

Ala. Code 1975, § 13A-9-71(I)

Charitable Fraud
(Using Name of Charitable Organization Without Consent)

The defendant is charged with charitable fraud.

A person commits the crime of charitable fraud if he/she knowingly uses the name of a charitable organization without the consent of the charitable organization for the purpose of soliciting contributions from persons in this state.

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

- (1) The defendant used the name of a charitable organization;
- (2) The defendant did so without the consent of the charitable organization;
- (3) The defendant did so for the purpose of soliciting contributions from persons in this state; **(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)]

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)]

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

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)]

A person shall be deemed to have used the name of a charitable organization for the purpose of soliciting contributions if the latter charitable organization's name is listed on any stationery, advertisement, brochure, or correspondence in or by which a contribution is solicited by or on behalf of a charitable organization or his/her name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or endorsed the charitable organization or its activities. [13A-9-71(m)]

[Read as appropriate]: An officer, director, or trustee of the charitable organization by or for whom contributions are solicited may use the name. [13A-9-71(l)]

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

Nothing contained in this section shall prevent the publication of names of contributors without their written consent in an annual or other periodic report issued by a charitable organization for the purpose of reporting its operations and affairs to its membership or for the purpose of reporting contributions to contributors. [13A-9-71(n)]

[Approved 9-11-15.]