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House Committee on Oversight Hearing on
Costs of Veterans' Charities Fundraising
January 17, 2008

Chairman Waxman, Ranking Member Davis, and Members of the Committee:

I am here today at your so-called "invitation." I must say, this is the first invitation I've ever received from Members of Congress that wasn't for one of your fundraising events.

In 1960, just five years before I started my marketing agency, I estimate there were only about 60,000 donors to the Kennedy-Nixon presidential campaigns. There were only three television networks, almost no talk radio, and no Internet, so Americans received their news and information from very limited sources who controlled, filtered and limited what Americans knew about what really happens in Washington.

Applying commercial marketing principles to cause-related fundraising, I pioneered direct mail for political and ideological causes. My methods allowed political and nonprofit causes to bypass the filter of the limited news outlets to communicate **directly** with American citizens. JFK's late son's magazine, *George*, credited this as one of the defining political moments of the 20th Century.

I developed ways to communicate with, **involve**, and raise money from millions of every-day citizen supporters rather than the fewer traditional fat cat donors. Because what I had done was revolutionary and not understood, I was criticized by the news media and my opponents for high fundraising costs. But that changed substantially on one night -- when Ronald Reagan was elected President. Soon after that, liberal causes, senatorial and House campaign committees, and even Members of Congress were copying my methods. I explain this in my book, *America's Right Turn: How Conservatives Used New and Alternative Media to Take Power*.

Compared to 1960 (when the Kennedy-Nixon campaigns combined had only about 60,000 donors), today the Democratic National Committee has a list of over a million supporters that it markets to the public. The Hillary Clinton supporter list is over 1.8 million names. The Republican Congressional Campaign Committee markets 474,553 names, and the Democratic Congressional Campaign Committee (DCCC) markets its list of 282,566 names. Congressman Van Hollen of this very Oversight Committee, of course, chairs the Democratic Congressional Campaign Committee, so he is a beneficiary of what I pioneered. I estimate over 8,000,000 people will make a contribution in this election cycle to some campaign or political cause.

The Founding Fathers in their great wisdom added the First Amendment to our Constitution because it is inevitable that political elites will seek to silence their critics and competitors in the marketplace of ideas. This is often done in subtle ways, which is referred to as "chilling" First Amendment rights.

In my 46 years in marketing I have seen many attempts to silence critics of government. Politicians too often use the power of government to limit and exclude competition for donor dollars by rigging the rules in your own favor. Although most of you don't even read the bills, you often vote for and pass unconstitutional legislation. And politicians all too often abuse your bully pulpit to cause harm to other speakers for your own power and gain.

We filed an Objection to your so-called "invitation," which is explained a bit more fully in the Appendix to my Statement. That Objection explains that government investigations should be limited or stopped based on the **likelihood** that they would chill the exercise of First Amendment rights. That Objection also describes how four times in the past 27 years the United States Supreme Court has already ruled that high-costing charitable fundraising communications are fully protected by the First Amendment. Here's a repeated quote from those decisions:

> "Prior authorities . . . clearly establish that charitable appeals for funds . . . involve a variety of speech interests – communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes – that are within the protection of the First Amendment . . . [and] that without solicitation the flow of such information and advocacy would likely cease."

Mr. Chairman, at the December 13 hearing on veterans' charities you defamed certain charities for their high fundraising costs by calling that fraud. I say "defamed" not just based on what an ideologically diverse set of Supreme Court justices has said about high-costing fundraising. You were legally wrong, and you distorted and misrepresented certain important facts.

In fact, your defamatory remarks are a perfect example why the Founders added the First Amendment. Politicians cannot be trusted with power over speech and press rights.

No charity wants high fundraising costs. However, the Supreme Court and other courts have recognized what this Committee failed to: there are plenty of reasons why some charities have high-costing fundraising. Those reasons are diverse and too many to explain in this brief statement. But the fact is, Mr. Chairman, besides explaining that those communications are fully protected by the First Amendment, the Supreme Court described why the high costs of fundraising are not just legitimate, but often are necessary.

In fact, the December 13 hearing was based on the false premise that the **sole purpose** of a charitable solicitation is to raise money. Charities that use direct mail, for example, necessarily have higher costs of fundraising because direct mail is often more expensive than some other communications media. But direct mail is the second most widely used form of advertising for one important reason: **it works**.

