Before the Committee on Finance
United States Senate
Hon. Charles E. Grassley, Chairman

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Charity Oversight & Reform:
Keeping Bad Things from Happening to Good Charities

Statement of:
JJ MacNab, CFP CLU QFP
Owner / Analyst
Insurance Barometer LLC
9224 Quintana Drive
Bethesda, MD 20817
Tel: (301) 767-1085
Fax: (888) 918-9516
jj@deathandtaxes.com

Mr. Chairman and members of the Committee, I thank you for inviting me to speak before you on the topic of tax schemes involving charities. My name is JJ MacNab, I'm a life insurance analyst in Bethesda, MD and I am the co-author of a professional trade book entitled Tools and Techniques of Charitable Planning. I count among my clients several high quality charities and many more wealthy individuals who are philanthropically minded.

Introduction

The Problem

In the past, charity has held a highly favored status, both in the Tax Code and in the hearts and pocketbooks of millions of American donors. Unfortunately, in recent years, that confidence has become eroded. Bad players have discovered that they can use small, hungry, or newly formed tax exempt organizations to conceal everything from Ponzi and affinity scams to high end corporate fraud and terrorism funding. And while there is a tendency among the charitable industry to simply ignore these bad players, the games and schemes are spreading at such a rapid pace, that even good charities are finding themselves sorely tempted to, if not sell their souls, at least rent them out to the highest bidder. Where the focus was once on fiduciary duty and preserving the public trust in their respective missions, a few well meaning charities are becoming blinded by the profits to be had from tax schemes. Instead of thinking, "Should we do this?" many charities are now ignoring the ethical and moral elements of the decision and are instead focusing on the bottom line of the program.

For example, when pitched a high end tax scheme by a donor's advisor, a charity might be faced with two choices: 1) turn down involvement in the scheme and receive $0, or 2) agree to participate in the scheme and receive $1,000,000. In many cases, the charity never actually sees how or how much the donor benefits from the plan, and so the decision is fairly simple. As

long as the charity thinks the risks in the program are manageable, that $1 million can feed a lot of hungry children, buy numerous wheelchairs, or provide scholarship for many deserving students.

The Reasons behind the Problem

The last few years have been hard on charity[1]. Corporate donations are down, economic uncertainty has resulted in donors delaying or reducing their contributions, competition among charities has increased substantially, and charities have experienced losses in the market on their own investment portfolios. Any program that can successfully bring in a sizable donation is therefore given serious consideration even if, just ten years ago, the same scheme would have earned a resounding "no" from non profit executives.

Another important factor is the perceived lack of regulatory scrutiny. While many regulatory agencies (IRS, state attorneys general, SEC, FTC, state insurance and securities departments for example) can potentially attack charity abuses, most if not all of these agencies have strained budgets and have simply not made charity schemes a priority. In other industries where multiple regulatory bodies have jurisdiction, a turf war often emerges over who gets to shut down the scheme. In the charity industry, the opposite seems to be true – all of the various agencies generally seem to assume that one of the others will handle the problem.

And finally, risk of audits and sanctions imposed by the IRS have all but disappeared in recent years. Ten years ago, most charities would actively avoid schemes and plans that might subject them to taxes, penalties, or even loss of tax exempt status. Today, the only loss of exemption seems to occur when churches become involved in politics and the audit rate for tax exempts is so small that fear of the IRS has all but vanished. As of 2001, there were an

[1] See "Surviving Tough Times," by Brad Wolverton, the *Chronicle of Philanthropy*, October 30, 2003.

estimated 1.4 million[2] charities and foundations in the United States. Of these, approximately 285,000 filed Form 990 tax returns with the IRS[3], but only 1,237 (.43%) charities had their returns reviewed by the Service and only 835 (.29%) charities faced an IRS examination. For a system of voluntary compliance to be effective, there has to be some form of real risk that an audit will occur. With IRS staffing at record lows and risk of government regulatory scrutiny practically non-existent, the bad players in the charitable industry are escaping unscathed while the otherwise ethical charities are engaging in schemes which are increasingly risky.

So What Are the Schemes and Abuses?

Using tax exempt entities to shield or hide corporate and consumer fraud

In recent years, a number of fraud and embezzlement stories have come out which show con artists and schemers using non-profit entities to enrich themselves at the cost of investors' money and public confidence in the charitable industry. While these stories in no way reflect the philanthropic community in general, they do show what happens when an industry has little or no regulatory supervision.

