

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL
CORPORATE OVERSIGHT DIVISION

In the Matter of:

Attorney General

File No. 2017-0173084-A

Food For The Poor, Inc.

Respondent.

Notice of Intended Action and Cease and Desist Order

To: Food For The Poor, Inc.

David Price
Secretary and General Counsel
6401 Lyons Road
Coconut Creek, FL 33073
davidp@foodforthe poor.com

Registered Agent
Corporate Creations
8175 Creekside Drive #200
Portage, MI 49024

Bill Schuette, Attorney General of the State of Michigan, under Section 20(4) of the Charitable Organizations and Solicitations Act, MCL 400.271 *et seq.*, notifies Food for the Poor of his intention to bring a civil action against Food for the Poor in Ingham County Circuit Court and orders Food for the Poor to cease and desist all unlawful solicitations as described below. Before bringing a civil action, the Attorney General will consider accepting an assurance of discontinuance or other appropriate settlement agreement. Concurrent with this Notice of Intended Action, the Attorney General is also issuing a revised Notice of Intent to Deny renewal of Food for the Poor's charitable solicitation registration.

I. Jurisdictional Allegations

1. Respondent Food For The Poor, Inc. is a Florida nonprofit corporation with 501(c)(3) tax-exemption status. Its address is 6401 Lyons Road, Coconut Creek, FL 33073. Its President is Robin Mahfood. Its Michigan-based resident agent Corporate Creations, 8175 Creekside Drive #200, Portage, MI 49024.
2. For many years, Food for the Poor has been registered to solicit in Michigan under Michigan's Charitable Organizations and Solicitations Act ("Solicitations Act"). Food for the Poor is registered under the Solicitations Act as #10950.
3. As a registered charitable organization soliciting in Michigan, Food for the Poor is a person subject to the authority of the Attorney General under the Solicitations Act. MCL 400.271 *et seq.*; MCL 400.272(a) and (e).

II. Background Facts

4. In June 2016, the Attorney General's Charitable Trust Section received Food for the Poor's renewal registration form, including its 2015 IRS Form 990 and audited financial statements. **Exhibit A**, 2015 IRS Form 990.
5. The Form 990 reported \$1.157 billion in contributions and grants received, \$1.158 billion in total expenses, and \$1.117 billion in total charitable program expenses. These immense figures would make Food for the Poor one of the largest charities in the United States, and give it an impressive 96.5% program-expense ratio.

6. However, a closer look at the Form 990 revealed that \$1.033 billion of Food for the Poor's \$1.157 billion in contributions and grants received were gifts-in-kind and apparently included many pharmaceuticals—a category of gift-in-kind donations that have been problematic in recent years and subject to overvaluation. In the Charitable Trust Section's experience, some charities have been known to use large gift-in-kind programs to overstate the charity's efficiency with cash donations.
7. In March 2017, the Charitable Trust Section issued Food for the Poor an Investigative Order requiring production of its solicitation materials and requiring it to explain and document its programs and activities. **Exhibit B**, 1st Investigative Order. In April 2017, Food for the Poor responded to the Investigative Order. **Exhibit C**, 1st Response Letter.
8. In June 2017, the Charitable Trust Section issued a Second Investigative Order. **Exhibit D**, 2nd Investigative Order. Food for the Poor responded in July 2017. **Exhibit E**, 2nd Response Letter.

Misrepresentation of 95% Fundraising Efficiency

9. Food for the Poor printed solicitation materials routinely included the following statement:

Our mailings cost so little, but do so much. Fundraising and other administrative costs comprise less than 5% of our expenses; more than 95% of all donations go directly to programs that help the poor.

As an example, and to show the statement in context and with the accompanying graphic, here is a screen shot from a May 2015 Food for the Poor mailing. **Exhibit F**, 5/15 Mailing, PA-1548-53 / DM6034 Kits Q1-6.

Gift by Credit Card

Please charge my gift:    

EXPIRATION DATE: _____ / _____

CARD # _____

SIGNATURE _____ PHONE _____ - _____ - _____

Would you like to receive our Food For The Poor weekly prayer via email?