Charities' solicitations -- what they say, and how they say it -- do more than just solicit and dole out funds. In the case of veterans' charities, there are veterans and their families who are falling through the cracks right under the watch of this Government Oversight Committee. One of the biggest impediments to faster and better help for these veterans and their families, though, is that people in the general public think that the government is helping veterans enough when it's not.

I remember all too well, Mr. Chairman, that many Vietnam veterans were treated poorly, even spit on when they returned to the United States. However, in good part because of what veterans'

charities told the American public in their solicitation communications, over time and with significant expense explaining the plights and sacrifices of veterans, the American public came to learn about the wrongs that were inflicted on our veterans. Veterans' charities favorably changed the public's perception; Congress did not bring about that change. In fact, since Congress is a reactionary body, and too often a slow one at that, the best chance for veterans' to receive better treatment from the government is for many veterans' charities to inform the general public about their issues, which in turn may help ultimately persuade Members of Congress to take action.

Veterans' charities, through their fundraising solicitations, have long addressed causes and issues that were far less popular and understood compared to now. In other words, the degree of change in the public's perception about veterans and their needs would not have occurred without **multiple** veterans' charities communicating to **new and differing audiences, and to people with differing views.** Those solicitation communications influence the public's perception **often in competing ways, providing alternative information, and suggesting new and alternative approaches**, about the wide variety of issues that affect veterans.

Americans in the post-9-11 era generally feel differently about veterans than they did back in the 1960s and 1970s. But more still needs to be done because Congress and the rest of the federal government are stuck in pre-9-11 treatment of veterans. The calamities at Walter Reed Medical Hospital just up the road a few miles, right under the nose of this Committee on Government Oversight, is just one example of how the federal government has failed our veterans. Veterans' charities were not just talking about, but doing something about, many of those types of problems long before Congress ever got around to addressing the problems seriously, and **still** not enough is being done.

Veterans' charities have helped, and continue to help, expose the **failure** of our federal government to adequately care for our wounded and disabled veterans and their families. Mr. Chairman, your defamation of those charities appears to be an attempt to divert attention from **a national disgrace that is a direct result** of the irresponsible conduct of the federal government, including the Congress. Rather than providing enough federal funds for our veterans, too many Members of Congress have spent billions on earmarks and pet projects in their districts. That

abuse of congressional power is the main reason why veterans and their families are getting the short end of the stick.

But that's not the only abuse of power I want to discuss today.

Mr. Chairman, your lawyers Susanne Sachsman and John Williams told my legal counsel interesting things about how this Committee perceives its power, and how some of you just don't think the Constitution applies to what you do. For example, your lawyers say that because I am here at your so-called "invitation," I have no rights of due process. Yet the Committee has demonstrated in rather intimidating fashion that appearing and testifying in response to your Committee's so-called "invitation" is not voluntary, but compulsory. Your invitations are, as might be described in *The Godfather* movie, "offers that can't be refused," and are an attempt to evade constitutional and procedural safeguards for witnesses.

I'm not surprised by that type of Washington arrogance in defiance of the Constitution. Congress rigs the rules to protect its own members, but seems to have no problem violating the constitutional rights of citizens. Mr. Chairman, when you were in the minority in 1998 you submitted a report, which is cited in the Appendix to my statement, criticizing then-Chairman Burton for his investigations of actual government corruption involving political fundraising and money laundering. Those were matters not protected by the First Amendment and involved actual government activity, so this Government Oversight Committee had jurisdiction. Now that you are in the majority, and these hearings prove it, you abuse the investigation powers by violating the First Amendment, disregarding procedural protections, defaming good charities, and, in violation of what the Supreme Court has said are the parameters of congressional investigations, exercising your powers irresponsibly and without due regard for the rights of affected parties.

Today, however, is just the beginning of a very public national airing about issues that Congress for too long has swept under the rug. It is a debate about "legal" fraud and *quid pro quo*, money laundering or call-it-what-you-will, in political fundraising conducted by Members of Congress.

You might try to control and limit what I say here today about fundraising, but you cannot limit and control what I and thousands of others in the new and alternative media outside these halls will say and write in the coming weeks and months to expose the abuses of power, the "legal" bribery and graft, and the corruption that takes place on a daily basis right here on Capitol Hill.