Example: After being banned for life from securities trading in 1992, Martin Frankel[4] almost got away with a $215 million heist. With the assistance of Vatican officials, Frankel set up a scheme to purchase insurance companies through a non profit entity he founded called the St. Francis of Assisi Foundation. He promised high rates of return to his investors (many of them major churches) and described the charity as a benevolent foundation which assisted children's causes. Moneys raised would go to acquiring insurance companies, and profits (after paying his investors) would be used for charitable purposes. Instead of investing the moneys to

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[2] Source: *The New Nonprofit Almanac and Desk Reference*, published in 2002 by the Urban Institute's Center on Nonprofits and Philanthropy.
[3] Source: GAO-02-526 *Oversight of Charities,* published April 2002.
[4] For further details, see Court TV's *Martin Frankel: Sex, Greed and $200 Million Fraud* at http://www.crimelibrary.com/notorious_murders/classics/frankel/1.html?sect=27

pay those promised returns, Frankel siphoned cash from the insurance companies, diverted it to his own accounts, and fled to Europe when state insurance regulators discovered the theft. When fleeing the country, Frankel left behind a "to do" list in his home which included the entry "launder money". Frankel has since been taken into custody, has pleaded guilty to 24 Federal charges and faces up to 150 years in prison.

Example: In 1999, the Baptist Foundation of Arizona[5] filed for Chapter 11 bankruptcy, owing more than $600 million to 13,000 investors, most of them elderly and retired. In what turned out to be the largest fraud case ever involving a religious trust, thousands invested their life savings with the foundation, which promised high investment returns and charitable grants for Baptist causes, but turned out to be nothing more than a complicated pyramid scheme. Three foundation executives have pleaded guilty to defrauding investors and in May, 2002 the now-defunct accounting firm Arthur Andersen agreed to pay $217 million in damages to investors for their role in helping executives cover up the scheme.

Example: In 1997, an insurance agent named Robert Dillie[6] owned a life insurance brokerage company called Mid America Financial Group. Dillie's company worked closely as the marketing arm of a nonprofit called New Life Corp selling charitable split dollar programs and charitable gift annuities which paid insurance agents hefty commissions for the donations they raised. Recognizing that selling "charity" could be a lucrative business, Dillie decided to form his own non profit called Mid America Foundation which offered charitable gift annuities and donor advised funds through a sizable group of independent insurance agents and financial planners. Only four years later, the charity had raised almost $53 million in donations through charitable gift annuity investments, but one week after publishing a financial statement showing

[5] See the Arizona Corporation Commission's website for additional information: http://www.ccsd.cc.state.az.us/hot_topics/bfa.asp

[6] See the SEC's website for additional details: http://www.sec.gov/litigation/litreleases/lr17986.htm

$42 million in assets in October, 2001, Dillie closed the charity's doors and disappeared with the money. He had diverted almost $20 million to a hidden account, had lost almost $10 million in gambling debts, and had paid $3 million in commissions to insurance agents. The charity had failed to file Form 990s with the IRS, and the financial advisors who had placed their clients with this non profit were shocked that the charity turned out to be nothing more than a Ponzi scheme. Dillie was indicted in 2003 on 193 counts of wire fraud, money laundering, and transacting in proceeds from a criminal activity. His trial is scheduled for October, 2004.

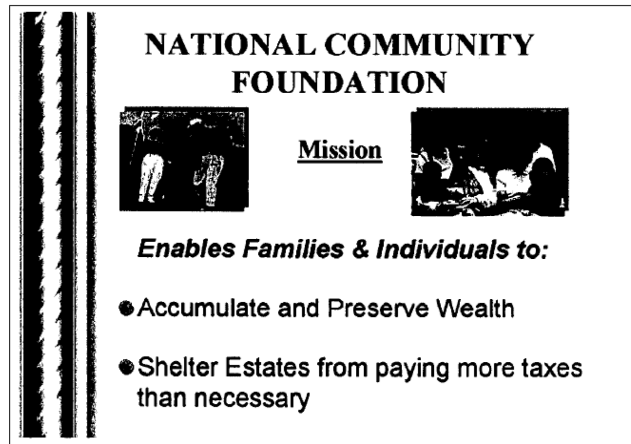
Summary: Martin Frankel could not have raised the moneys needed to fund his heist without a charity shell to hide his participation. The Baptist Foundation of Arizona could not have duped 13,000 elderly investors to trust it with their savings without the respectability of the charitable structure. Robert Dillie found that selling charity was much easier and more lucrative than selling life insurance. The charitable industry is attracting con artists and fraudsters simply because there is little or no regulatory scrutiny and because the general public places their trust in charity.

