' generosity rewards the givers in intangible ways beyond mere tax deductions. As recent studies have shown, giving can enhance a giver's sense of well being.³ Supporting specific projects can increase a giver's sense of reward, and giving frequently, regardless of amount, helps increase donor happiness.

Beyond Telemarketing: Pennies' Expanded Focus

As the chief law enforcement officer and regulator overseeing charitable fundraising in New York, Attorney General Eric Schneiderman works diligently to monitor the not-for-profit sector and protect donors and charities from fraudulent conduct. While most charities dedicate their resources to their stated mission, there are those that mislead the public and misuse the funds they collect. This past year saw several major enforcement efforts by the Attorney General's Charities Bureau. (See "States Band Together to End Deceptive Cancer Charities' Practices" and "Attorney General Halts Misuse of Donations for Vietnam Vets" below.)

To further their efforts, many charities use professional fundraisers as outside contractors. Some of these professional fundraisers, which are for-profit companies, collect such large fees that little of what they solicit goes to the charity. Some also give potential donors misleading information about the charity's services, achievements and how much of a given donation the charity actually receives and disburses.

The Attorney General's annual Pennies for Charity report and the Pennies for Charity database on www.CharitiesNYS.com look at professional fundraisers' performance in national or local campaigns conducted all or in part in the previous year in the state. The report and database draw on campaign closing statements that professional fundraisers must file with the Attorney General on an annual basis.

Prior Pennies for Charity reports and data have focused solely on telemarketing campaigns. This year's report covers a broad range of solicitation methods as well as telemarketing—including direct mail, email, internet, and other methods—and looks at all 1,143 fundraising campaigns conducted by professional fundraisers in New York.

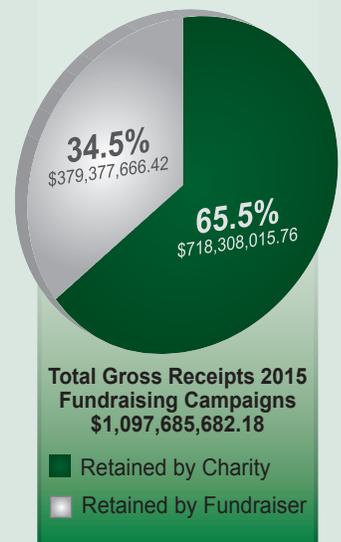
1 Urban Institute, National Center for Charitable Statistics. Available at <http://www.urban.org/research/publication/profiles-individual-charitable-contributions-state-2013>

2 Office of Research and Statistics, New York Department of Labor, Employment in New York State (2012). Accessible at: <http://www.labor.ny.gov/stats/PDFs/enys0412.pdf>

3 http://www.huffingtonpost.com/brady-josephson/want-to-be-happier-give-m_b_6175358.html.

Dollars to Charities

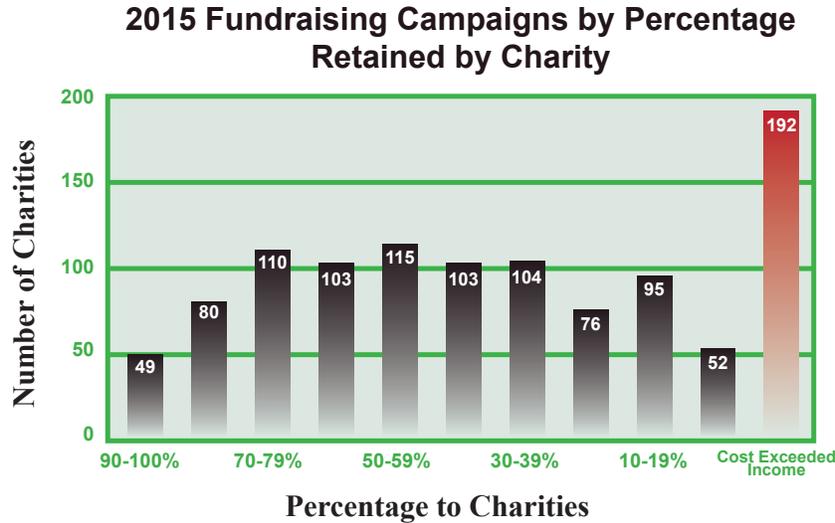
This year's Pennies for Charity report includes data from all 1,143 fundraising campaigns conducted all or in part in 2015 by professional fundraisers registered to solicit charitable contributions in New York. All of the figures reported were taken directly from reports filed by the fundraisers and signed by both the fundraisers and the charities. The campaigns raised over one billion dollars. Key findings include:



