

**TESTIMONY OF ANTHONY W. CONWAY,  
EXECUTIVE DIRECTOR, ALLIANCE OF NONPROFIT MAILERS,  
BEFORE THE SUBCOMMITTEE ON FEDERAL WORKFORCE,  
POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA  
OF THE HOUSE COMMITTEE ON OVERSIGHT  
AND GOVERNMENT REFORM**

**April 24, 2008**

Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to testify before you today on the issue of improving the safeguards against charitable fundraising abuses. This is a timely hearing on an important subject.

In 2003, the Postal Service proposed to exempt fundraising solicitations from the existing restrictions on cooperative mailings between nonprofit organizations and for-profit entities. The proposed exemption was opposed by a broad coalition of reputable nonprofit organizations and fundraisers, including the Alliance of Nonprofit Mailers.

The Alliance and its coalition partners believed that the cooperative mailing restriction could be loosened to allow innovative fundraising arrangements for start-up nonprofit organizations without completely deregulating cooperative fundraising solicitations, a step that the Alliance and its allies feared would open the door to fraud and abuse. To that end, the Alliance and its allies sponsored an alternative set of rules that would have allowed creative fundraising arrangements but required that the nonprofit retain ownership and control of the resulting funds and donor lists—the two most important assets produced by fundraising campaigns.

Many members of Congress also weighed in against full-blown deregulation of cooperative fundraising solicitations. On November 7, 2003, for example, Congressman Waxman (then ranking minority member of the Committee on Oversight and Government Reform), Senator Joe Lieberman, and other members of Congress wrote to Board of Governors

Chairman Fineman and Postmaster General Potter, urging them to reconsider the wisdom of the exemption. The following passage from the November 7 letter is illustrative:

“Under the current regulation, consumers are protected from unscrupulous marketers who use little-known charitable organizations to raise funds that are siphoned off by the commercial entity. Under the new regulation, however, there is no longer any prohibition on commercial marketers sharing in the proceeds of nonprofit mailings. As a result, it will be perfectly legal for these marketers to enter into arrangements that allow them to keep the funds that consumers think they are giving to the nonprofit. According to the Alliance of Nonprofit Mailers, which represents over 400 charitable organizations: ‘The anything-goes exemption will open the floodgates to abuse..... *Unscrupulous commercial fundraisers, acting in the name of unsophisticated or captive nonprofit organizations, will flood the mails with fundraising solicitations designed primarily to line the fundraisers’ own pockets.*’

The interest groups that supported deregulation prevailed, however. In October 2003, the Postal Service issued a final rule exempting fundraising solicitations from the cooperative mailing rules.

Five years later, it is clear that a review of the exemption is overdue. Recent reports suggest that some charities, including charities that purportedly serve veterans, policemen and firefighters, divert the majority of their contributions (and sometimes as much 90 percent) to their professional staff, fundraising consultants, and other overhead costs. The allegations of abusive practices that surfaced during the hearing before the Committee on Oversight and Government Reform in late February included the following:

- Hundreds of thousands of dollars in donations, raised supposedly to help wounded veterans, spent instead on the personal expenses of executives and fundraising officials.
- \$340,000 worth of meals, hotels and entertainment.
- Six- and seven-figure personal loans.
- A \$17,000 country club membership.
- Airplane tickets to Hawaii.

The Alliance believes that most charities are honest and efficient. Some kinds of solicitation campaigns—especially for startup charities—are unavoidably expensive, and fixed percentage limits on fundraising costs are probably unwise. Furthermore, allegations of misconduct are not necessarily proof. But Chairman Waxman’s concerns about “bloated overhead costs and self-enrichment,” and even outright “fraud,” must be taken seriously.

In this regard, I am heartened by Postmaster General Potter’s testimony expressing concern over the problems disclosed at the congressional hearing in February. Mr. Potter said the Cooperative Mail rules were changed to provide more nonprofits the ability to raise needed funding through the mail. He went on to say that, while the intention was good, “obviously it’s backfired in some cases.” The Postmaster General stated that the Postal Service is reviewing the problem with an eye toward making necessary corrections.

On a personal level, I fully agree with Mr. Potter. As some members of the Subcommittee may be aware, I was employed in the government relations department of the Postal Service in 2003, when it proposed to exempt fundraising solicitations from the cooperative mailing restrictions. Like Mr. Potter and others who worked on the issue at the time, I believed that the exemption was desirable, and the risk of abuses fairly remote. Also like Mr. Potter, I have come to believe that the exemption went too far, and that safeguards must be added.

As a first step, the Subcommittee should encourage the Postal Service’s Office of Inspector General to investigate this area.

Second, the Postal Regulatory Commission should move forward under Section 711(a)(2) of the Postal Accountability and Enhancement Act, which directs the Commission to investigate and report on the adequacy of safeguards in the cooperative mail rules to protect against “abuses of rates for nonprofit mail” and “deception of consumers.” If the Postal Service fails to act on

the recommendations, the Commission “may take such action as it determines necessary to prevent abuse of rates or deception of consumers.” It is time for the Commission to exercise its authority under Section 711.

Third, the Alliance is working with other nonprofits and responsible fundraising professionals to refine and update the consensus proposal that the same parties developed in 2003.

Finally, the Subcommittee should give some thought to developing an effective enforcement mechanism, perhaps by giving an expanded enforcement role to the Postal Service’s Office of Inspector General. Eligibility standards, no matter how impressive they appear on paper, are ineffective without the will and resources to enforce them.

Thank you for your consideration. I would be happy to answer any questions you may have.