"Accommodation" Charities, Operating Foundations, and Donor Advised Funds

In the past decade or so, a small handful of charities have focused on building their organizations by catering to their donor's tax planning needs and by selling charitable "products" through an army of financial planners and insurance agents. Most of these organizations grew from small, fairly anonymous charities to very large entities as a result of selling large amounts of charitable split dollar life insurance in the late 1990s. When that program was shut down by a combination of Federal legislation, Tax Court opinions, and an IRS Notice, these organizations adjusted their marketing plans to "tax deductible annuity" sales (better known as charitable gift

annuities) and donor advised funds, both of which pay hefty commissions and trailing fees to the insurance agents which bring in the charitable donations.

In a 2001 slide show geared towards their insurance agent sales force, New Life Corp (doing business as National Community Foundation) declared their charitable mission to be as follows:



A second organization called National Heritage Foundation makes similar promises to donors:

> *One of the most fundamental principles behind the National Heritage Foundation (NHF) is that you can set up and then work for your own foundation receiving taxable income – even if the only donations are those you provided.*
>
> *Think of the retirement planning implications. Put money in a "Foundation at NHF" where it grows tax-free. Then during retirement, recover these funds as taxable income and nontaxable expenses for bona fide charitable activities.*

Source: http://www.nhf.org/nacec/nacec_ch_employ.htm

And apparently, such promises combined with high commissions paid to the advisor who sets up the fund are effective. New Life Corporation currently has accumulated approximately $189 million in assets, while National Heritage Foundation boasts $200 million in assets, 7000 "foundations", and more 3000 financial advisors.

Example: Set up an NHF Foundation to deduct adoption expenses that would ordinarily not be 100% deductible.

> *We help adoptive parents throughout the United States that are currently working with adoption agencies to set up their OWN family foundation. Once the family foundation is in place, adoptive parents will pay for their adoption expenses through the new, tax-exempt Foundation. The National Heritage Foundation is the entity that will hold and disperse funds, and the Child Adoption Funds Organization is the facilitator of the process.*

Source: *http://www.childadoptionfunds.org/whatwedo.asp*

Example: Set up a corporate "foundation" with tax deductible money and pay yourself for "charitable employment" when you retire. The tax benefits are comparable to a qualified pension plan but there are no ERISA rules, no annual contribution limits, no penalty for early withdrawal, the plan can discriminate in favor of high compensated employees, and there are no annual IRS or DOL reporting requirements.

> *Need Income During Retirement. Our society, at least here in America is facing a dramatic social change called "The Widening Retirement Gap." Employees are both retiring earlier and dying later than they used to. Now, with funds saved up and growing tax free, they may be used, again with NHF approval, during retirement for bona fide charitable activities and employment.*

Source: *http://www.nhf.org/magic/magic_markets.htm*

Example: Donations to international charities are not generally tax- deductible, but checks distributed through an umbrella charity are. So before writing a check to a foreign country, just set up an account and you'll be able to deduct it.

> *As you know, a person seeking a deduction of a contribution to a charity or charitable project in another country, must make that donation to a U. S. based-charity like the National Heritage Foundation. A gift directly to the project is not deductible.*
> *One of the objectives of NHF is to "touch lives in other countries". We support our "Foundations at NHF" when they desire to do so. 1. They may support charitable organizations in other countries, and 2. They may support charitable projects in other countries.*

Source: http://www.nhf.org/foundation_services/ot_countries.htm

Example: Avoid self dealing rules when you sell inventory to your foundation by setting up an NHF fund rather than a "traditional" corporate foundation.

> *Through an NHF foundation, any corporation can sell its goods or services to its foundation for distribution to charitable activities and organizations and still avoid any risk of self-dealing. That's because NHF administers the foundation and supervises and approves the activities. If ever a doubt arises, NHF files a Certificate of Independent Review to certify that prices are no higher than "normal" and that goods and services are actually received by the designated charities or charitable activities.*

Source: http://www.nhf.org/nacec/nacec_corp_fndtn.htm

Example: Set up a foundation with an accommodating charity and use the tax deductible donations to pay for your children's education. In June, 2003 a CA insurance agent named a Tim Mosley was sentenced to five months in prison for tax evasion. Mr. Mosley made tax

deductible donations to his NHF "foundation" and then advised the charity to issue checks to his children's private school to pay for their primary school education[7].

