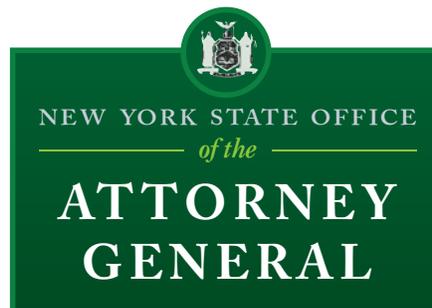


# PENNIES FOR CHARITY

## WHERE YOUR MONEY GOES

Fundraising by Professional Fundraisers



CHARITIES BUREAU

November 2017



### Giving in New York State

New Yorkers give generously to charity. The New York State Department of Taxation and Finance reported in 2014, the last year available, that “more than two million New York taxpayers claimed \$32.9 billion in charitable giving.”<sup>1</sup> The multitude of charitable organizations, foundations, charitable trusts, and other not-for-profits operating in New York reflects the needs that exist as well as New Yorkers’ willingness to respond to them. The range of causes is as diverse as the degree of support. New Yorkers have recognized and fulfilled needs—big and small, local and global—in education, health, the arts, housing, the environment, and a host of other areas. This support makes our communities more vibrant, sustaining, and enriching places.

While individuals and communities benefit from New Yorkers’ giving, the state’s economy benefits as well. New York’s not-for-profit sector is large and diverse. As of November 2017, there were 79,073 charities registered with the Attorney General’s Charities Bureau. A recent report by John Hopkins University found that in Albany’s Capital District alone, the charitable nonprofit workforce numbers 79,210 people.<sup>2</sup> In New York City, over 35,000 nonprofits pay \$33.6 billion in payroll and employ more than 600,000 workers.<sup>3</sup>

As the chief law enforcement officer and regulator of 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. Many charities use professional for-profit fundraisers as outside contractors to further their fundraising efforts, publicize their causes and increase returns. Fundraisers can play an important role in furthering a charity’s mission, and many belong to professional associations that require them to commit to a code of ethics.<sup>4</sup> The campaigns these fundraisers conduct are the focus of this report.

While many fundraisers’ diligence and expertise enable charities to achieve their goals, some collect fees so large that little of the funds raised go to the charity. Some fundraisers also give potential donors misleading information about a charity to spur their gifts. This past year saw several major enforcement actions by the Attorney General’s Charities Bureau against such fundraisers and the charities that hire them. (See “Operation Bottomfeeder Targets Deceptive Charities and Their Fundraisers”, p. 5.) To avoid being misled, donors should research a charity that they do not know before making a gift. This report can be a helpful tool.

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<sup>1</sup> New York State Department of Taxation and Finance (2016). Available at <https://www.tax.ny.gov/press/rel/2016/charitablecontributions112916.htm>.

<sup>2</sup> New York Capital Region Nonprofits: A Major Economic Engine (2017), Available at: <http://ccss.jhu.edu/new-york-capital-region-report>.

<sup>3</sup> *The Nonprofit Sector in New York* (2016). Available at: <https://www.independentsector.org/wp-content/uploads/2016/12/New-York-1.pdf>.

<sup>4</sup> See, e.g., Association of Fundraising Professionals at <https://www.afpnet.org/Ethics/EnforcementDetail.cfm?ItemNumber=3261>.

## Giving Wisely: How to Use This Report

The Attorney General’s annual Pennies for Charity report and its accompanying database on [www.CharitiesNYS.com](http://www.CharitiesNYS.com) look at the results of campaigns conducted by professional fundraisers on charities’ behalf.<sup>5</sup> Many donors are not aware how large a share of their donations can go to professional fundraisers handling charities’ solicitations. To find out, donors can log onto [www.CharitiesNYS.com](http://www.CharitiesNYS.com) and click through to the Pennies database (<https://www.charitiesnys.com/pfcmmap/index.jsp>). They then can enter the charity’s name, and pull up its fundraising track record. If most campaigns yielded little for the charity, a donor likely should dig deeper.