EMAIL: _____
(We never share your email address!)

Administrative Costs:
5%



Program Services:
95%

Our mailings cost so little, but do so much. Fundraising and other administrative costs comprise less than 5% of our expenses; more than 95% of all donations go directly to programs that help the poor.




When a project is funded, additional donations fund the most urgent programs for the poor. Contributions are tax-deductible under Internal Revenue Code section 501(c)(3).

 **FOOD FOR THE POOR, INC.** 6401 Lyons Road, Coconut Creek, FL 33073 • 877-654-2955 • www.FoodForThePoor.org

PA1548-53 / DM6034 KIm Q1-6 • 5/15

10. This language and the accompanying graphic (hereafter referred to as the “95% Statement”) are deceptive and misrepresent the true nature of Food for the Poor’s fundraising costs, administrative costs, and programs. Food for the Poor’s solicitations ask donors for cash, and donors logically would be interested in learning how Food for the Poor uses donated cash. Here’s how Food for the Poor used its cash in recent years.

- a. In 2015, Food for the Poor raised \$124 million in cash. Food for the Poor’s 2015 cash expenditures on its programs equaled \$83,696,866, or 67.4% of contributions—leaving the other 32.6% spent on fundraising and administrative expenses.

2015 Ratio of Program Services to Contributions per 990			
	Ratio With GIK	GIK per Pt VIII, line 1g	Ratio After Removing GIK
Contributions (Pt VIII, line 1h)	1,157,509,481	(1,033,332,213)	124,177,268
Prog Services (Pt IX, line 25b)	1,117,029,079	(1,033,332,213)	83,696,866
Percentage of contributions	96.5%		67.4%

b. In 2016, Food for the Poor raised \$140 million in cash. Food for the Poor’s 2016 cash expenditures equaled \$83,109,329, or 59.4% of contributions—leaving the other 40.6% spent on fundraising and administrative expenses.

2016 Ratio of Program Services to Contributions per 990			
	Ratio With GIK	GIK per Pt VIII, line 1g	Ratio After Removing GIK
Contributions (Pt VIII, line 1h)	993,729,983	(853,735,985)	139,993,998
Prog Services (Pt IX, line 25b)	936,845,314	(853,735,985)	83,109,329
Percentage of contributions	94.3%		59.4%

11. But Food for the Poor did not tell donors its efficiency with donated cash.

Rather, in employing the 95% Statement, Food for the Poor claimed a much higher efficiency of 95% for programs and just 5% for fundraising and administrative costs. Food for the Poor obtained this 30% to 35% increase in efficiency by subtly—i.e., without notice to donors—including over \$1 billion¹

¹ In recent years, pharmaceutical gift-in-kind has frequently been overvalued. While we suspect this to be the case here, whether the gift-in-kind was overvalued is immaterial to the question of whether Food for the Poor’s 95% Statement was deceptive, misleading, or omitted materials facts. Accordingly, and since it’s our understanding that the State of California is concurrently investigating Food for the Poor’s gift-in-kind program, this Notice of Intended Action is focused on deceptive solicitations rather than gift-in-kind valuations.

of mostly pharmaceutical gifts-in-kind as both donations and program expenses. Essentially, Food for the Poor's 95% Statement told donors the following, but failed to include the bracketed information: "Fundraising and other administrative costs comprise less than 5% of our expenses [–expenses that include donated gift-in-kind pharmaceuticals we valued at \$1 billion]; more than 95% of all donations [including cash donations of \$124 million and gift-in-kind pharmaceutical donations we valued at \$1 billion] go directly to programs that help the poor." In this way, Food for the Poor subtly transformed itself from a charity with \$124 million in cash donations, of which \$84 million were spent on charitable programs and \$40 million on fundraising, salaries, and other administrative costs (67% efficiency) to a \$1.157 billion charity with \$1.117 billion in charitable programs (96.5% efficiency).