Example: Run your insurance or other for-profit business through an NHF Foundation. A company called Elder Planners of Washington has established their insurance agency as an NHF Foundation, through which they offer Long Term Care insurance, reverse mortgages, senior mortgages, estate planning, and other financial products to seniors[8]. In May, 2003, the Attorney General for the state of Washington issued a consumer alert regarding the business practices of this insurance outfit[9]. The agent running the "foundation" had already lost his securities license in the state and had been fined $10,000 by the state Department of Financial Institutions[10].

Summary: The abuses in this field are too numerous to list. Family vacations, school tuition, Olympic size swimming pools, deferred compensation plans are all being funded through accommodation charities who are willing to often bend and sometimes break the rules.

International Gifts and Concerns about Money Laundering and Funding Terrorism

While most donations go to good charities that use the funds to provide important services, the recent focus on terrorism funding through non profit entities has grown sharply since September 11, 2001. A handful of charities have now been shut down and it would appear that finding and stopping such organizations have become a priority among US regulatory agencies. The situation, however, is potentially more complex when it isn't the charity that is raising funds for terrorist groups but rather a charity that plays an unwitting role in funneling money to groups such as Al Qaeda.

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[7] http://www.usdoj.gov/usao/can/press/html/2003_06_20_mosley.html
[8] http://www.epwa.org
[9] http://www.atg.wa.gov/releases/alert_tax_050903.html
[10] "Seniors Warned About Tax Scam," by Candace Heckman, *Seattle Post-Intelligencer*, May 8, 2003

Several US charities offer international grant making abilities to their donors, and while many claim that they investigate the foreign charity prior to making a grant, such due diligence is necessarily limited, especially in countries which have no charity structure and regulatory system comparable to ours[11]. While the US Treasury has recently released voluntary guidance[12] on this issue, most charities are unaware of these recommendations and the majority of charities who make international grants simply don't have the resources or the sophistication to perform the necessary due diligence. The voluntary guidance requires that the grant maker gather a significant amount of information about the international grantee, but it fairly clear that such information will not prevent terrorism funding when the terrorist group exhibits flexibility and mobility. A legitimate orphanage in Afghanistan today could easily become a terrorist front next week, and by the time that organization is placed on the international watch lists, the terrorists have moved on to additional shell entities.

While the Treasury seems to be focusing on shutting down the worst offenders, good charities are likely being used to funnel at least some money to terrorist groups, and unfortunately, a significant percentage of that funding comes from US tax payers in the form of a deduction. Whereas donations made directly to foreign charities are not deductible, donations made to a US charity are, even if all they do is immediately cut a check to the foreign entity.

Tax Shelters Involving Life Insurance and Dead Pools

In the mid 1990s, some rather creative financial advisors devised a scheme whereby wealthy clients could purchase substantial amounts of life insurance for the benefit of their heirs using moneys "donated" to accommodating charities. The charity would end up with pennies on the dollar while the average donor saved tens of thousands in income and estate taxes. In the