Go to the charity’s website to learn about the organization and its mission. Some charities post their annual reports and IRS form 990 filings on their sites. If a charity does not, go on the Charities Bureau’s registry ([www.CharitiesNYS.com](http://www.CharitiesNYS.com)). A charity soliciting in New York State is required to register with the Attorney General’s Charities Bureau and submit annual filings that include their IRS 990.

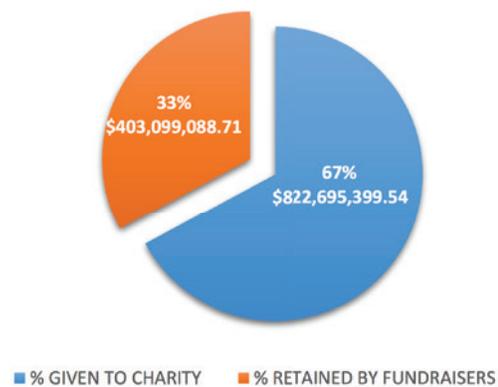
Potential donors should also look at sites like Charity Navigator ([www.charitynavigator.com](http://www.charitynavigator.com)) and other “watchdog” organizations that evaluate charities based on their annual IRS 990 filings and other materials. All of this information will help in deciding whether a charity is well-run and effective in its mission and deserving of support.

## Dollars to Charities

This year’s Pennies for Charity report includes data from the 987 fundraising campaigns conducted all or in part in 2016 by professional fundraisers in New York. The campaigns raised over one billion dollars. Key findings include:

- **Over \$403 million, or about 33%, of funds raised were retained by fundraisers to cover the costs of conducting charitable campaigns. Charities retained \$822 million overall.**
- **Charities retained less than 50% of funds raised in 37%, or 374 campaigns.**
- **In 13%, or 131 campaigns, expenses exceeded revenue. In 2016, this loss totaled over \$9 million.**

**2016 Charities Summary**  
Total Gross Receipts for 2016 Fundraising Campaigns  
**\$1,225,794,488.25**



[Figure 1]

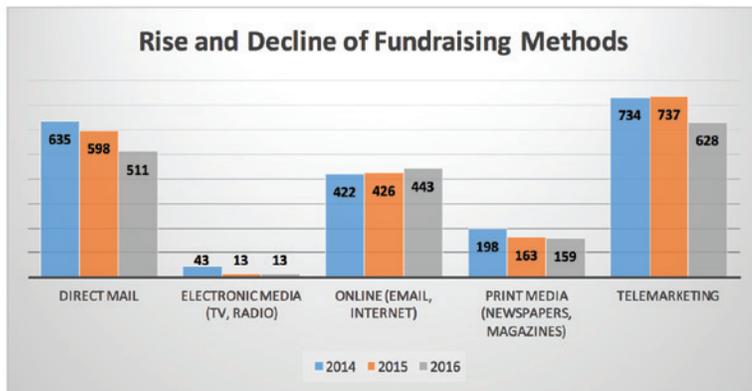
## Fundraising Trends

Charitable soliciting via online and mobile devices, including email, continued to rise last year. According to The Blackbaud Institute, a nonprofit that researches trends in philanthropy, online giving grew nearly 8% in 2016. Further, 17% of those online transactions were made using a mobile device.<sup>6</sup>

<sup>5</sup> The data is drawn from campaign closing statements filed with the Attorney General’s Charities Bureau that cover national or local campaigns conducted all or in part in 2016 in New York State.

<sup>6</sup> Charitable Giving Report (2016). Available at: <https://institute.blackbaud.com/wp-content/uploads/2017/02/2016-Charitable-Giving-Report.pdf>.

This shift includes fundraising campaigns in New York State. Campaigns tapping online methods have increased over the last three years, while more traditional methods like direct mail and telemarketing have begun to drop. [See Figure 2.] News organizations cite the rise of mobile phones as one factor in telemarketing’s gradual decline; a Huffington Post story last year noted nearly half of all Americans now rely solely on mobile phones.<sup>7</sup> In 2014, more than 700 campaigns used telemarketing in New York State. In 2016, that number had declined to 628. Direct mail has seen a greater drop in the same period, from 635 campaigns to 511.



