



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

July 19, 1977

ATTORNEY GENERAL OPINION NO. 77- 233

Mr. Stanley A. Issinghoff  
Police Legal Advisor  
The City of Wichita Department of Law  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202

RE: Charitable Solicitations--Wichita Police Department  
Benefit Fund Association--Policemen's Ball and Music  
Show

Synopsis: The registration, incorporation, reporting and other  
requirements contained in K.S.A. 17-1739 et seq.,  
apply to the Wichita Police Department Benefit  
Fund Association when it sponsors, and receives proceeds  
from, a policemen's ball and music show.

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Dear Mr. Issinghoff:

You request our opinion concerning the application of K.S.A. 17-1739 et seq., to the Wichita Police Department Benefit Fund Association when it sponsors, and receives proceeds from, a dance and music show. You advise that the Fund Association is comprised of officers of the Wichita Police Department and provides medical and other benefits for its members. The Fund Association annually sponsors, and receives a percentage of the net proceeds from, a policemen's ball and a music show. Pursuant to a contract, a professional fund raising organization handles the arrangements for, and conduct of, the events, including the sale of tickets to the public and the sale of advertising in the program for the music show. The two events apparently generate proceeds in excess of ten thousand dollars (\$10,000.00) each year. You inquire primarily whether this manner of raising funds is a solicitation of contributions contemplated by K.S.A. 17-1739 et seq.

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K.S.A. 17-1740(a) provides in pertinent part:

"Every charitable organization, except as otherwise provided in section 3 [17-1741] of this act, which solicits or intends to solicit contributions from persons in this state by any means whatsoever shall be a corporation organized under the laws of this state, and prior to any solicitation shall file with the secretary of state of the state of Kansas...a registration statement...[Emphasis supplied]

K.S.A. 17-1739 states in pertinent part:

(a) "Charitable organization" or organization means any persons who solicits and collects funds for charitable purposes or purposes alleged to be charitable...

(b) "Contribution" means the promise or grant of any money or property of value of any kind, including the promise to pay, except money or property received from any governmental authority. References to the dollar amount of "contributions" in this act 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 or paid for such merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. [Emphasis supplied]

Thus the incorporation and registration requirements of K.S.A. 17-1740 apply if (1) an organization falls within the definition of a "charitable organization" and (2) there is a solicitation "by any means whatsoever" of (3) "a contribution" - "a promise or grant of any money or property of value of any kind." There appears to be no question that the Fund Association is a "charitable organization."

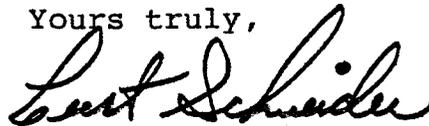
"Solicit" is not defined in the statutes but among the meanings found in Black's Law Dictionary (rev. 4th ed. 1968) are: "To appeal for something; to apply for obtaining something; to ask for the purpose of receiving; to endeavor to obtain by asking or pleading; and though the word implies a serious request, it requires no particular degree of importunity, entreaty, imploration, or supplication." In the present situation it is apparent that the Fund Association by and through the fund raising organization makes requests or appeals, either express or implied, for the purchase of tickets or advertising for the events. Such activity, in my opinion, is solicitation within the contemplation of the statutes.

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The remaining determination to be made is whether the funds received from the sale of tickets and advertising are "contributions". The emphasized portion of K.S.A. 17-1739(b) quoted above indicates that the statute contemplates not only donations of money or property made without expectation or receipt of something of value in return but also payments for which the contributor receives "merchandise or rights or any other description." Thus, although the payments in this case are made for tickets to the events or for advertising, and are partly used to pay for the costs and expenses of the events and advertising, the entire amounts of such payments are "contributions." This conclusion is supported by the fact that K.S.A. 17-1739, et seq., are remedial in nature, intended to protect the public from the abuses in the area of charitable solicitations, and, therefore, to be broadly construed.

I would agree with you that the Fund Association is not, under the circumstances, exempted by K.S.A. 1976 Supp. 17-1741 from the registration and other requirements. The Association does not confine solicitation of contributions to its membership, as required by subsection (2), nor does it receive contributions not exceeding \$5,000 a year and carry on its fund raising functions by persons unpaid for such services, as required by subsection (4). Therefore, the Fund Association and the professional fund raising organization must comply with all the registration, incorporation, reporting and other requirements of K.S.A. 17-1739 et seq. In particular, note should be made of the provision in K.S.A. 17-1747(c) authorizing injunctive action when less than seventy-five percent (75%) of the "gross receipts" of a charitable organization are used for charitable purposes.

Yours truly,



CURT T. SCHNEIDER  
Attorney General

CTS:DL:skl