[11] "Al Qaeda Skimming Charity Money", CBS News, June 7, 2004

[12] Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities, US Treasury

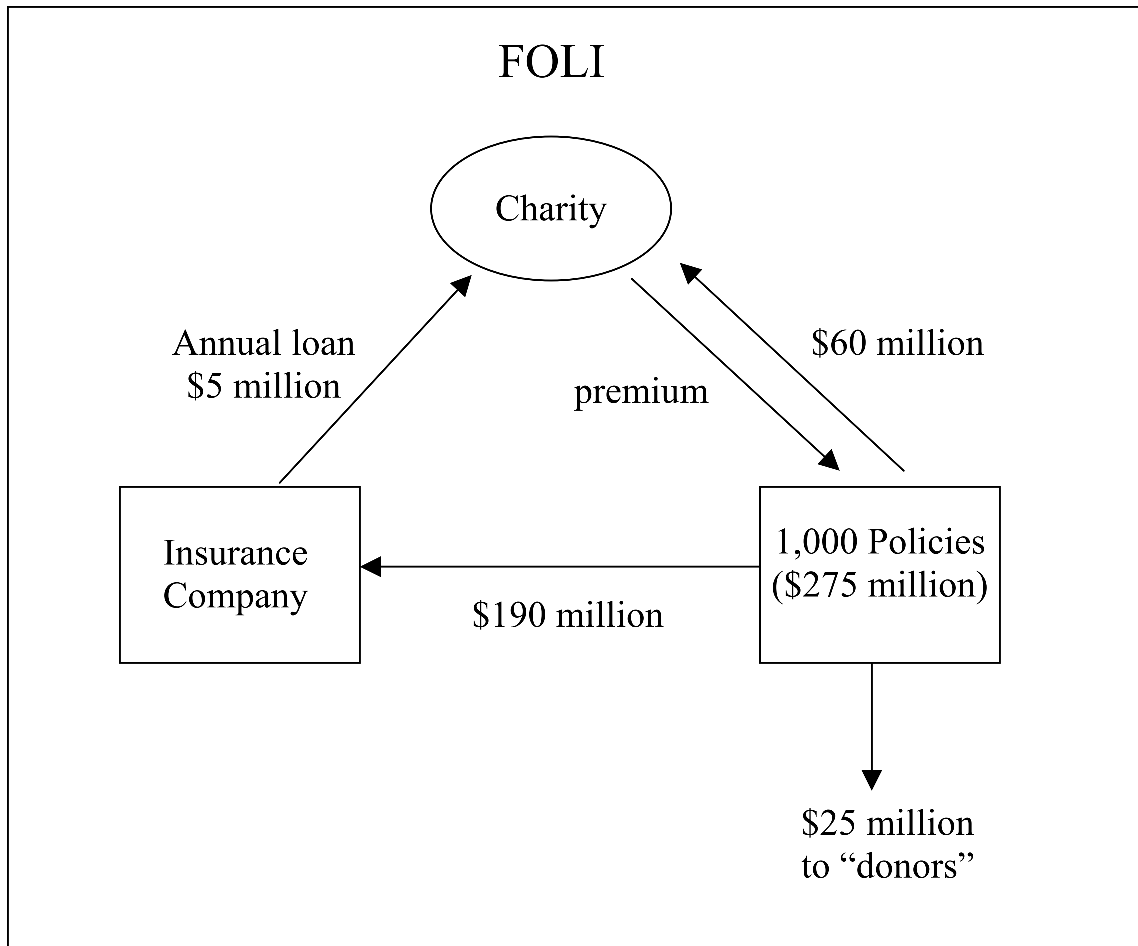
first couple of years, only a handful of charities were willing to participate in this charitable split dollar scheme, but when good charities saw that enough pennies on the dollar eventually added up to nickels and dimes, otherwise honest and ethical organizations began to accommodate wealthy donors too. In 1999, the IRS Released Notice 99-36, Congress passed legislation that added hefty penalties to charities that participated in these plans, and shortly thereafter, the Tax Court ruled in two different cases that the plan had never worked[13]. While the 1999 legislation effectively eliminated this particular scheme, many financial, legal, and accounting experts, struggling to replace the tax beneficial techniques that were being shut down in the corporate and offshore arenas started focusing their sales efforts on shelters involving tax exempt organizations.

Foundation Owned Life Insurance (FOLI) and Charity Owned Life Insurance (CHOLI)

Fundamentally, life insurance is a risk management tool. By design, it pays a lump sum benefit when someone dies. In certain circumstances, it may be appropriate for a tax exempt organization to purchase individual life insurance on the life of a donor, alumnus, or volunteer. There are also times when purchasing a group policy can also make sense for a charity. For example, a university may ask the Class of '50 to purchase life insurance to establish a scholarship fund or erect a building in their name. Unfortunately, a growing number of promoters have realized that buying large group policies can be profitable from a statistical gaming point of view. Using a technique called a "dead pool" such investors know that the more policies they hold in their portfolio, the more predictable the death rate becomes, enabling them to play the statistical odds. The gambling behind such an investment strategy is the reason why the state insurable interest laws exist; they ensure that life insurance is only purchased by someone who has a financial interest in the continued life of the insured.

[13] Addis v. Comm'r, 118 TC 32 (June 10,2002) and Weiner v. Comm'r, T.C. Memo 2002-153 (June 18, 2002)

Institutional investors are actively looking for ways to fund life insurance pools as an investment. As outlined earlier in this report, many charities are also financially unsteady right now and are willing to engage in somewhat aggressive techniques in order to raise donations. Add these factors together, and the investors have found a willing – and cheap -- partner in charitable industry.