[Figure 2]

Online and other digital options are changing how some donors give. Crowdfunding, for instance, where organizations or individuals ask others to contribute small amounts to achieve a goal, has surged in the last decade, giving rise to dedicated online platforms like GoFundMe.<sup>8</sup> The platform has helped individuals and organizations raise \$4 billion since its 2010 launch,<sup>9</sup> and last year generated \$100 million in revenue.<sup>10</sup> While the platform’s success speaks to crowdfunding’s effectiveness, ease of use has costs. The platform takes 5 percent of what each campaign raises, charges a 2.9 percent credit card transaction fee and another 30 cents per donation.<sup>11</sup>

Though online and other digital fundraising offer a convenience factor, donors should do their diligence before they click. They may not realize, for example, that crowdfunding platforms can charge multiple layers of fees. Most platforms spell out their

<sup>7</sup> [https://www.huffingtonpost.com/entry/polling-when-people-dont-answer-phones\\_us\\_56b3b06ee4b04f9b57d8e014](https://www.huffingtonpost.com/entry/polling-when-people-dont-answer-phones_us_56b3b06ee4b04f9b57d8e014).

<sup>8</sup> <https://www.cnn.com/2013/10/23/crowdfunding-definition-from-cnn.html>.

<sup>9</sup> <https://www.gofundme.com/about-us>.

<sup>10</sup> <https://www.forbes.com/sites/susanadams/2016/10/19/free-market-philanthropy-gofundme-is-changing-the-way-people-give-to-causes-big-and-small/#7cb36d7f7796>.

<sup>11</sup> Ibid.

## Tips for Giving in a Digital World

There are many kinds of online charitable fundraising. Common scenarios include campaigns that charities conduct on their own websites; campaigns that charities conduct on an online platform; campaigns that an online platform conducts to benefit a charity or charities; and campaigns that individuals conduct online to benefit a particular charity or group of charities.

When the campaign involves a third party, whether an individual or an online platform, donors should find out whether the charity has authorized the campaign and if their contribution is tax deductible. Online platforms can be reached through their “Contact Us” buttons and usually will respond promptly to queries. Individuals that claim their charitable campaigns have been approved by a charity should be able to produce some documentation from the charity.

**Crowdfunding:** Online platforms that host groups and individuals soliciting for causes do not vet those who use their service. Donors should only give to campaigns mounted by people whom they know. If donors are giving to a charity through a platform, they should take a close look at the site’s policy statements to see how the process and fees work. Also, make sure that the charity has given its permission for the site to use its name or logo. The site or the charity should confirm that the charity has approved the campaign.

**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 scams. Ask what percentage of the donation is being retained by the fundraiser. Also, remember that donating by text means the organization may not receive the funds until after a phone bill is paid. 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, the web address should match that of the organization that will receive the donation.

**Spam email:** Be wary of email solicitations that ask you to click a link or open attachments. These could be phishing scams that try to trick you into giving out your credit card number, social security number, or other confidential information. Further, a link could contain malware, software that is intended to damage or disable your computer, or even viruses designed to access information on your computer.