12. Moreover, the 95% Statement is misleading to donors in several ways:
- a. Donors would reasonably interpret the 95% Statement to mean that 95% of the donor's cash donation, i.e., almost the whole donation, would benefit the poor—mostly likely to be used to buy food for starving children, as Food for the Poor's solicitations regularly represent.
 - b. Donors would reasonably interpret the 95% Statement to mean that Food for the Poor is more efficient than other charities that do not boast of a similarly impressive fundraising efficiency, and that

donations to Food for the Poor will benefit the poor more than donations to other charities that serve the poor.

c. Donors would reasonably interpret the 95% Statement to mean that Food for the Poor has minimal fundraising expenses, salaries, and administrative costs. We believe donors would be surprised to learn the following facts:

i. Food for the Poor spent \$33.3 million (27% of total cash raised) on fundraising expenses in 2015. See **Exhibit A**, 2015 Form 990, line 25(D). In contrast, of the \$125 million raised in 2015, Food for the Poor spent just \$8.7 million on food purchases.

Exhibit G, Food Purchased and Donated 2014-2016 spreadsheet.

ii. Food for the Poor paid nine employees compensation of \$150k or more, including CEO Robin Mahfood who received over \$450k and two executives who received over \$200k. See **Exhibit A**, 2015 Form 990, pages 7-8.

iii. In 2015, Food for the Poor had 422 employees. Of these 280, or 66%, were employed in fundraising; 74, or 18%, in administration; and 68, or 16%, in programs. **Exhibit C**, Response 1(g).

iv. Despite its name of Food for the Poor, and regular emphasis in solicitations on feeding the poor, roughly 90% of Food for the

Poor's program services are a result of donated gift-in-kind, the majority of which are pharmaceuticals that are given a high valuation by Food for the Poor. **Exhibit A**, Form 990, p. 9, line 1g; p. 10, line 3.

13. Food for the Poor routinely included the 95% Statement in its solicitation materials, including direct mail solicitations, letters, pledge forms, and pamphlets.
14. Food for the Poor also trained its speakers to include the 95% Statement—or version of the 95% Statement—in its fundraising talks. In response to the Attorney General's 1st Investigative Order, Food for the Poor submitted two speaker training videos. **Exhibit C**, Response 15.d. In the second video, at 6:00, the speaker says "95% of every dollar goes directly to the poor." This statement is not just deceptive, but outright false. The correct percentage of "every dollar" going to the poor was between 60 and 70 percent for the years 2015 and 2016. (See paragraph 10, above.) In the years 2014 through 2016, Food for the Poor speakers presented in 253 Michigan churches, obtaining \$985,454 in donations. **Exhibit H**, Churches Visited Spreadsheet.
15. The following chart details the total amounts Food for the Poor raised from Michigan donors during the years 2014, 2015, and 2016 through all means of solicitations. Upon information and belief, most or all of the Michigan donations were obtained using the 95% Statement. **Exhibit I**, Michigan Cash Revenue spreadsheet; see also **Exhibit C**, Responses 3 and 4.

Year	Total Cash Donations	Number of Donors
2014	\$4,379,672.93	21,043
2015	\$4,857,976.45	22,128
2016	\$5,341,454.18	22,131

Misrepresentation of “6 Cents” Appeal

16. During 2015 and 2016, Food for the Poor regularly solicited Michigan donors using a “6 Cents Appeal”. While there were different variations of the appeal used in both telemarketing and direct mail, essentially the solicitation informed donors that if they donated just 6 cents, Food for the Poor would use that 6 cents to provide a meal for a starving child. Examples of such statements include: “It only takes 6 cents to provide a meal for a starving child”; or “You can provide a nutritious meal for a starving child for just 6 cents.” **Exhibit J**, Example mailing of 6 Cents Appeal, Fundraising Acquisitions, February 2015. Some of these appeals even included a nickel and a penny in the mailing, asking donors to return the coins, implying that doing so would feed a starving child. *Id.* On the responsive pledge forms, donors were given options to choose, for example: \$12 will provide 200 meals. \$24 will provide 400 meals.² *Id.* The 6 Cents Appeal was also often coupled