Example: In Southern California, a landscaper / dog catcher by the name of Robert Sandifer was approached by an insurance agent, who recommended that Sandifer start up a charity in order to establish a dead pool[14]. If Sandifer could find 1,000 people who would agree to have life insurance purchased on their lives, his new charity – a humane society – could

[14] "For Charities, a New Twist in Raising Money: Corporate Investors in Life-Insurance Policies", by Debra Blum, *Chronicle of Philanthropy*, August 12, 1999

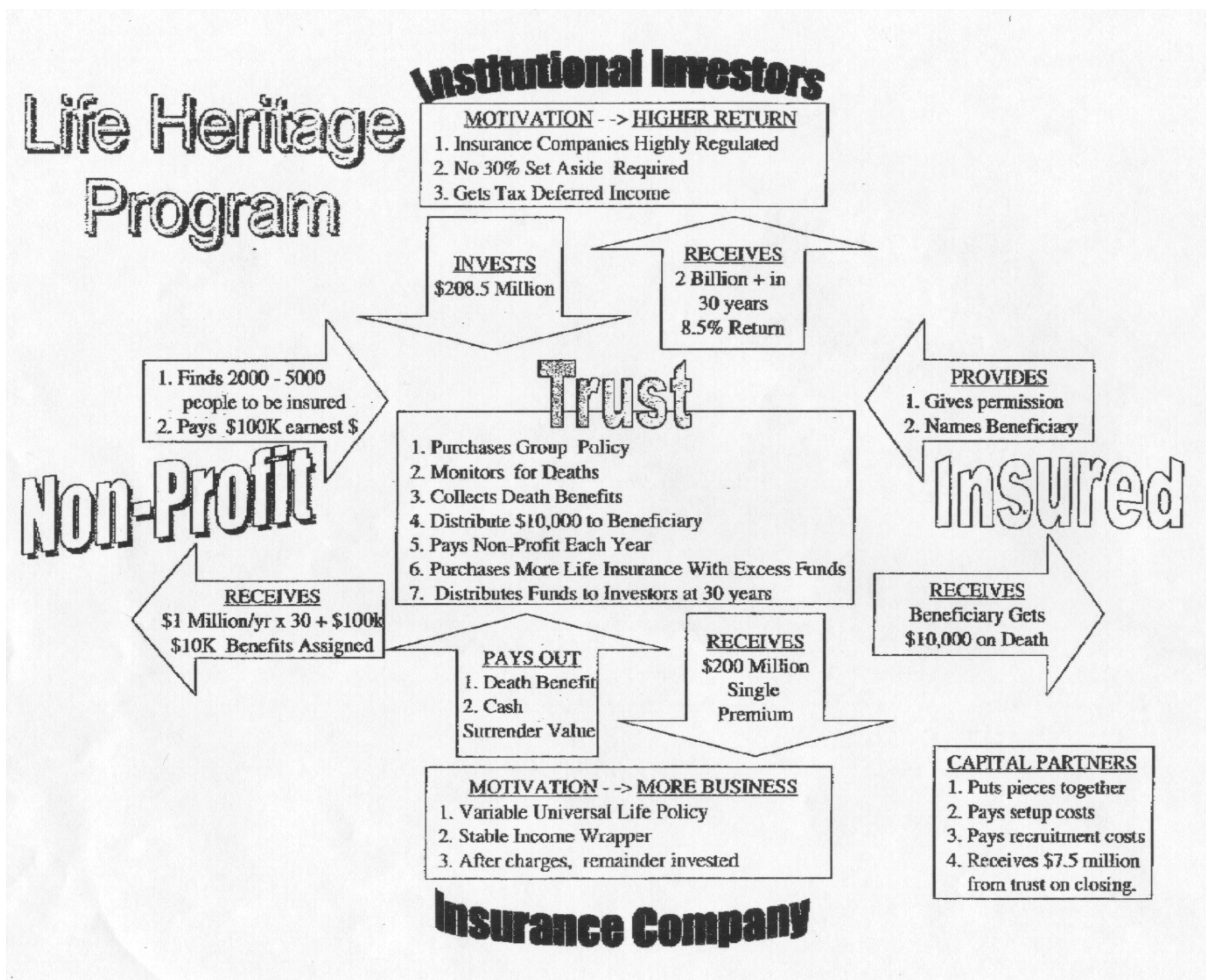
borrow large sums of money each year, use it to pay life insurance premiums, and then keep any death benefits remaining after the loans were paid off. Since this charity had no donor list, Sandifer recruited insurance applicants at a local church and a motorcycle club, he ran advertisements in newspapers, and even signed up strangers in a car dealership.[15] While his motivation to fund a charity may have been good, the decision to start that charity with such a long term investment pool was faulty. The plan quickly collapsed and the charity has closed.