This is a debate that needs to take place before the 2008 elections when people are focused on change. Americans are angry – progressives are angry with the Democratic Party; conservatives are angry with the Republican Party – because of the abuse of power by Congress and other elites in Washington. And I, being more knowledgeable about fundraising practices than most people, will make it my mission to alert the public about the "legal" fraud and *quid pro quo* that takes place in congressional fundraising.

Congressional approval ratings are at an all-time low for one very big reason: no longer do you control the message. That horse has left the barn, and I'm proud to have been a part of that process. Your ratings are at their lowest level because now more than ever American citizens have access to information about what really goes on in Washington.

Some of the most effective and most outspoken critics of Congress are charities and other nonprofit organizations. And even charities that don't expressly criticize the government often provide news and information that puts Congress and other government bodies and individuals in an unfavorable light. Many of the landmark First Amendment cases, such as *NAACP versus Alabama* and *New York Times versus Sullivan*, involve attempts by the government to intimidate and silence nonprofits because they are such effective critics of government.

This Committee is investigating charities that have received bad grades from **one individual** whose methods are not accepted by other charity ratings systems, and are inconsistent with rules established by the American Institute of Certified Public Accountants. That one person's ratings are not based on what the charities do to help veterans, nor on their net results such as how many veterans are helped, but on their costs of fundraising. Based on Congress' approval ratings in the teens these days, though, if Americans were giving out grades for results, Congress should be

placed in remedial education, and many Members would even be expelled from school for bad conduct.

For over 40 years I've done both political and charitable fundraising, and I can tell the American public that the rules, regulations and disclosure requirements for charitable fundraising are much more comprehensive, burdensome, and even restrictive than for political fundraising. Mr. Chairman and Members of the Committee, you aren't required by law to hire independent certified public accountants and file detailed reports about your own costs of fundraising under American Institute of Certified Public Accountant rules, but charities must. Your contracts with fundraisers aren't regulated by state attorney generals, or on file for public inspection, but the contracts for charities are.

And there are even more important distinctions. For example, charities can't strong-arm lobbyists and corporate PACs for contributions in exchange for access, influence and legislative favors. In other words, the playing field is not level.

I say, **level** the playing field. Whatever charities must do to report and comply with the law, Members of Congress should do the same. In fact, if Members of Congress were subject to the same laws and rules with which charities already must comply, many of you would be legally barred from soliciting contributions at all. And the public would know a heck of a lot more about your own fundraising practices.

I offered to have one of the country's foremost experts on the laws and constitutional aspects of fundraising testify, but the Committee declined. Apparently, Mr. Chairman, you don't want to be bothered with constitutional concerns in pursuit of your agenda. The Appendix to my statement addresses just some of the constitutional issues, but also the wasteful if not fraudulent diversion of hundreds of millions of donor dollars by state regulators, the failures of the current state charitable solicitation regulatory system, and the fact that state charity regulators are the single most consistent violators of the laws governing charitable solicitation, and even violate federal law. These written comments and much more information about corrupt government practices in fundraising will also be widely disseminated using the new and alternative media.

We'll see if this Committee is more interested in violating the First Amendment rights of charities than conducting an investigation into the violations of law by state regulators, and how they divert untold millions of donor dollars on a so-called disclosure system that doesn't work well at all for donors **or** charities.

Mr. Chairman, over the past ten years your own personal campaign committee has raised money ostensibly for your own reelection, yet you have "passed through" almost exactly **50 percent** to other political candidates and committees. This election cycle you have increased that to 70 percent. A *Los Angeles Times* article said you set up your fundraising apparatus so you could bypass others with more seniority and experience, in other words, to help you secure your committee chairmanship. 50 percent over ten years looks less like campaign committee than a money laundering enterprise! And that's just your own campaign committee. You also formed this thing called LA PAC to solicit and pass through even more money.

Do you tell your donors that fifty cents of every dollar they give to your campaign actually goes to someone else's campaigns, such as Members of Congress or other political candidates with whom the donor may disagree on issues important to the donor, and candidates to whom the donor would not have made a contribution? That sounds like what is called "bait-and-switch" in a commercial context. I wonder whether omitting these material facts in your solicitations is a violation of law state or common law in the jurisdictions in which you solicit and operate.

Or maybe it's a way for you to act as a conduit for wealthy donors, including the corporate PACs from which you get the vast majority of your funds. I wonder if that is done to evade the Federal Election Commission's campaign contribution limits, because that would be one way to do it without being easily detected. Isn't that correct, Mr. Chairman? Any way you look at it, it appears wrong and unseemly.