² Pledge forms submitted by Food for the Poor included placeholders rather than dollar amounts and meal numbers. For example: “Yes, Robin, I’m returning the coins to provide a meal for a suffering child. In addition my gift of: <<\$XX>> will provide <<AA>> meals.” Upon information and belief, in the actual pledge forms mailed to donors, these figures were entered using the 6 cent figure to calculate how many meals each donation would provide. For example, “\$12 will provide 200 meals.” **Exhibit J**, February 2015 Six Cents Appeal.

with the 95% Statement, thus reassuring donors that their donations of 6 cents would go almost entirely to purchase food for starving children. *Id.*

17. The Attorney General's 1st Investigative Order asked the following questions regarding the 6 Cents Appeal, and received the following answers:

16.b: Explain how cash donations to the food donation program are used.

A large number of container loads of food are purchased with these donations. ***Additionally we have to pay for the shipment of both purchased and in-kind food items to the countries that we serve.*** Items in support of the food program (e.g. agricultural tools, kitchen supplies) are also acquired via cash purchase and in-kind donation and shipped. Cash grants are made to country partners that perform, in part, food distribution services and manage feeding programs. ***Finally, we have the indirect cost that make all this happen.***

16.c: Is cash donated to the food donation program used solely to purchase food, or is it used to fund Food For the Poor's management, fundraising and other expenses? Explain.

As stated in the answer to (b) above, ***cash is used to purchase food & food-related items, pay for freight expenditures and to cover the indirect (management, fundraising and other) expenses to maintain those functions.***

16.d: Explain how Food for the Poor calculates that it can provide a meal to a starving child in Latin America for six cents?

Answer: The amount of six cents is used as a measuring tool based on the actual costs of rice we purchase and ship for the food program. The cost is calculated as follows:

Avg. cost of one metric ton of rice	\$442.00
Pounds per metric ton	2,204
Cost per pound of rice	\$0.20
Cost per meal (1 meal serving – ¼ lb. rice)	\$0.05
Additional cost of beans or other protein	\$0.01
Total cost of one meal	\$0.06

16.e: If a person responds to a Food for the Poor solicitation by donating \$12 to provide 200 meals, what percentage of the \$12 donation is used to purchase food?

Answer: As shown above, the \$.06 for a meal (or \$12 for 200 meals) is the total direct cost of rice and beans in a cooked meal. ***We do not restrict the funds received for food***, as noted in previous answers, because our food program is an ongoing fundamental element of the aid we provide. We continually purchase and acquire food, food-producing projects like agriculture, aquaculture and fishing programs and also support feeding programs through grants and gifts of other materials we have purchased or donated (e.g. cooking utensils, appliances, etc.).

[**Exhibit C**, Responses. 16.b. to 16.e. (bold-italics emphasis added)]

18. Food for the Poor's answers reveal that, while Food for the Poor can purchase a meal for 6 cents (5 cents for a portion of rice, 1 cent for a portion of beans), ***donations in response to the 6 Cents Appeal are not restricted for the purchase of food***, i.e., donations are used not just to buy food, but also to ship food and to support Food for the Poor's indirect costs, including fundraising and administrative costs. These other costs are ***not included*** in Food for the Poor's 6 Cents calculation. Hence, when a donation of 6 cents is made to Food for the Poor, the donation is insufficient to purchase a meal for a starving child because that donation must be used not simply to purchase food, but also to pay Food for the Poor's other expenses. Donors that have been saving their pennies and nickels to help starving children have been deceived.

19. The following chart shows how much money was donated to Food for the Poor in years 2015 and 2016 in response to solicitations for donations to purchase food, and how much of the donated money Food for the Poor spent on food.

Year	Cash Donated in Response to Food Solicitations ³	Purchased ⁴
2015	\$29,036,069	\$8,761,535.61
2016	\$28,801,159	\$9,217,655.54

20. Using the above figures, the following chart estimates the portion of a 6 Cents Appeal donation used for the purchase of food. For 2015, 1.8 cents of 6 cents was spent on food; for 2016, 1.9 cents of 6 cents was spent on food.

