

Ala. Code 1975, § 13A-9-71(e)

**Charitable Fraud
(Failing to Notify AG of Any Change in Information Required
in Registration Statement)**

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 knowingly fails to notify the Attorney General within 10 days of any change in the information required to be furnished in the registration statement.

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 notify the Attorney General of a change in the information required to be furnished by the organization in the registration statement: **[Read All Appropriate]**
 - (a) The name of the organization and the name or names under which it intends to solicit contributions;
 - (b) The names and addresses of the officers, directors, trustees, and executive personnel of the organization;
 - (c) The addresses of the organization and the addresses of any offices in Alabama. If the organization does not maintain an office, the name and address of the person having custody of its financial records;
 - (d) The place where and the date when the organization was legally established, the form of its organization, and its tax exempt status;
 - (e) The purposes for which the organization is organized and the purpose or purposes for which the contributions to be solicited will be used;
 - (f) The date on which the fiscal year of the organization ends;

- (g) Whether the organization is authorized by any governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions; **(OR)**
 - (h) The names and addresses of any professional fund raisers and commercial co-venturers who are acting or have agreed to act on behalf of the organization;
- (3) The Defendant failed to notify the Attorney General within 10 days of the change in information; **(AND)**
 - (4) 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)]

Contribution is the promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority. Reference to the dollar amount of "contributions" means in the case of promises to pay, or payments for merchandise or rights of any other description, the value of the total amount promised to be paid for the merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. [13A-9-70(5)]

Professional solicitor is any person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes in this state. [13A-9-70 (10)]

Professional fund raiser is any person who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or any

other person, or who engages in the business of, or holds himself/herself out to persons in this state as independently engaged in the business of soliciting contributions for such purposes. A bona fide officer or employee of a charitable organization is not a professional fund raiser unless his/her salary or other compensation is computed on the basis of funds to be raised, or actually raised. This section shall not apply to persons who solicit political campaign contributions on behalf of candidates for public office or initiatives on a ballot. [13A-9- 70 (9)]

Commercial co-venturer is any person who for profit or other commercial consideration, conducts, promotes, underwrites, arranges, or sponsors a sale, performance, or event of any kind which is advertised, and which will benefit, to any extent, a charitable or religious organization. However, any such person who will benefit in good will only, is not a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance, or event are supervised and controlled by the benefitting charitable or religious organization. [13A-9-70(4)]

Religious organization is any society, sect, persuasion, mission, church, parish, congregation, temple, convention, or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, or any employee thereof, no part of the net earnings of which inures to the benefit of any private party or individual associated with such an organization and that otherwise qualifies as an exempt organization under Section 501(c)(3) of Title 26, United States Code, as amended. [13A-9-70(11)]

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)]

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.

[Approved 9-11-15.]