But this is not just about you. Both Republican and Democratic parties dole out committee assignments based partly on who can bring in the most money, not just based on who's best for the job. There are a host of rotten issues in congressional fundraising. Yet this Committee is not

merely chilling First Amendment rights of nonprofit and other citizen-backed organizations, but appears to be attempting censor some in direct contravention of what the United States Supreme Court has already said about costs of charitable fundraising.

You used the last hearing on veterans' charities to bully well-meaning but relatively inexperienced people. That's certainly not the first time Congress has done that. But I know much more about this subject matter than most folks, and I'm not going to let you deceive the public.

There are plenty of outstanding or very influential charities with high-costing fundraising. For example, last year Congresswoman Watson of this Committee introduced House Resolution 208 praising Operation Smile, yet that charity received a grade of "D" from this fellow who testified at the December 13 hearing. Mothers Against Drunk Driving, one of the most effective nonprofits formed in the past 30 years, also received a grade of "D." I could go on and on.

But these hearings aren't about getting to the truth, are they?

Some of you on this Committee criticized veterans' charities, maybe because you had a purely visceral reaction to the costs of fundraising without knowing all that's involved in charitable fundraising, or got counsel from others with an agenda. I myself have been a critic of certain inefficiencies in the nonprofit sector, but I know more about these issues than perhaps most people. Some of you, on the other hand, have an agenda that does not comport with the Constitution. The facts, however, when fully disclosed, will refute and expose that agenda.

Mr. Chairman, you grabbed cheap headlines at the expense and in defamation of some very worthy charities. You have caused harm for the unconstitutional purpose of limiting the amount of information that competition within the nonprofit sector brings about. You are trying to limit which charities may solicit funds knowing full well, as the Supreme Court has said repeatedly because it is a fact, that without such funds, "the flow of information and advocacy will . . . cease."

What you have said, and what you are trying to do will result in harm to, not help for, veterans. Not only that, but the public wants a level playing field in which Members of Congress and state charity regulators are playing by the rules, not making them up to their own advantage, and then still violating them.

APPENDIX

I. The United States Supreme Court Has Already Ruled That High-Costing Charitable Fundraising Is Fully Protected by the First Amendment and Is Not Fraud

The central focus of the December 13, 2007 hearing on veterans' charities has been the subject of four United States Supreme Court opinions in the past 27 years.[1] The presentations, charts and graphs employed at that hearing focused on costs of fundraising and overhead.

The most recent Supreme Court case on charitable solicitation, *Illinois ex rel. Madigan v. Telemarketing Associates, Inc.*, involved a veterans' charity that contracted to pay 85 percent of the gross fundraising proceeds to a telemarketing agency. Relying on well-settled precedent, Justice Ruth Bader Ginsburg noted that high-costing fundraising is not fraud. The concurring opinion written by Justice Scalia would give even more breathing room to charities in what they and their paid agents may say in the conduct of their solicitations.

Justice William Brennan wrote the majority opinion in *Riley v. National Federation of the Blind*, and explained just some of the reasons why charities may have high-costing fundraising, why the First Amendment protects high-costing fundraising, and why exacting standards of review must apply to attempts by the government to regulate fundraising. He wrote:

> Prior authorities . . . clearly establish that charitable appeals for funds . . . involve a variety of speech interests – communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes – that are within the protection of the First Amendment . . . [and] that without solicitation the flow of such information and advocacy would likely cease.

Riley, at 796, quoting *Schaumburg*, 444 U.S., at 632, and *Munson*, 467 U.S., at 959-960.

Justice Brennan's opinion applies directly to the attempt by the Committee to defame charities based on their high fundraising costs. For example:

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[1] *Illinois ex rel. Madigan v. Telemarketing Associates, Inc.*, 538 U.S. 600 (2003); *Riley v. National Federation of the Blind*, 487 U.S. 781 (1988); *Secretary of State v. Munson*, 467 U.S. 947 (1984); and *Schaumburg v. Citizens for Better Environment*, 444 U.S. 620 (1980).

> The very purpose of the First Amendment is to foreclose public authority from assuming guardianship of the public mind through regulating the press, speech and religion. (Cites omitted.) To this end, the government, **even with the purest of motives**, may not substitute its judgment as to how best to speak for that of speakers and listeners; free and robust debate cannot thrive if directed by the government.