Calculation of how much of \$.06 was spent on food		
	2015	2016
Food ask cash donations	\$29,036,069	\$28,801,159
Food purchases	\$8,761,536	\$9,217,656
Percent (food purchases/food ask donations)	30.2%	32.0%
Portion of 6 cents purchasing food (6 cents x percent)	1.8 cents	1.9 cents

21. Since Food for the Poor did not restrict the funds raised from its 6 Cents Appeals to the purchase of food, and only spent a fraction of the amount raised for food on the purchase of food, the 6 Cent Appeals were false, deceptive, misleading, or misrepresentative.

³ **Exhibit K**, 2015 and 2016 Cash Pledge Income by Ask Category spreadsheet.

⁴ **Exhibit G**, Food Purchased and Donated 2014-2016 spreadsheet.

Improper Joint Cost Allocations

22. Food for the Poor's 2016 Form 990 and its audited financial statements reported \$10,781,473 in joint costs of which \$4,770,584, or 44.2% were allocated to program services. **Exhibit L**, 2016 Form 990, p.10; and audited financial statements. The audited financial statements purport to be prepared in accordance with generally accepted accounting principles (GAAP) and the Form 990 claims that Food for the Poor followed GAAP in accounting for the joint costs.
23. According to information provided in Food for the Poor's responses, the largest joint cost allocated to program services was Food for the Poor's Roman and Other Speaker programs. The total cost of the Roman and Other Speakers programs was \$3,307,824 of which \$2,977,042, or 90%, was allocated to program. **Exhibit M**, 2016 Audit Joint Costs spreadsheet from Response to 2nd Investigative Order.
24. GAAP in the area of joint costs is provided by the Financial Accounting Standard Board's Accounting Standards Codification ("ASC"). The ASC requires that, for joint costs to be allocable, the criteria of purpose, audience, and content must be met.
25. The ASC states that, to accomplish program functions, the activity must call for specific action by the audience that will help accomplish the organization's mission. Actions that help accomplish the mission are activities that will do either of the following:

- a. Benefit the recipient (such as improving the recipient's physical, mental, emotional, or spiritual health and well-being);
- b. Benefit society (by addressing societal problems).

26. The ASC provides the following examples of activities that fail to call for a specific action by the audience that would help accomplish an organization's mission:

- a. Educating the audience about causes or motivating the audience to otherwise engage in specific activities that will educate them about causes is not a call for specific action by the audience that will help accomplish the NFP's mission. Such activities are considered in support of fundraising.
- b. Asking the audience to make contributions is not a call for specific action that will help accomplish the NFP's mission.

27. The ASC further states:

Information identifying and describing the NFP [not-for-profit organization], its causes, or how the contributions will be used is considered in support of fundraising.

28. The Attorney General questioned Food for the Poor to determine whether its joint cost allocations were justified. Food for the Poor responded, "The overall purpose of joint fundraising/education is to bring awareness of the plight of the poor, to turn the face the First World Church and call them to act upon the Gospel's message where 'whatever you did for one of the least of these brothers and sisters of mine, you did for me.' Matthew 25:40." **Exhibit C**, 1st Response to Investigative Order, Response 15.b.

29. To "bring awareness of the plight of the poor" in its solicitations, Food for the Poor describes and provides pictures of the poor, especially children, in various other countries. Food for the Poor informs the reader about the

circumstances in which the poor live. This “awareness” is really the same as educating the audience about the poor. However, the ASC states, educating about causes is not a call to action; information describing causes should be considered in support of fundraising. Thus, “awareness” is not a purpose or call to action that meets the criteria of the ASC.

30. FFP also provided examples of the presentations by providing video of two speaker presentations.

- a. The first speaker specifically said that he was wearing two hats: that of a preacher and that of a beggar. While the “preaching” portion discussed having “mercy,” the “begging” portion made it clear that showing “mercy” meant providing Food for the Poor with a contribution. There was no call to action unless you consider the request for a donation a call to action. However, as the ASC states, asking for a donation is not a call to action under joint cost accounting rules.
- b. The second speaker spoke of the needs of the poor and what Food for the Poor does. However, the ASC specifically states that such activity is in support of fundraising.

