



**RIPPED FROM THE HEADLINES!**  
 LESSONS LEARNED WHEN ANGRY DONORS SUE



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**THE UNIVERSITY OF TEXAS AT AUSTIN**

**Files a lawsuit against the deceased donor's ex partner**

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**The defendant – Ryan O'Neal**

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**The object of the lawsuit – \$30 million Andy Warhol painting**

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**Who looks bad in the eyes of the public?**

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These next guys could make us  
look bad

## California

- Attorney General sues charities for stealing donations
- Filed 8 lawsuits with 48 other states and the Federal Trade Commission
- Part of a nationwide sweep called "Operation False Charity"
- Deceptive practices
- 85-90% of donations go to telemarketers
- Asked for dissolution of 8 charities

## California

“shamelessly exploited the goodwill of decent citizens trying to help police, firefighters and veterans.....a shockingly small portion went to those in need, while millions went to pay for aggressive telemarketing and bloated overhead – and in one case to buy a 30 foot sailboat.”

## California

- Law Enforcement Apprenticeship Program raised more than \$500,000 in 2003; but only \$31,000 spent on programs
- Falsely told donors that money would be used to operate a program for at-risk youth
- No program was ever operated and no students ever enrolled
- This group bought the sailboat
- AG wants to dissolve the charity; prevent them from operating any charity in CA

## California

- American Association of Police Officers, Police Protective Fund and Junior Police Academy
- Misled donors in thinking their money was for local police departments
- Their IRS reports overstated the amount spent on programs and understated the fundraising expenses – in 2007 had program expenses of \$493,000 but of that, \$425,000 were officer salaries and a Range Rover

## California

- Other charity allegations:
  - Aggressive and abusive telemarketer conduct
  - Telemarketers blocked donor's caller ID
  - Some said they were police officers and they weren't
  - One man used charitable funds for personal trips to Hawaii and to Las Vegas and one meal alone for \$1,200

## New York

- July 2011-New York's Attorney General and the Coalition Against Breast Cancer
- Raised \$1.4 million in 2008 alone
- Spent \$374 on mammograms in 2008
- In a different period of time they raised \$4 million and gave mammograms to 11 women

## New York

- AG said they used the charity as a personal cash machine; engaged in a scheme to defraud
- Paid excessive fundraiser fees; unwarranted salaries and benefits; exploited donors' natural sympathies and generosity
- Promoted a non-existent relationship with Memorial Sloan-Kettering Cancer Center; yet it was NEVER affiliated with any cancer institutions

## New York

- Telemarketers provided misleading info
- Said it helped the local community
- Intentionally mailed phony invoices to people saying they had made a pledge when they hadn't
- Intentionally mailed phony invoices to donors saying their pledge hadn't yet been paid when it already had been paid

## New York

- All charity staff had full time jobs elsewhere yet 2 directors were paid a combined \$550,000 in salary and \$150,000 in retirement contributions from 2005-2009; yet ran the charity from their home
- Made insider loans of \$105,000 and \$50,000
- The AG would like to shut down the charity and hold the defendants accountable for the waste and misuse of charitable assets

How can we address these bad situations?

## Charity Research Websites

- [www.guidestar.org](http://www.guidestar.org)
- [www.charitynavigator.org](http://www.charitynavigator.org)



- Accused of patrolling the waters for other charities that use "for the cure" in their names or use pink colors; spends more than \$1M/year suing
- Komen filed legal documents against more than 100 smaller charities
  - Kites for a Cure
  - Mush for the Cure
  - Par for the Cure
  - Surfing for a Cure
  - Cupcakes for a Cure



- Komen says it has a legal duty to protect its more than 200 trademarks;
- Komen say they try to be reasonable with these smaller charities

## Cases of donor intent

“There are two sides to every story.....sometimes three.”



Josephine Louise Newcomb gave \$3.6 million in 1886 to establish a stand-alone women's college - Sophie Newcomb College

After Hurricane Katrina, Tulane wanted to merge its long-standing women's college into one university at Tulane in 2005/2006 and also merge its endowment  
Heirs of Josephine Louise Newcomb sued to stop the combining of the schools



Tulane says the gift had no conditions  
The Future of Newcomb College formed by a group of donors to finance the lawsuit



[www.newcomblives.com](http://www.newcomblives.com)

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Issue: do the heirs have standing to sue?

Lower courts found in favor of Tulane

Louisiana Supreme Court held they have standing to sue; remanded case to lower court; they had to prove they were heirs; thereafter the plaintiffs withdrew the lawsuit

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Second case filed in 2008 by a different descendant of Josephine's.

On February 18, 2011, the Louisiana Supreme Court denied to hear the appeal in *Susan Henderson Montgomery v. Administrators of the Tulane Educational Fund*.

The heirs then gave up their fight.

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[www.princeton.edu/robertson](http://www.princeton.edu/robertson)

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- \$900 million endowment at stake
- Suit filed in 2002
- In 1961 Robertson (A&P grocery chain) family gave \$35 million to a SO - the Robertson Foundation
- Gift to train grad students for careers in the fed gov't; particularly in international affairs
- Princeton operates the foundation and controls the board by selecting 4 of 7 members

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- Family asked for \$600 million in damages claiming Princeton wasn't spending the money as intended
- Princeton says it honored the donor's wishes; but the problem is the family has changed its tune over time
- Settled in 2008; \$90 million settlement against Princeton on the eve of trial

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Nashville, TN

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## Fisk University

In 1949, Georgia O'Keeffe gave Fisk University 97 photos and paintings from her husband Alfred Stieglitz with the restriction they cannot ever be sold

Some say the collection comprises 1/2 of all Fisk's assets



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## Fisk University

In 2005, Fisk wanted to sell 2 paintings due to the cost of maintaining the large collection and Fisk's extremely dire financial straits – they were on the verge of going broke

TN courts agreed the gift restrictions were impracticable and are allowing proposals for what to do with the artwork – still yet unresolved

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## Vanderbilt University

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## Vanderbilt University

In 1935 a dorm was built to provide rent-free housing to students who had Confederate ancestry

The gift agreement required the building's name to be "Confederate Memorial Hall"



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## Vanderbilt University

In 2002 Vanderbilt's president decided to change the building's name citing marketing problems

Tennessee courts sided with the Daughters of the Confederacy and said Vanderbilt could:

- 1) give the present value of the money back, or
- 2) leave the building's name alone

Vanderbilt left the building's name alone

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## Winner's Scorecard

Charity  
Tulane  
Fisk

Donor  
Princeton  
Vanderbilt

## Sample Restricted Bequest

"I give to XYZ Foundation, 777 Washington Avenue, Anytown, Iowa, 55555, a State of Iowa Nonprofit Corporation, the sum of (or property herein described, or x% of my residuary estate), to be used for \_\_\_\_\_ purposes - **subject to the right of the Board of Directors of the XYZ Foundation to alter the foregoing designations in the event that any or all of them shall, by reason of changed conditions, become impossible of fulfillment, impracticable or undesirable as determined by the Foundation's Board of Directors.**"

## Resolution Options from K. Miree

1. Involve the living donors in the discussions if a change needs to be made – will the donor agree to a change?
2. Is the gift agreement flexible enough to allow a change?
3. UPMIFA – can it help you?
4. Court approval – for last resort – involve the state attorney general

Questions?