- Almost 35%, or \$379.3 million, of the funds raised was retained by the fundraisers to cover the costs of conducting the campaigns. Charities retained \$718.3 million overall.
- In 54.4%, or 622 of the 1,143 campaigns, the charities retained less than 50% of the funds raised.
- In 36.3 percent, or 415 of the 1,143 campaigns, the charities retained less than 30% of the funds raised.
- In 16.8%, or 192 of the 1,143 campaigns, expenses exceeded revenue. In 2015, this loss totaled \$16.7 million.

2015 Fundraising Trends: A Less-Transparent Business Model

The Pennies report, tips and database are designed to help potential donors make smart and informed decisions, protect themselves and their finances, and make sure that their donations benefit the people and organizations intended. Most donors are not aware how large a percentage of their donations can go to the professional fundraiser handling the solicitation. (See “2015 Fundraising Campaigns by Percentage Retained by Charity” table.) While 239 campaigns in 2015 yielded the contracting charities more than 70 percent of the funds collected, some 415 campaigns retained less than 30 percent.



Fundraising costs can be an indicator of how well a charity is run. Table data was drawn from fundraiser campaigns conducted all or in part in 2015 by fundraisers operating in New York State, except those that reported no revenue.

However, the percentage split between a fundraiser and a charity does not always tell the whole story. There are fundraising campaigns that aim to capture new donors and expand a charity’s visibility and support. This can be a costly process that often involves a fee to the professional fundraiser as well as their retaining a portion of the donations. In those instances, a campaign may cost a charity, rather than yield money for it, but the charity has a long-term gain in having an expanded donor base.

In other instances, the split between a professional fundraiser and a charity obscures the true costs of a campaign. It may appear that more than half of the donations collected have gone to the charity, but the breakdown does not reflect the full costs of the campaign. As states like New York have increased their oversight and enforcement actions against abuses in the non-profit sector, questionable fundraisers have sought to sidestep regulatory oversight by altering their business model to limit disclosure and blur the reporting of campaign results.

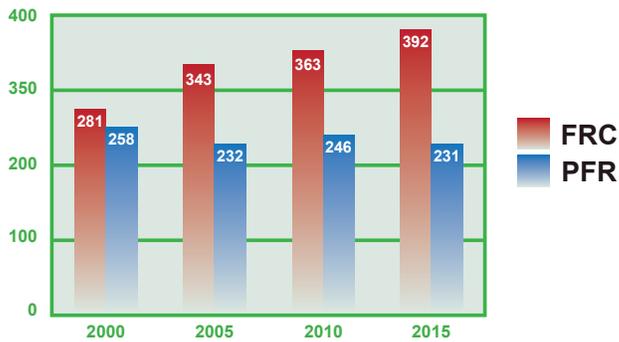
One method has been for fundraising professionals to shift their businesses to a consulting model. Under New York State law, professional fundraisers must not only register their contracts with charities with the Attorney General’s Office, but also provide closing statements within 90 days of a campaign’s end that break down the campaign’s results and expenses.⁴ Generally, consultants come under less regulatory scrutiny. A consultant who “manages, advises or assists” a charity with its solicitations but does not direct or handle a solicitation need not file a financial report at the close of a campaign.⁵ This allows the fundraiser to avoid a public accounting of results. However, a charity’s annual IRS 990 filing—also available on the Charities Bureau’s website (www.CharitiesNYS.com)—will include its aggregate fundraising costs.