Therefore, FFP’s joint cost allocations with respect to its Roman Speakers and Other Speakers programs do not meet the ASC’s criteria.

31. In addition, even if the allocation of joint costs of the Speaker programs were allowable, the ASC states that the cost allocation method must be rational

and systematic and result in an allocation that is reasonable. Food for the Poor allocated 90% of the joint costs of the Speaker programs to program which is not reasonable.

III. Law

32. Section 18 of the Charitable Organizations and Solicitations Act (Solicitations Act) prohibits persons from engaging in a variety of acts. MCL 400.288. These prohibited acts include:

(i) Represent or imply that the amount or percentage of a contribution that a charitable organization will receive for a charitable program after costs of solicitation are paid is greater than the amount or percentage of a contribution the charitable organization will actually receive.

(j) Divert or misdirect contributions to a purpose or organization other than that for which the funds were contributed or solicited.

(n) Employ any device, scheme, or artifice to defraud or obtain money or property from a person by means of a false, deceptive, or misleading pretense, representation, or promise.

(o) Represent that funds solicited will be used for a particular charitable purpose if those funds are not used for the represented purpose.

(u)(ii) Submit any of the following to the attorney general . . . [a] document containing any materially false statement.

(y) For a charitable organization, submit financial statements, including IRS form 990, 990-EZ, 990-PF, or other 990- series internal revenue service return, or any other financial report required under this act, that contain any misrepresentation with respect to the organization's activities, operations, or use of charitable assets.

33. Section 3(2)(j) of the Solicitations Act requires a charitable organization to submit audited financial statements that are prepared according to generally accepted accounting principles (GAAP).

IV. Alleged Violations

The alleged violations below incorporate the facts alleged above and in every other alleged violation.

Violations Regarding 95% Fundraising Efficiency Claim

34. Employ Any Scheme to Obtain Donation. MCL 400.288(1)(n).

- a. Since at least 2015, Food for the Poor has raised over \$250 million nationwide, including over \$10 million in Michigan, by telling donors: “Our mailings cost so little, but do so much. Fundraising and other administrative costs comprise less than 5% of our expenses; more than 95% of all donations go directly to programs that help the poor.” (“95% Statement.”)
- b. However, the 95% Statement is deceptive and misrepresents the true nature of Food for the Poor’s fundraising costs, administrative costs, and programs. In 2015, Food for the Poor spent 67.4% of cash raised on programs and 32.6% on fundraising expenses and administrative expenses. In 2016, Food for the Poor spent 59.4% of cash raised on programs and 40.6% on fundraising and administrative expenses.
- c. Rather than telling donors these percentages, Food for the Poor subtly—i.e., without notice to donors—increased its program efficiency ratio by 30 to 35 percent by adding roughly a billion dollars of gifts-in-

kind (mostly pharmaceuticals) to both its contributions and programs expenses and then used the 95% Statement to raise funds.

- d. In this way, every time Food for the Poor used the 95% Statement in a solicitation, it employed a device, scheme, or artifice to obtain money from donors by means of a false, deceptive, or misleading pretense, representation, or promise and thereby violated MCL 400.288(1)(n).

35. Divert or Misdirect Funds to Another Purpose. MCL 400.288(1)(j).

- a. In responding to Food for the Poor solicitations containing the 95% Statement, donors intended that at least 95% of their donation would be spent on Food for the Poor's charitable programs. But Food for the Poor did not spend 95% of donations from cash donors on charitable programs; rather, in 2015, Food for the Poor spent 67.4% on programs and in 2016, 59.4% on programs.
- b. In this way, since at least 2015, Food for the Poor has diverted between 30 and 35 percent of every cash donation to a purpose or purposes other than that for which the funds were contributed or solicited and thereby repeatedly violated MCL 400.288(1)(j).

