

**PRESENTED AT**

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***UPDATE FROM STATE ATTORNEYS GENERAL:  
RECENT DEVELOPMENTS IN REGULATION AND ENFORCEMENT***

**Panelists:**

**Yael Fuchs, Office of the New York Attorney General, New York, NY**

**Mary T. Henderson, Office of the Attorney General of Texas, Austin, TX**

**Malisa McPherson, Office of the Oklahoma Attorney General, Oklahoma City, OK**

**Moderator:**

**Jason R. Lilien, Loeb & Loeb, New York, NY**

The panelists wish to thank the National Association of State Charities Officials (NASCO) and individual state offices for providing the descriptions of matters contained in this report. The contents constitute a representative sample of 2018-2019 cases and other initiatives brought by state charities regulators and/or impacting charities laws in the respective states, and are not intended as an exhaustive list. The contents of this report are not intended for legal citation. Questions regarding particular cases should be directed to the relevant state.

## I. DECEPTIVE SOLICITATION

**CA** In January 2019, settled with **Giving Children Hope** and its principals to resolve claims that the charity misled the public by falsely claiming that 99% of contributions went to provide direct aid, when in fact that percentage relied on the use of vastly inflated valuation of gift-in-kind donations of pharmaceuticals. As part of the settlement, the charity, directors, officers and accountant paid \$410,000 to be used for state charity enforcement, will stop providing misleading reports, and the charity agreed to end its pharmaceutical gift-in-kind program. <https://oag.ca.gov/news/press-releases/attorney-general-becerra-announces-410000-settlement-giving-children-hope-after>

**CA** In November 2018, received a jury verdict for nearly \$8.8 million against the **Wounded Warriors Support Group** and its officers who fraudulently solicited charitable donations under the pretext of assisting wounded veterans and their families but instead illegally enriched themselves. In addition, the court dissolved the charities and permanently enjoined the individual defendants from future involvement with charities. <https://oag.ca.gov/new-press-categories/charities>

**CA** Charities **Catholic Medical Mission Board, Inc., Food for the Poor, Inc., and MAP International** report receiving hundreds of millions of dollars each year in pharmaceutical donations from U.S. drug companies. Most of the drugs are restricted only for distribution and use overseas. Despite these restrictions, all three charities use extremely high U.S. market prices in valuing the drugs. Using U.S. prices results in substantially inflated efficiency ratios based on the charities' reported revenue and program expenses. The charities solicited cash donations by claiming that 95% to 99% of "your donation" goes directly to charitable programs and that "administrative costs are less than 5% of our expenses." In fact, as much as 40% of the charities' cash donations are used to pay for administrative costs. The Registry of Charitable Trusts issued cease and desist orders against all three charities for making deceptive and misleading statements in the solicitation of charitable donations. On appeal, the administrative law judge affirmed the cease and desist orders and penalties totaling \$1,490,175. In addition, Government Code section 12599.6, subdivision (f)(2), which requires that charitable solicitations be conducted without unfair, deceptive, or fraudulent practices, was found to be narrowly drawn and not in violation of the First Amendment. The charities must immediately cease and desist from using the deceptive statements and pay the penalties within 30 days.

**CO** Successfully tried criminal contempt charges against **Adam Shryock**, who was banned from charitable solicitation in 2015 after operating a nationwide business selling merchandise in bars and at tailgate parties ostensibly to benefit breast cancer charities, but remitting little to the charities and failing to obtain their permission. In spite of the ban, and having been found in contempt twice for violating it, Shryock reverted once again to the same practices in 2018. Shryock violated the court's injunction twice and received jail sentences of 30 days and then six months. In May 2019, CO tried Shryock for criminal contempt on a third violation. The jury found Shryock guilty of violating 10 of 11 provisions of the Permanent Injunction.

**CO** The SOS denied registration renewal for **Infocision**, a professional fundraiser, on the basis that it had been enjoined within the immediately preceding five years from engaging in deceptive conduct relating to charitable solicitations by the FTC (which is prohibited by 6-16-104.6(10), C.R.S.). The decision was upheld after an administrative agency hearing.

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