In some cases, the change in business model from fundraiser to consultant is one of form over substance. The professional fundraiser and the fundraising consultant may be related businesses, or even one and the same. The Charities Bureau has seen a gradual increase in the number of fundraising consultants registered in New York State, and a drop in the number of fundraising professionals. (See “Increase in Fundraising Counsel Registration” table.) In 2010, for instance, New York State had 363 registered fundraising counsels, and 246 registered fundraising professionals. (“Fundraising counsel” is a term of art in the solicitations field; it does not require a law degree.) By 2015, the number of fundraising counsels had risen to 392, while the number of professional fundraisers had dipped to 231.

⁴ N.Y. Executive Law §173 (a).

⁵ N.Y. Executive Law §171 (a) (9).

Increase in Fundraising Counsel Registration



Professional Fundraiser (PFR) registrations are declining, while Fundraising Counsel (FRC) registrations increase. FRCs are not required to report on campaign results.

While a consulting role lets a professional fundraiser sidestep filing campaign closing statements, there are other ways that fundraisers can allocate campaign costs and avoid campaign reporting obligations. Some professional fundraisers have split off parts of their business into satellite operations. This can make the percentage split between a professional fundraiser and a client charity appear more favorable. The fundraiser may report retaining a smaller percentage of funds collected during a campaign; meanwhile its direct mail or telemarketing subsidiary, technically now an outside vendor, makes up the difference in the cost of their services to the charity. A 2014 investigation by the Attorney General into Quadriga Art's work for the Disabled Veterans National Foundation (DVNF) saw a variation on this model and resulted in a \$10 million settlement from DVNF's fundraisers, the largest amount ever obtained in the U.S. at that time for deceptive charitable fundraising.

The number of professional fundraisers spinning off elements of a solicitation to their subsidiaries has been expanding. However, the cost to the client charities remains the same. The Attorney General actively investigates suspect fundraising practices and seeks to protect New York State donors—and charities—from deceptive fundraising practices.

Find This Report/Use the Pennies Database:
Go to <https://www.charitiesnys.com/pfcmap/index.jsp> to download a pdf of this report or search the Pennies database. For a print version, write to Director of Public Information, The Office of the New York State Attorney General, Albany, NY 12224.

States Band Together to End Deceptive Cancer Charities' Practices

In the largest multi-state charity fraud action to date, the Attorney General, 49 other states and the Federal Trade Commission filed a complaint last year to shut down four affiliated cancer charities: Cancer Fund of America, Cancer Support Services, Children's Cancer Fund and The Breast Cancer Society. Two settled immediately; this past March, the remaining two, The Cancer Fund of America and Cancer Support Services, agreed to dissolve. Their president, James Reynolds Sr., was banned from profiting from any charity fundraising in the future.

The Cancer Fund of America and Cancer Support Services had bilked donors of more than \$75 million, with \$3 million of that contributed by New York residents. Only 3 percent of the funds raised went to charitable causes. Telemarketers soliciting money for the charities had claimed that contributions would go to provide pain medication for children with cancer, and other aid. None of those services were provided. The settlement imposed a judgment of \$75,825,653 against Reynolds and the two charities.

Attorney General Halts Misuse of Donations For Vietnam Vets

New Yorkers are generous with their support of worthy causes, but some organizations exploit that commitment. This year, the Attorney General reached a settlement resolving an investigation of the founder and chairman of the National Vietnam Veterans Foundation (NVVF), John Thomas Burch, Jr., based on an investigation of his use of charity funds. Spending money donated to help Vietnam veterans, Burch enjoyed a lavish lifestyle with expensive travel and entertainment, Rolls Royces, and gifts and money to friends, family and women he knew. Little went for the purposes that NVVF claimed to fund, such as helping veterans get jobs or housing. Instead, most went to pay professional fundraisers and underwrite Burch's expenses. (In 2014, for instance, the foundation raised \$8,643,900 and spent \$7,736,172 on fundraisers.)

In the wake of the Attorney General's inquiry, Burch stepped down and agreed to pay a \$100,000 penalty, most of which will be directed to charities that actually help veterans, as well as submit a written apology to Vietnam veterans and the many donors who sought to help them. He further agreed to never serve again as an officer, director or trustee of any non-profit or charitable organization.