Investor Owned Life Insurance

While the FOLI dead pool was likely doomed from the start – the charity couldn't meet the public support test, and the size of the dead pool wasn't sufficient for death rates to be predictable – other more sophisticated plans have arisen which could turn a profit. It isn't the charity, though, who benefits most in the new schemes; it is an outside group of institutional investors (primarily insurance companies and hedge funds) who stand to gain the most.

As anyone familiar with the secondary life insurance market can attest, many investors would love to start an insurance pool insuring older, wealthy lives. For example, a life insurance company can only invest a small percentage of its reserves in the stock market, and the remainder must generally be invested in long term fixed income holdings. Since long term bonds are paying very low rates of return in recent years, insurance companies have been looking for creative ways to increase those fixed income yields. Buying a large pool of insurance policies would make a very good investment for this situation, but insurance companies don't have the ability to go out and buy 10,000 policies on the lives of targeted people. Charity, however, does.

[15] "Dying to Donate: Charities Invest in Death Benefits", by Theo Francis and Ellen Schulz, *Wall Street Journal*, February 6, 2003



The L.I.F.E. Heritage plan diagram above provides the details for one such plan. The charity sets up a trust which sells either fixed income shares or debt instruments to the insurance company / investor. Using the money raised, the trust purchases 10,000 life insurance policies totaling $2+ billion from a different insurance company on the lives of the charity's donors. The charity receives the first $1 million in death benefits each year for 30 years, and the remaining pool (approximately $2 billion) goes to the insurance company / investor. Each donor receives a small death benefit ($10,000) as an enticement to have the policy purchased on his or her life. Charity's share in this plan ($30 million) may seem enormous to the non-profits agreeing to enter into this arrangement, but it is nothing more than rent for the insurable interest they transferred to

the trust for the use of the institutional investors who benefit substantially more. While there are several variations of this plan, the promoter for the LIFE Heritage plan above claims to have already put together at least eighteen $2+ billion pools for his institutional clients using a variety of charities[16].

Life Insurance Life Annuity Combination (LILAC)

The newest Investor Owned Life Insurance (IOLI) scheme to hit the non-profit world is also the best funded in terms of marketing and lobbying budgets. The LILAC plan uses a structure which is similar to the LIFE Heritage Plan above, but adds an immediate annuity to the product mix.

Capturing the Value of Insurance Arbitrage

The only way to capture the value associated with insurance arbitrage is to turn insurance into a capital markets product

Trust sells a fixed income partnership security in the capital markets

II. Trust uses proceeds to purchase an annuity contract

III. Trust uses monthly cash flow from the annuity to pay…
1. coupon payments on fixed income security and
2. the insurance premium on a life policy

IV. At the death of the insured person, the trust receives value from the insurance policy and uses the funds to
1. Pay off principal on fixed income security
2. Remit remaining cash (the gain from the arbitrage) to designated beneficiary, i.e. endowments, foundations, etc.

Investors
Sell fixed income securities
Trust
(Finish here)
Endowment / Foundation / Other
Pay off principal on fixed income security
Arbitrage
Pay Coupon Payments
Monthly Annuity Payment
Buy Annuity Contract
Pay life insurance premiums
Payment at Death
Buy Life Insurance Policy

UBS Investment Bank worked with our insurance broker, LILAC Capital, to develop this insurance based, arbitrage product

UBS Investment Bank

[16] "Death dividends or creative financing?" by Tom Gascoyne, *Chico News and Reviews*, February 20, 2003.

To summarize briefly, the charity sets up a trust and sells fixed income securities interests in that trust to institutional investors (life insurance companies, hedge funds, and private banking clients). The moneys raised are used to purchase immediate annuities on the lives of the charity's donors. The income from these annuities is then used to purchase life insurance on the lives of the same donors. The charity benefits by receiving the "arbitrage" from the program – the annuity rates received are more favorable than the life insurance rates paid out – with the remainder going to the institutional investors. UBS has successfully put together several of these plans already (totaling $2 billion) in their first year, and as they lobby to change the insurable interest laws in additional states, more and more plans are likely to fall into place[17].