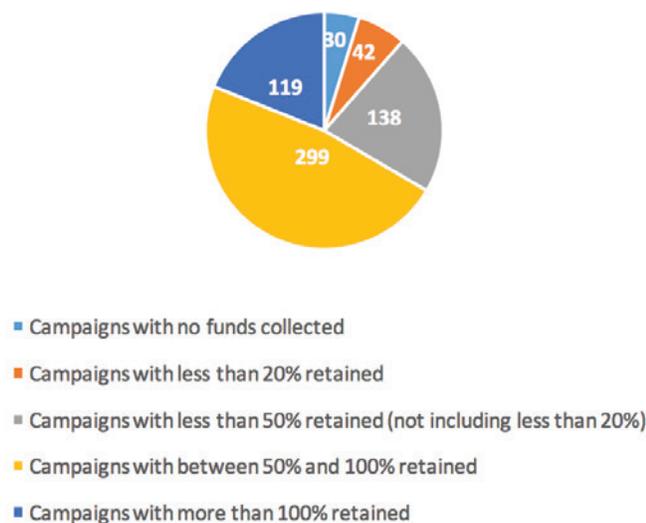
terms in their Frequently Asked Questions and Terms and Conditions pages, and donors should check them before giving. GoFundMe, for one, explains its charges in a section linked to its homepage called “Pricing and Fees.”<sup>12</sup> If donors want to give to an individual’s charitable campaign, they should support people they know. Many crowdfunding platforms do not vet campaigns conducted on their sites. If donors know the individual creating a charitable campaign, they can ask whether the charity has authorized it, and if their contribution will be tax deductible.

When an online platform conducts a charitable campaign itself, rather than hosting an individual’s campaign, it may not always detail how a charitable donation is handled. Donors may make a gift through a website that goes to a donor-advised fund<sup>13</sup> rather than directly to the charity that they intended to benefit. A site’s FAQs or Terms and Conditions usually detail whether donations go directly to a given charity.

While online and other digital methods may retain a percentage of the funds collected on a charity’s behalf, that amount—usually less than 10 percent—compares favorably to the percentage retained by professional fundraisers using traditional fundraising methods like telemarketing. Telemarketers continue to retain on average more than 50 percent of every dollar collected for a charity. [See Figure 3.] However, donors should bear in mind that contributions made directly to a charity, whether via its website or another method, go in their entirety to the charity.

Telemarketing Summary		
Average % of funds retained by fundraisers in 2016	82.16%	
	Count	% of total
Total # of telemarketing campaigns:	628	100.00%
Campaigns with no funds collected	30	4.78%
Campaigns with less than 20% retained	42	6.69%
Campaigns with less than 50% retained (not including less than 20%)	138	21.97%
Campaigns with between 50% and 100% retained	299	47.61%
Campaigns with more than 100% retained	119	18.95%

Telemarketing Funds Retained by Fundraisers



[Figure 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 from the Attorney General’s Charities Bureau or viewed on its website ([www.CharitiesNYS.com](http://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?

<sup>12</sup> <https://www.gofundme.com/pricing>.

<sup>13</sup> IRS guidance states that “a donor-advised fund is a separately identified fund or account that is maintained and operated by a 501(c) 3 organization, which is called a sponsoring organization. Each account is composed of contributions made by individual donors. Once the donor makes the contribution, the organization has legal control over it.” (See <https://www.irs.gov/charities-non-profits/charitable-organizations/donor-advised-funds>.)

## Operation Bottomfeeder Targets Deceptive Charities and Their Fundraisers

The Charities Bureau’s Operation Bottomfeeder is an ongoing initiative that targets sham charities which exploit popular causes like breast cancer prevention, veterans in need, and aid for disabled children to enrich professional fundraisers. Those fundraisers often collect donations through misleading pitches about the charities’ programs. They then retain the lion’s share of the money collected.

This year, as part of Operation Bottomfeeder, the Attorney General investigated and shut down the Breast Cancer Survivors Foundation (also known as “Women’s Breast Cancer Relief Association”). The charity was founded in 2010 by Dr. Yulius Poplyansky, but was actually run by its outside fundraiser, Mark Gelvan, who oversaw telemarketing and direct mail campaigns for the charity.

For years, the charity and its fundraisers painted the picture of an organization that was providing medical services to breast cancer patients and those at risk of breast cancer. The solicitations played on donors’ desire to help by touting fictional accounts of a caring doctor who treated breast cancer patients, non-existent “forums for breast cancer survivors” and “international pharmaceutical programs.” Instead, as the investigation found, the organization spent only 3.5% of the millions it collected on any sort of charitable service, and provided no direct services to breast cancer patients or those at risk of developing breast cancer.