36. Misrepresent Percentage of Donation Going to Charity. MCL 400.288(1)(i).

- a. In using the 95% Statement in soliciting donors in Michigan, Food for the Poor represented or implied that more than 95% of the donor's cash contribution would directly benefit Food for the Poor's programs

benefiting the poor. In fact, the percentage of a donor's cash donation that directly benefited the poor was much lower than 95%; in 2015, Food for the Poor spent 67.4% on programs; in 2016, 59.4%.

- b. In this way, every time Food for the Poor used the 95% Statement in a solicitation, Food for the Poor violated MCL 400.288(1)(i).

Violations Regarding 6 Cent Appeals

37. Employ Any Scheme to Obtain Donation. MCL 400.288(1)(n).

- a. Since at least 2015, Food for the Poor has raised over \$10 million in Michigan. During this period, Food for the Poor regularly solicited Michigan donors using its 6 Cent Appeal, a solicitation campaign that told donors that if they donated just 6 cents, Food for the Poor would use that 6 cents to provide a meal for a starving child. Responsive pledge forms even asked donors to check a box next to how many meals they were donating, for example: "\$12 will provide 200 meals."
- b. The 6 Cent Appeal was frequently coupled with the 95% Statement, thereby further assuring donors that all—or almost all—of their 6 Cents donations would go to the purchase of food for starving children.
- c. However, the 6 Cent Appeal is deceptive and misrepresents how Food for the Poor uses donations. While Food for the Poor can purchase a meal of rice and beans for 6 cents, donations in response to the 6 Cents Appeal are not restricted to this purpose. Rather, Food for the Poor used cash donated in response to the 6 Cent Appeal not just to

purchase food but for other purposes, including shipping food, fundraising costs, administrative costs, and other expenses. The Attorney General estimates that Food for the Poor used less than 2 cents of every 6 cents donated for the purchase of food.

- d. In this way, every time Food for the Poor used the 6 Cent Appeal as part of a solicitation, it employed a device, scheme, or artifice to obtain money from donors by means of a false, deceptive, or misleading pretense, representation, or promise and thereby violated MCL 400.288(1)(n).

38. Divert or Misdirect Funds to Another Purpose. MCL 400.288(1)(j).

- a. In responding to Food for the Poor's 6 Cent Appeals, donors intended that, for every 6 cents they donated, Food for the Poor would buy and provide a meal to a starving child or other impoverished person. But Food for the Poor did not restrict donations received in response to 6 Cent Appeals for this purpose; rather Food for the Poor spent donations on a variety of purposes, shipping costs and fundraising and administrative expenses.
- b. In this way, since at least 2015, Food for the Poor has diverted a portion of every cash donation received in in response to the 6 Cent Appeals to a purpose or purposes other than that for which the funds were contributed or solicited and thereby repeatedly violated MCL 400.288(1)(j).

39. Misrepresenting Use of Funds. MCL 400.288(1)(o).

- a. In raising funds using the 6 Cent Appeal, Food for the Poor represented that, for every 6 cents donated in response to the Appeal, Food for the Poor would buy and provide a meal to a starving child or other impoverished person. But Food for the Poor did not restrict donations received in response to 6 Cent Appeals for this purpose; rather Food for the Poor spent donations on a variety of purposes, shipping costs and fundraising and administrative expenses.
- b. In this way, since at last 2015, every time Food for the Poor used the 6 Cent Appeal it represented to donors that funds raised would be used for a particular charitable purpose, but used a portion of the funds raised for other purposes thereby violating MCL 400.288(1)(o).

40. Submitting Documents with False Statements to Attorney General.

MCL 400.288(1)(u)(ii).

- a. Accompanying its most recent renewal solicitation registration, Food for the Poor submitted both its audited financial statements and its Form 990 to the Department. In both documents, Food for the Poor claimed that its joint cost allocations were made in accordance with GAAP. However, if GAAP were followed, 90% of the Speaker programs costs would not have been allocated to program services in violation of the ASC. For each document submitted, Food for the Poor violated

MCL 400.288(1)(u)(ii) by submitting documents that falsely stated that they had been prepared in accordance with GAAP.