Giving Wisely: How to Use This Report

Before you make a donation, research a charity carefully. There are many online tools you can use. Visit the charity's own website to learn about the organization and its mission. Some charities post their annual reports and IRS 990 filings on their sites. If a charity does not, go on the Charities Bureau's registry (www.CharitiesNYS.com) and review a charity's IRS 990 forms to see its major expenditures and revenues. A charity soliciting funds in New York State is required to register with the Attorney General's Charities Bureau and submit annual filings that include their IRS 990 forms.

Also review a charity's fundraising costs in the Pennies for Charity database at <https://www.charitiesnys.com/pfcmap/index.jsp>. Enter the charity's name, and pull up their fundraising track record. If most campaigns yielded little for the charity, you may want to dig deeper. While some campaigns designed to expand visibility or recruit new donors to a charity may run a loss, evidence of consistently losing campaigns should raise questions. You can also review the fundraiser's track record in the Pennies database. If the majority of their campaigns yield only a small percentage for the charities that hired them, you may want to search <http://charitysearch.apps.cironline.org>, the database of disciplinary actions that the Tampa Bay Times and the Center for Investigative Reporting created in 2013 as part of their *America's Worst Charities* investigation. It brings together more than 8,000 regulatory actions across the country against charities and fundraisers. See whether the fundraiser or the charity you are considering have been cited in the database. All of this information will guide you in deciding whether a charity is well-run and effective in its mission and if you wish to support it.

Also keep in mind:

- There is a difference between “tax exempt” and “tax deductible.” **Tax exempt** means the organization does not have to pay taxes; **tax deductible** means you can deduct your contribution on your federal income tax return. Visit the Internal Revenue Service (IRS) webpage at <http://apps.irs.gov/app/eos/> to find out which organizations are eligible to receive tax deductible contributions.
- If a donor opts to make a regular gift such as a monthly donation via credit card, that standing commitment has the added benefit of helping the charity reduce fundraising costs and increase its ability to plan ahead and consistently underwrite its efforts.
- Do not donate to any organization that asks you to send cash or to wire money.
- Always check with local law enforcement before donating to a group claiming to support the local police. Keep in mind that it is illegal for callers to promise special privileges or police protection if you make a donation.
- Keep track of your giving; note every donation you make. Likewise, if you ask to be removed from a call or mailing list, keep a record of it.
- The Attorney General's office seeks the public's help in reporting false or misleading solicitations. If you believe that an individual or organization is taking advantage of vulnerable or unsuspecting donors, please contact the Charities Bureau at 212-416-8401, email charities.fundraising@ag.ny.gov or file a complaint at www.charitiesnys.com/complaints_new.html.

Rating the Charities

Several websites evaluate charities base on their annual IRS 990 filings and/or other materials. These include:

- American Institute of Philanthropy – www.charitywatch.org
- Better Business Bureau Wise Giving Alliance - www.bbb.org
- Charity Navigator – www.charitynavigator.org
- GuideStar- www.guidestar.org

How to Handle a Telemarketing Solicitation

Donors should be aware that telemarketers operate under certain laws and rules that address the scope and content of their solicitations:

1. Charitable organizations and their for-profit fundraisers cannot make false, misleading, or deceptive statements to individuals or households in connection with fundraising activities. The New York Attorney General has the authority to investigate and prosecute such statements.
2. Putting your name on the Federal Communications Commission's "Do Not Call" list will not bar calls on behalf of tax-exempt non-profit organizations. However, if a third-party telemarketer is calling on behalf of a charity, a consumer may ask to be removed from that calling list. If the third-party telemarketer calls again on behalf of that charity, the telemarketer may be subject to a fine of up to \$16,000.⁶
3. New York and other states require telemarketers to disclose (a) the name of the fundraiser, (b) that the solicitation is being conducted by a professional fundraising company, (c) the name of that company, and (d) that the telemarketer is being paid to make the call.⁷

If you get a call:

Do not feel pressured to give over the phone. If you choose to consider the caller's request, you should ask:

- What programs are managed by the charity?
- How much of your donation will be used for charitable programs?
- Is the caller a paid telemarketer?
- How much is the telemarketer being paid and how much of what you donate is the charity guaranteed?