The Attorney General found that the organization was a shell that profited Gelvan, his companies and his business associates. Of the \$3 million a year that the charity raised through its telemarketing and direct mail campaigns, Gelvan and his business network retained 92 cents of every dollar raised. The New York State Attorney General shut down the charity, and is directing the nearly \$350,000 that the charity had in assets to legitimate breast cancer organizations.

Through Operation Bottomfeeder, the Attorney General has shut down other charities that follow this predatory business model. Many use sympathetic-sounding names—sometime more than one to evade do-not-call lists and confuse donors—such as the Association for Disabled Children (which also solicited donations as the “Children’s Cancer Support Foundation”), VietNow,<sup>14</sup> and the National Children’s Leukemia Foundation. Several investigations are ongoing; others have resulted in criminal penalties. Last year, the Attorney General shuttered

<sup>14</sup> New York State participated in a multi-state settlement that dissolved the charity in November 2017.

## Tips on Handling a Telemarketing Solicitation

Telemarketers must adhere to laws that address the scope and content of their solicitations. Charitable organizations and their for-profit fundraisers are prohibited from making false, misleading, or deceptive statements to potential donors in connection with fundraising activities. The New York State Attorney General has the authority to investigate and prosecute such statements.

Further, New York and other states require telemarketers to disclose (a) the name of the individual telemarketer, (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.<sup>15</sup>

Donors can ask to be placed on that charity’s “Do Not Call” list. 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. If a professional telemarketer is calling on behalf of a charity, a consumer may ask to be removed from that particular charity’s calling list. If the telemarketer calls again on behalf of that charity, the telemarketer may be subject to a fine of up to \$40,654.<sup>16</sup>

### 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? Ask for specifics.
- 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 what percentage of your donation is the charity guaranteed?

<sup>15</sup> NY Executive Law 174-b(3).

<sup>16</sup> 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>.

the National Vietnam Veterans Foundation (also known as American Veterans Support Foundation). Its executive director, John Thomas Burch, had embezzled charity funds to underwrite a lavish lifestyle and give gifts to friends, family and women he knew. In October 2017, Burch pled guilty to wire fraud and was sentenced by a federal court to five months in prison and ordered to pay \$75,000.

Donors can help the Charities Bureau combat “bottomfeeder” charities, and limit the impact of such organizations on the public’s confidence in the non-profit sector’s good work. They can be on the lookout for charities that sound like higher-profile organizations and promote “warm-glow” causes. Before giving, always research a charity carefully on the Pennies for Charity database or watch-dog sites like Charity Navigator, keeping an eye out for those that use high-cost fundraisers that yield little revenue for the organization. Savvy giving can make sure that the support goes to the cause rather than the fundraiser.

**The Attorney General actively investigates suspect charities and fundraisers. If you believe that an organization is engaged in questionable conduct or a solicitation is misleading, please contact the Charities Bureau at 212-416-8401, email [charities.fundraising@ag.ny.gov](mailto:charities.fundraising@ag.ny.gov) or file a complaint at [charities.complaints@ag.ny.gov](mailto:charities.complaints@ag.ny.gov).**

## Tips on Giving in the Aftermath of a Disaster

New Yorkers rise to meet the needs of others in the aftermath of a disaster. This past year, disasters devastated Houston, Florida, Puerto Rico, Mexico, and other communities across the United States and the Caribbean. Unfortunately, fraudulent organizations can also spring up to exploit donors’ generosity. In addition to the general tips outlined in these pages, there are important guidelines that New Yorkers should keep in mind before donating to disaster relief efforts.

- Donate to organizations with which you are familiar, or that have experience assisting in disaster relief.
- Ask specifically how the charity plans to use your donation, including the services and organizations in the disaster area that your donation will support. Ask if the charity has already worked in the affected area or has relationships with any local relief organizations. Also ask what the charity plans to do with any excess donations.

