

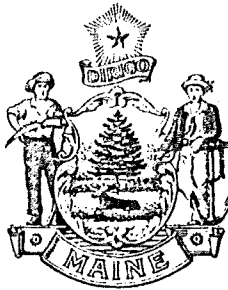
MAINE STATE LEGISLATURE

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79-155
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DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

August 9, 1979

Ira B. Coffin
Chief of Police
City of Presque Isle
Presque Isle, Maine 04769

Dear Chief Coffin:

Your letter dated July 25, 1979 to Deputy Attorney General Steven Diamond has been referred to me for response since I handle charitable solicitation matters for this office. Your letter concerns the use of funds solicited from the general public by Jordan Alan Associates, Inc. You ask whether money raised from the public as a result of personal contact by professional fund-raisers may be used to organize a youth activity program. You also ask whether the money can be commingled with that contained in a general fund used by the department to benefit officers or whether you are required to open a separate checking account for the youth program.

Presently Title 25 M.R.S.A., Section 3701, states that "no person shall solicit property from the general public when the property or any part of it, in any way benefits, is intended to benefit or is represented to be for the benefit of any law enforcement officer, law enforcement agency or law enforcement association." The statute does permit persons to raise money to benefit the police through the use of advertisements posted in a public place or media advertising in a newspaper or on radio or television. In cases where the money will benefit the police, direct contact, in person, or by telephone is prohibited. Furthermore, nothing in the statute prohibits the police from raising money for charitable purposes or for police sponsored athletic teams. It is only when the money is raised to benefit the police themselves that the statute prohibits any person from conducting the

Ira B. Coffin
August 9, 1979
Page 2

solicitation by direct and personal contact.

With regard to the fundraising effort recently undertaken on behalf of your department, it is my understanding that Jordan Alan's solicitors represented to prospective contributors that the money would be used to benefit children. In addition, as you stated in your letter, the statute prohibits you from using the funds raised in the manner utilized by Jordan Alan to benefit any law enforcement association, officer, or agency. Consequently, the money should be used to benefit children in the manner suggested by your department or the solicitors.

You also ask whether you must maintain the money raised for the charitable purpose in a separate checking account. There is no language in the statute regulating police solicitation which requires that you establish a separate checking account for the funds contributed by the public for the benefit of a children's program. However, implicit in the requirement that none of the funds benefit any law enforcement officer, agency or association is the obligation that your department be able to account for all money donated for the charitable purpose. Such record keeping is also necessary to maintain the integrity of your department should anyone question you as to how the funds were used.

Finally, in discussing your fundraising activity with an investigator from this office, you provided names of local residents who complained to you concerning the methods used by the solicitors to obtain contributions. Since meeting with you, our investigator talked to these individuals. From the information we have gathered, it appears that you may wish to impose certain requirements on any professional fundraisers you use in the future to avoid similar problems. For example, it is my understanding that the fundraiser failed to disclose its name and created the impression that police officers were calling and requesting contributions. In addition, the charitable solicitation law, 9 M.R.S.A. Section 5012, requires a professional fundraiser to disclose to a prospective donor at the time of solicitation the estimated percentage of each dollar contributed which will be expended for charitable purposes when less than 70% of the amount donated will be so expended. To insure that

Ira B. Coffin
August 9, 1979
Page 3

the integrity of your department is maintained you may want to include provisions requiring these disclosures in any contract you negotiate in the future with professional fundraisers.

If you have any further questions, please do not hesitate to contact us.

Very truly yours,

RAE ANN FRENCH
Assistant Attorney General
Consumer and Antitrust Division

RAF/sjn