- b. In addition, even if the allocation of joint costs were allowable, the cost allocation method must be rational and systematic and result in an allocation that is reasonable. Food for the Poor's allocation of 90% of its Speakers Programs costs to program services were not reasonable when the vast majority of the speakers' presentations involve educating about the cause, describing what Food for the Poor does, or requesting a contribution. For this alternative reason, in submitting its audited financial statements and Form 990 to the Department, Food for the Poor violated MCL 400.288(1)(u)(ii) by submitting documents that falsely stated that they had been prepared in accordance with GAAP.

41. Submitting Financial Statements that Misrepresent Food for the Poor's charitable activities. MCL 400.288(1)(y).

- a. Food for the 2016 Poor's Form 990 and its audited financial statements each represent that its charitable activities include \$4,770,584 in joint costs that were allocated to program services. However, \$2,977,042 of these costs were not allocable to program services under GAAP. Food for the Poor violated MCL 400.288(1)(y) by misrepresenting the amount it spent on its charitable program and the amount of joint costs allocable to program services.

42. Submitting Audited Financial Statements that were not Prepared in Accordance with GAAP. MCL 400.273(2)(j).

- a. As stated above, GAAP in the area of joint costs is prescribed by the ASC. Because audited financial statements were required to be submitted to support Food for the Poor's registration, they were required to be prepared in accordance with GAAP.
- b. The ASC requires that, for joint costs to be allocable to program services, the criteria of purpose, audience, and content must be met. Food for the Poor failed to meet the criteria of purpose and content because their Speaker program solicitations did not provide a call to action that would help Food for the Poor's program. Also, Food for the Poor's purpose was to provide awareness of the plight of the poor and to educate the donating public about what Food for the Poor does. None of these activities are purposes or calls to action which meet the ASC criteria.
- c. Food for the Poor violated 400.273(2)(j) by submitting audited financial statements that were not prepared in accordance with GAAP.

V. Attorney General's Authority

43. Section 20 of the Charitable Organizations and Solicitations Act specifies the Attorney General's authority to redress violations of the Act, including:

- a. Issuing a Notice of Intended Action, MCL 400.290(4);
- b. Issuing a Cease and Desist Order, MCL 400.290(4);

- c. Bringing a civil action in court with a fine of up to ***\$10,000 per violation***, MCL 400.290(1);
 - d. Accepting an Assurance of Discontinuance, MCL 400.290(4); and
 - e. Requesting injunctive relief, attorney fees and costs, and restitution, MCL 400.290(1).
44. Section 20 of the Solicitations Act allows the Attorney General to proceed against individual officers, directors, shareholders, or controlling members of HAH. MCL 400.290(1).

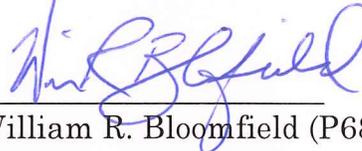
VI. Cease and Desist Order

45. The Attorney General **HEREBY ORDERS** Food for the Poor, Inc. to ***CEASE AND DESIST*** all unlawful solicitations as described in the above violations. Within fourteen (14) days, Food for the Poor must confirm in writing to the Attorney General its compliance with this order.
46. Violations of this order may result in a civil action for restitution, civil fines, litigation costs, and injunctive relief. Continuing violations may also result in additional violations alleged in any civil action.

**VII. Opportunity to Respond or
to Confer with the Attorney General**

47. Within twenty-one (21) days of receiving this Notice, Food for the Poor has an opportunity to respond to the undersigned Assistant Attorney General and to confer with the undersigned Assistant Attorney General in reaching an appropriate assurance of discontinuance or settlement agreement.
48. If no satisfactory resolution is reached during this period, the Attorney General intends to bring a civil action against Food for the Poor in Ingham County Circuit Court. The Attorney General will request restitution, civil fines, the awarding of litigation costs, and injunctive relief.

BILL SCHUETTE
ATTORNEY GENERAL



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Date: December 19, 2017