Riley, 487 U.S., at 791. As to just some of the reasons why high-costing fundraising is fully protected by the First Amendment, Justice Brennan wrote:

> [T]here are several reasons why a charity might reject the State's overarching measure of a fundraising drive's legitimacy – the percentage of gross receipts remitted to the charity. For example, a charity might choose a particular type of fundraising drive, or a particular solicitor, expecting to receive a large sum as measured by total dollars rather than the percentage of dollars remitted. Or, a solicitation may be designed to sacrifice short-term gains to achieve long-term, collateral, or noncash benefits.

Id., at 791 – 792.

The principal, if not entire, focus of the December 13 hearing, therefore, was on matters already resolved by an ideologically diverse set of justices on the Supreme Court.

II. Legislators Often Seek to Chill First Amendment Rights of, or Silence, Nonprofit Organizations

One of the landmark First Amendment cases involved criticisms of a government official by the Committee to Defend Martin Luther King and the Struggle for Freedoms in the South. The Supreme Court's opinion expresses many points relevant to the need to protect charitable communications from unconstitutional government intrusion.

"The general proposition that freedom of expression upon public questions is secured by the First Amendment has long been settled by our decisions." *New York Times v. Sullivan*, 376 US 254, 269 (1964). The "debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *Id*., at 270. "The constitutional protection does not turn upon 'the truth, popularity, or social utility of the ideas and beliefs which are offered.'" *Id*., at 271.

III. Chairman Waxman Has Abused His Investigative Authority and Violated the Constitution in His Conduct of the Hearings on Veterans Charities

The investigative powers of Congress are not unlimited. Indeed, the hearings on veterans' charities are good example of how they can be abused in what Chairman Waxman described when he was in the minority as a "pattern of 'accuse first, investigate later.'"[2]

[2] *Additional and Minority Views*, Investigation of Political Fundraising Improprieties and Possible Violations of Law, 105 H. Rpt. 829, Vol. 4, (Nov. 5, 1998) (hereinafter, the "Minority Report").

American Target Advertising, Inc. (ATA) filed an Objection with the Committee on December 24, 2007. The indiscriminate and blanket Request for information shows, on its face, that the Committee's Request for information is not targeted, but is merely a "fishing expedition."

The face of the Request does not state the purpose of the Request. It is apparent, though, that the Request does not constitute a legitimate exercise of congressional power under Article I of the United States Constitution. The investigative powers of Congress and government in general are not absolute. Government subpoenas and investigations, or parts thereof, should be quashed based on the **likelihood** that First Amendment rights would be violated by compelled disclosure.[3]

Even outside areas protected by the First Amendment, government investigations may be limited. The Supreme Court has stated with regard to administrative subpoenas that, "[p]ersons from whom [the administrator] seeks relevant information are not required to submit to the demand, if in any respect it is unreasonable or overreaches the authority Congress has given." *Oklahoma Press Publishing v. Walling News Printing*, 327 U.S. 186, 216 (1946).

With regard to congressional subpoenas, the courts presume "that the committees of Congress will exercise their powers responsibly and with due regard for the rights of affected parties." *Ashland Oil, Inc. v. FTC*, 409 F.Supp. 297 (D.D.C.), *aff'd*, 548 F.2d 997 (D.C. Cir. 1976).

In this matter, the Committee has made a *prima facie* demonstration that it is not just targeting First Amendment rights, which are beyond the Committee's authority to regulate, but is acting unreasonably, irresponsibly and in violation of the rights of the affected parties.

In the 1998 Minority Report referenced in Footnote 2, then Ranking Minority Member Waxman made plenty of complaints about evasion of procedural safeguards, less for witnesses, and mainly for the minority status of Members on the Committee **at that time**. ("The best investigations have gone to great lengths . . . to protect the rights of minority members."[4])

The Minority Report recognized that abandoning procedural safeguards resulted in the trampling of the rights of individuals. It complains that the Committee's "investigations could be triggered by legal political conduct . . . probed broadly, even indiscriminately, on the ground that some people actually turn out to be guilty . . . and merely being investigated could ruin honest and dishonest alike."

