

Recent Commercial Co-Venture Enforcement Action Highlights Risks of Noncompliance

June 21, 2019

On July 19, 2018, the New York Attorney General announced a settlement with Tennessee-based charity Operation Troop Aid Inc. ("OTA") for failure to properly oversee donations received as part of a commercial co-venture.

OTA operated for the stated purpose of sending care packages to military service members, primarily during deployment. From at least 2012 to December 31, 2017, the charity engaged in a commercial co-venture relationship with Harris Originals of NY and affiliated retailers collectively known as Harris Jewelry. Harris Jewelry operates a jewelry store chain that caters to service members. As part of the commercial co-venture, Harris Jewelry conducted a promotion called "Operation Teddy Bear" in which it sold teddy bears dressed in military uniforms and advertised that, for each bear sold, a fixed dollar amount would be donated to OTA for the purpose of sending care packages to service members.

As stated by the Attorney General, "[c]harities have a fundamental responsibility when it comes to partnerships that use their charitable name and status." A multistate investigation co-led by New York and Tennessee (and involving Attorneys General from 15 states) found that OTA failed to fulfill this responsibility and violated applicable state charitable solicitation laws because, among other things, the charity:

- did not enter into a written agreement with Harris Jewelry
- never overtook any oversight of Operation Teddy Bear
- never requested an accounting of the number of bears sold as part of the promotion
- did not seek to verify that the per bear donation amount advertised to the public matched the amount actually received
- never provided Harris Jewelry any information as to how donated funds were actually used
- failed to maintain the donated funds as restricted funds

As part of the settlement, OTA was ordered to dissolve and cease operations. In addition, its chief executive was ordered to refrain from fundraising or serving as a fiduciary for any non-profit organization, civil penalties were assessed, and OTA was required to continue to assist in the ongoing investigation of Harris Jewelry.

Read the New York Attorney General Announcement [here](#).

Read the settlement agreement [here](#).

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