

Ala. Code 1975, § 13A-9-71(g)

Charitable Fraud
(Failing to File Annual Written Report)

The defendant is charged with charitable fraud.

A person commits the crime of charitable fraud if it is a charitable organization registered with the Attorney General and it knowingly fails to file an annual written report **[Read all appropriate]**:

- (a) Within 90 days of the close of its fiscal year ending after the date on which the charitable organization filed its initial registration with the Attorney General;
- (b) Sworn to under oath;
- (c) In the form prescribed by the Attorney General; **(OR)**
- (d) Including a financial statement covering the fiscal year, clearly setting forth the gross income, expenses, and net income inuring to the benefit of the charitable organization, a balance sheet as of the close of the fiscal year, and a schedule of the activities carried on by the charitable organization in the performance of its purposes and the amounts expended thereon during the fiscal year.

To convict, the State must prove beyond a reasonable doubt each of the following elements:

- (1) The defendant was a charitable organization registered with the Attorney General;
- (2) The Defendant failed to file an annual written report with the Attorney General: **[Read All Appropriate]**
 - (a) Within 90 days of the close of its fiscal year ending after the date on which the charitable organization filed its initial registration with the Attorney General;
 - (b) Sworn to under oath;
 - (c) In the form prescribed by the Attorney General; **(OR)**
 - (d) Including a financial statement covering the fiscal year, clearly setting forth the gross income, expenses, and net income inuring to the benefit of the charitable organization, a balance sheet as of the

close of the fiscal year, and a schedule of the activities carried on by the charitable organization in the performance of its purposes and the amounts expended thereon during the fiscal year;

- (e) Accompanied at the time of filing by a fee of \$25 payable to the Attorney General; **(AND)**

- (3) The Defendant did so knowingly.

Charitable organization is any benevolent, philanthropic, or patriotic person, or one purporting to be such, consistent with the then-controlling definition provided in the Internal Revenue Code of the United States of America, which solicits and collects funds for charitable purposes and includes each local, county, or area division within this state of the charitable organization; provided the local, county, or area division has authority and discretion to disburse funds or property otherwise than by transfer to any parent organization. [13A-9-70(1)]

Person is any individual, organization, group, association, partnership, corporation, trust, or any combination of them. [13A-9-70(7)]

Charitable purpose is any charitable, benevolent, philanthropic, or patriotic purpose which is consistent with the then-controlling definition provided in the Internal Revenue Code of the United States of America. [13A-9-70(2)]

A person acts *knowingly* with respect to conduct or to a circumstance when he/she is aware that his/her conduct is of that nature or that the circumstance exists. [13A-2-2(2)]

[Read as appropriate]: An organization may also meet this requirement by submitting a copy of the Form 990 submitted to the Internal Revenue Service as required by federal law. [13A-9-71(g)]

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of charitable fraud, then you shall find the defendant guilty of charitable fraud.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of charitable fraud, then you cannot find the defendant guilty of charitable fraud.

Use Notes

For a list of those persons not required to register with the Attorney General, see 13A-9-71(f), Ala. Code 1975.

The Attorney General may extend the time for filing reports for a period not to exceed 180 days. [13A-9-71(g)(1)]

[Approved 9-11-15.]