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[3] "It is hardly a novel perception that compelled disclosure of affiliation with groups engaged in advocacy may constitute as effective a restraint on freedom of association as [other forms of government action that] were thought likely to produce upon the particular constitutional rights there." *NAACP v. Alabama*, 357 U.S. 449, 462 (1958). "We think that the production order, in the respects here drawn in question, must be regarded as entailing **the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association**." *Id.* (emphasis added).

[4] Minority Report.

The Minority Report said the investigations "were used by Committee staff to conduct a wide-ranging fishing expedition rather than pursue legitimate legislative leads." And the Minority Report noted the exorbitant costs for the witnesses to comply with production of documents, hire lawyers, etc.

IV. State Charity Regulators Fail Donors by Diverting More Donor Money Than All Solicitation Fraud, Fail Charities and Violate Solicitation Laws

In a rather telling disregard for the law and constitutional rights, at the December 13 hearing the state regulator witness from Pennsylvania called the Supreme Court decisions protecting charitable fundraising an "impediment."

Recent decisions among the federal circuit courts demonstrate that the constitutional protections for charitable solicitation may be even greater than expressed by the Supreme Court thus far in their limited contexts.[5] For example, in 2000 the 10th Circuit relying on well-settled Supreme Court precedent declared unconstitutional **on its face** the Utah charitable solicitations statute that gave the licensor discretion in the registration process.[6] Most states still employ similar unconstitutional discretion in defiance of this precedent.[7]

There are over 1.5 million 501(c)(3) and 501(c)(4) nonprofits that are eligible to solicit contributions. At the December 13 hearing, the Pennsylvania regulator's office was complimented as the "best" state charity regulator, but that witness said only 10,000 charities register with her office. If that office is the best, then the numbers suggest that state charity regulators have set a new standard for futility.

ATA's October 3 letter to the National Association of State Charity Officers (NASCO), the umbrella group of state regulators, explains that state charity regulators themselves are the single most consistent violators of the laws governing charitable solicitation. The letter also describes that state regulators divert more donor contributions annually than all solicitation fraud combined. They have refused to implement a system that would allow **more charities to register**, provide **better disclosure**, and divert less donor money than their futile and outdated disclosure system by **hundreds of millions of dollars annually**. That letter is posted at GrassrootsFreedom.com.[8]

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[5] *American Civil Liberties Union v. City of Las Vegas*, Nos. 05-15667 and 05-15767 (11th Cir. Oct. 20, 2006) (regulation of solicitation is targeted at the content of speech, and thus subject to the strictest scrutiny); *American Charities for Reasonable Fundraising Regulation v. Pinellas County*, 221 F.3d 1211 (11th Cir. 2000) (on due process grounds, county may not regulate fundraisers in an extraterritorial manner, and the burden is on the regulator to prove he may require registration).

[6] *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir. 2000).

[7] The Model Charitable Solicitation Act prepared by the National Association of State Charity Officers (NASCO) still contains many unconstitutional provisions in contravention of Supreme Court and federal circuit court decisions, indicating that NASCO actively promotes violations of constitutional and other federal rights. The continued violation of rights under color of state law is a violation of 42 U.S.C. 1983.

[8] http://www.grassrootsfreedom.com/gw3/articles-news/articles.php?CMSCategoryID=23

The regulators are not subject to any real oversight. ATA's October 3 letter to NASCO describes attempts by some state regulators to hide their violations of law. Therefore, ATA wrote NASCO an October 8 letter asking for information such as any statistics they may have about solicitation fraud, copies of the minutes of their closed meetings, etc. That letter states in part:

> In litigation brought by American Target Advertising, Inc. against the State of Utah, the United States District Court judge asked Utah to provide evidence relevant to (a) the substantial state interest underlying these solicitation licensing laws to overcome the First Amendment thresholds, and (b) whether the laws are narrowly tailored to that state interest. Utah stated it "was unable to find statistics or other data demonstrating how much Utahns lose to fraudulent solicitations. Nor was [Utah] able to find such data on a nationwide basis."

Given that state charity regulators are **the only repository** of information about solicitation fraud, Utah's statement is a **startling admission**.

NASCO has yet to provide a written response to ATA's letters. If the Committee wants more and better disclosure, ATA has urged the Committee to investigate the state charity regulators, the matters raised in ATA's letters to NASCO, and other violations of federal laws by the regulators.[9]

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[9] ATA's October 3 letter to NASCO identifies just some of the state and federal laws being violated by state charity regulators, including the Federal Privacy Act.