Giving in a Digital World

Donating online or via text has a convenience factor, but can also provide an anonymous avenue for fraudulent practices.

Crowdsourcing: These are increasingly popular online platforms where groups and individuals solicit funds for events, causes, or startup businesses. Some of the purported charities are fraudulent, so research before donating. A quick Google search, a call to the Better Business Bureau, or a search on the Charities Bureau website can yield a wealth of information about an organization's credentials.

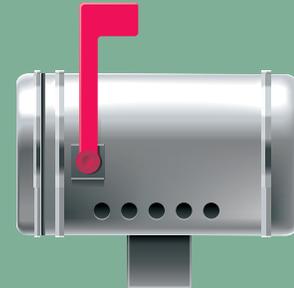
⁷ Federal Trade Commission, Q&A for Telemarketers & Sellers About DNC Provisions in TSR. Available at: <http://www.ftc.gov/tips-advice/business-center/qa-telemarketers-sellers-about-dnc-provisions-tsr>

⁸ NY Executive Law 174-b(3)

Checklist for Assessing A Direct Mail Appeal:

If you receive a charitable solicitation in the mail, take a close look at what you have been sent.

- Does the organization have a name that sounds like a well-known charity? Double-check the organization online—is it the one you think?
- Does the mailing claim to follow up on a pledge that you do not remember making? Keep records of your pledges so you will not be scammed.
- Does the mailing state that a copy of the charity's most recent financial report can be requested or viewed on the Attorney General's website (www.CharitiesNYS.com) or obtained directly from the charity? It should also include both the charity's and the Attorney General's address in the same size type as other text on the mailing.
- Does it clearly describe the programs or activities that the charity plans to fund with your donation, or include a statement that a detailed description of those activities is available upon request?



Text donations: Before hitting "Send," check the charity's website or call the charity to make sure contributions by text message are authorized. Some text solicitations are frauds. Also, remember that donating by text means the organization may not receive the funds until after you pay your phone bill. Contributions made directly to a charity can reach it faster.

Secure web addresses: When donating online, make sure the website is secure: the web address should start with "https." Unless the charity uses a separate payment site, such as PayPal, the web address should match the organization to which you are donating.

A Note to Charitable Organizations

One of a charitable organization's most valuable assets is its reputation. A charity should not jeopardize that by permitting a fundraiser to act on its behalf without carefully reviewing how the fundraising campaign will be conducted, knowing what will be said about the charity and its programs, and monitoring the fundraiser's activities. To ensure that these criteria are met, a charitable organization should:

1. Establish a formal process to solicit bids for a fundraising contract to ensure competitive proposals. The charity should obtain bids from several fundraisers. Make sure the one selected is properly registered; most fundraisers are required to register and file financial reports with the NYS Attorney General's Charities Bureau. Also, find out if any legal action has been taken against the fundraiser due to its fundraising activities.
2. Charities must have a written contract with the fundraiser that describes the rights and responsibilities of both parties. The contract must include New York-specific language about the charity's right to cancel the contract. It must also include financial terms and fees, as well as a requirement that, within five days of receipt, all contributions must be placed in an account controlled by the charity.
3. Charities should ensure that the agreement with the fundraiser is in the charity's best interest. It is the fiduciary responsibility of the charity's officers and directors to make sure that its contracts are fair and reasonable, and that the charity receives all funds due to it.
4. Monitor the fundraising campaign to make sure that the fundraisers are properly describing the organization and its programs. Always review the content of any material using the charity's name such as telemarketing scripts or direct mail solicitations. Your contract can state that the charity has final approval of such materials. It is also prudent to require periodic financial reports from the fundraiser.
5. If your organization receives less than 75% of the funds raised by outside professional fundraisers, establish a review process to consider the metrics of using alternative vendors. Also create a process to measure the success of the fundraiser's efforts. If certain goals are not met, reevaluate the vendor choice prior to renewal. Charitable organizations are also encouraged to read the Charities Bureau's pamphlet, *Hiring a Professional Fundraiser: What Charities Need to Know*, available at: **www.CharitiesNYS.com**.