### The following websites have lists of organizations working in affected communities.<sup>17</sup>

- The Center for Disaster Philanthropy [www.disasterphilanthropy.org](http://www.disasterphilanthropy.org)
- National Volunteer Organizations Active in Disasters [www.nvoad.org](http://www.nvoad.org)
- Interaction [www.interaction.org](http://www.interaction.org)

### The following websites provide information that helps evaluate charities’ performance:

Charity Navigator – [www.charitynavigator.org](http://www.charitynavigator.org)  
CharityWatch – [www.charitywatch.org](http://www.charitywatch.org)  
Better Business Bureau Wise Giving Alliance - [www.bbb.org](http://www.bbb.org)  
GuideStar – [www.guidestar.org](http://www.guidestar.org)

As always, if you believe an organization is misrepresenting its work, or that a scam is taking place, please contact the Attorney General’s Charities Bureau at [charities.complaints@ag.ny.gov](mailto:charities.complaints@ag.ny.gov) or 212-416-8401.

<sup>17</sup> Center for Disaster Philanthropy. Available at <http://disasterphilanthropy.org/resources-2/basic-tips-for-disaster-giving/>.

## Tips For Charities Hiring Fundraisers

The officers and/or directors of a charity have an obligation to oversee its professional fundraisers. A charitable organization's reputation is one of its most valuable assets. A professional fundraiser and its staff may be a charity's primary connection to the public. The officers and directors should make sure that a fundraiser represents the charity well and fulfills all regulatory requirements. Before hiring a professional fundraiser, a charity should:

- **Research a fundraiser's track record using the Pennies for Charity database on the Charities Bureau's website** at <https://www.charitiesnys.com/pfcmap/index.jsp>. The database shows how much fundraisers have retained from campaigns they have conducted for charities. If a fundraiser's campaigns yielded little for charities, it may be a red flag.
- **Find out if any legal action has been taken against a fundraiser.** Disciplinary records of many fundraisers can be searched on an online public database created by the Tampa Bay Times as part of its reporting on "America's Worst Charities" at <http://charitysearch.apps.cironline.org>. (Please note that this database is not being updated, so it may not include all relevant records, but provides some useful information.) If a fundraiser has been disciplined or paid a fine for making misrepresentations or harassing techniques, this is a red flag.
- **Ensure that the fundraiser is properly registered.** Fundraising professionals must register annually with the NYS Attorney General's Charities Bureau to fundraise in New York State. To find out if a fundraiser is registered, email [charities.fundraising@ag.ny.gov](mailto:charities.fundraising@ag.ny.gov) or call 518-776-2160
- **Charities must have a written contract with a fundraiser that includes certain terms.** New York law requires that specific financial terms and fee and cancellation language be included in fundraiser contracts. It also requires that, within five days of receipt, all contributions must be placed in an account controlled by the charity. If a board agrees to a contract that allows the fundraiser to keep a percentage of the funds raised, be aware that there is no "industry standard" for such contracts, so ensure that the terms maximize the returns to the charity.
- **Retain control of the contributors' list.** Make sure that a fundraiser contract makes the organization the owner of the list of its contributors. Otherwise, the fundraiser may have the right to use the list when raising money for other charities or to sell or rent the list for other campaigns.
- **If the charity raises funds by telemarketing, make sure that the fundraiser makes the required disclosures.** New York law requires that fundraising professionals and their representatives ("professional solicitors") disclose to a potential donor the professional solicitor's name and that of the fundraising professional in charge of the campaign and that the solicitor is being paid to raise funds.
- **Monitor the fundraising campaign.** A charity must ensure that its fundraisers properly describe the charity's mission and programs. It is essential that a charity review and approve all solicitations and scripts for accuracy before they are used by fundraisers. Keep track of any complaints about the fundraising campaign, whether received by your organization or the fundraiser, and make sure they are resolved.
- **Closely review the fundraiser's financial report prior to signing.** Fundraisers must file a financial report with the Charities Bureau disclosing a campaign's results (form CHAR037). New York law requires that both a charity and its fundraiser certify, under penalty of perjury, the accuracy of the report. Charities have an obligation to review a campaign's accounts and costs prior to signing. Form CHAR037 must be submitted within 90 days after a fundraising campaign is over.





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