Life Insurance and Life Annuities Based Certificates (LILACS)

❖ *Transaction Summary*

	LILACS 2003-I	LILACS 2003-II	LILACS 2003-III	LILACS 2003-IV
Date of Closing	10-Jul-03	10-Oct-03	17-Dec-03	23-Dec-03
Series A Investor Certificate Amount	231,908,260	170,525,000	238,842,600	188,499,000
Total Death Benefit Amount	242,898,750	179,500,000	251,413,250	198,420,000
Distribution Rate	5.8594%	5.0456%	5.6460%	5.7750%
Number of Donors	15	10	15	17
State	Texas	Texas	Texas	Texas
Weighted Average Life	8.5	9.9	9.4	10.0
Targeted to Charities	10,990,490	8,975,000	12,570,663	9,921,000
Potential to Charities	13,139,579	10,680,250	14,707,675	11,607,570
Annuity/Life Insurance Provider	Two of the nation's leading insurers	Two of the nation's leading insurers	Two of the nation's leading insurers	Two of the nation's leading insurers
Upfront Annuity Premium	192,921,991	140,595,835	200,101,848	158,420,394
Upfront Life Insurance Premium	17,638,586	9,371,687	17,000,432	10,094,746
Rating (Moody's/S&P)	Aaa/AAA	Aa2/AA+	Aaa/AAA	Expected/AAA

The institutional investors (insurance companies and hedge funds) investing in this plan would be unable to purchase these insurance contracts on their own. They must borrow – or rent

[17] "Charities Look to Benefit from a New Twist on Life Insurance" by Stephanie Strom, *NY Times*, June 6, 2004.

- the charity's insurable interest. In exchange, the charity is receiving a very small percentage of the overall scheme. Once again, the charities are willing to sell their insurable interest for pennies on the dollar, simply because they reason that those are pennies they wouldn't have had otherwise.

Investing in life insurance dead pools clearly goes against public policy. The insurable interest laws pre-date the American Revolution and were put into place to prevent gambling on the lives of others. Under most state laws, the above transactions are already prohibited because while charity may have an unlimited insurance interest in the life of a donor, the trust funded by the institutional investors does not. For this reason, UBS and the promoters of this plan have been actively lobbying at the state level to get the insurable interests laws expanded, effectively gutting the purpose of these laws in order to arrange more LILACs for their institutional clients. Texas' and Virginia's laws were already sufficiently open to allow these plans, but the UBS lobbying efforts have recently resulted in Tennessee and Nebraska changing their laws to accommodate this program. Nine additional states currently have legislation under consideration which would allow charities to assign their insurable interest to outside investors, even when those investors have no reason – other than statistics gambling – to purchase such policies.

From a charity's point of view, participating in a scheme that enriches outside investors is bad public policy, even if the charity receives funds it would not ordinarily get. From an insurance industry viewpoint, this plan is equally problematic. If a person's death is allowed to become a commodity rather than a risk to be covered by life insurance, then the tontines and dead pools of the 17th and 18th centuries will return.

Summary

I have worked in and around the insurance industry for approximately eighteen years, usually as one of their harsher critics. The reaction to the investor insurance programs involving charity is the first time I've seen the two largest insurance agent associations -- Association for Advanced Life Underwriting (AALU) and the National Association for Insurance and Financial Advisors (NAIFA) – jointly publish a statement warning their members away from a plan[18]. The lobbying efforts at the state level would do tremendous damage to the consumer protections that insurable interest laws are supposed to provide.

In the past year, I have spoken with literally dozens of people who were looking into variations of Investor Owned Life Insurance (IOLI) plans involving charity. The charities who have been pitched the program and agree to participate only see that they would have $10 million if they do it and nothing if they don't. None knew how much the outside investors would get or even who those outside investors were. All appear to be caught up in the minutia of the plan - which arrow points where, which contracts pays what – without stepping back and looking at the big picture. It is not the charitable mission to make wealthy investors wealthier by entering into complicated schemes.

Conclusion

Each of the examples above has one common theme: all of these schemes and arrangements allow people to do things that they couldn't do without the involvement of a charity. All receive a benefit that would be otherwise unavailable to them. A corporate raider is able to steal because a charity shell hides his identity and give him credibility. A terrorist group is able to raise tax deductible money from US supporters and can launder that money through non profit entities. A few thousand taxpayers are able to fund personal expenses using tax

[18] http://www.naifa.org/frontline/20040615_nfl_1.html

deductible “donations” to an accommodating non profit. And institutional investors are able to purchase sizable life insurance pools where ordinarily, the state insurable interest requirements would make such investment pools impossible.

I would really like to thank the Senate Finance Committee for holding these hearings and to commend the staff on their White Paper which thoughtfully addresses the myriad of concerns that the panel members have raised. Despite the horror stories told today, the charitable industry is still relatively clean, and it is my hope that shining a harsh light on the few abuses that do occur will have the effect of wiping out the bad practices before they have a chance to spread.