

SUPREME COURT OF THE UNITED STATES

In the Matter of:)

RANDOLPH RILEY, ETC., ET AL.,)

Appellants,)

v.)

NATIONAL FEDERATION OF THE BLIND)
OF NORTH CAROLINA, INC., ET AL.)

No. 87-328

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WASHINGTON, D.C. 20543

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I N D E X

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	PAGE
ORAL ARGUMENTS OF	
LACY H. THORNBURG, ESQ.,	
on behalf of the appellants	2
ERROL COPILEVITZ, ESQ.,	
on behalf of the appellees	24

IN THE SUPREME COURT OF THE UNITED STATES

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 RANDOLPH RILEY, ETC., ET AL., :
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 Appellants, :
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 v. : No. 87-328
 :
 NATIONAL FEDERATION OF THE BLIND :
 OF NORTH CAROLINA, INC., ET AL. :
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Washington, D.C.

Wednesday, March 23, 1988

The above-entitled matter came on for oral argument before the Supreme Court of the United States at 11:50 o'clock a.m.

APPEARANCES:

LACY H. THORNBURG, ESQ., Attorney General of North Carolina, Raleigh, North Carolina; on behalf of the appellants.

ERROL COPILEVITZ, ESQ., Kansas City, Missouri; on behalf of the appellees.

P R O C E E D I N G S

(11:50 A.M.)

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CHIEF JUSTICE REHNQUIST: We will hear arguments next in Randolph Riley, Etc., Et Al., versus National Federation of the Blind of North Carolina, Inc., Et Al.

Mr. Thornburg, you may proceed whenever you are ready.

ORAL ARGUMENT OF LACY H. THORNBURG, ESQUIRE
ON BEHALF OF THE APPELLANTS

MR. THORNBURG: Mr. Chief Justice, and may it please the honorable Court, North Carolina is here today because of the lower courts' interpretations of your decisions in the Munson and Schaumburg. The lower courts' interpretations effectively eliminate the state's police power to regulate the for profit commercial operator who solicits funds for charities.

Now, Schaumberg and Munson held that a state's limitations on the amount a charity could spend for fundraising activities violated the charity's First Amendment rights to free speech. North Carolina has placed no limitation on the amount a charity may spend to get its message out. In fact, North Carolina's policy is to promote and to protect the charities because of the fundraising efforts of the charity, and this is the historic parens patriae relationship between a state and a charity.

1 The North Carolina approach regulates two
 2 troublesome economic practices of the commercial fundraiser
 3 dealing with reasonableness of fees and also point of
 4 solicitation disclosure, and eliminates a privilege that
 5 was previously given to the commercial fundraiser to operate
 6 before being fully licensed.

7 Now, the lower court overlooked the distinction
 8 between the publicly supported charity and the commercial
 9 fundraiser. North Carolina in this statutory scheme seeks
 10 only to regulate the professional fundraiser under its
 11 police power. Now, by way of factual background, for a
 12 number of years in the state of North Carolina we have
 13 mirrored the national practice and problems with the
 14 commercial fundraiser as shown by the uncontested record in
 15 the case, the difficulties, and the most frequent complaints
 16 that were experienced in North Carolina with the fundraisers
 17 related to high fees and costs which caused low returns to
 18 the charities, a lack of disclosure of fees at the time of
 19 solicitation, and frequently the unauthorized use of the
 20 charities' names at the time solicitations were being
 21 made.

22 Now, to assess the factual basis for these
 23 fee concerns, I had my staff do an analysis of the reports
 24 of five of the largest fundraising groups in North Carolina
 25 for the period from 1980 to 1984, and this showed, this

1 analysis showed that charities were receiving on the average
2 less than 20 percent of the total funds that were collected
3 from this source, in other words, 80 percent was regularly
4 going another direction.

5 The other complaints that I mentioned were verified
6 through Better Business Bureaus and Chambers of Commerce and
7 charities and individuals.

8 Now, an examination of the law revealed that
9 for the State of North Carolina there was no definition of
10 fundraising fees on the books. There was no requirement that
11 the commercial fundraiser charge reasonable fees, and there
12 was no requirement for point of disclosure of factual fee
13 data at the time of solicitation, and further it was dis-
14 covered in the law that the commercial operator was allowed
15 the privilege of beginning the solicitation process without
16 being fully licensed to do so or before the license was
17 obtained.

18 Now, when these deficiencies were brought to the
19 attention of the North Carolina General Assembly, the
20 legislature enacted the statutes that are before you today
21 in this case, and we contend that the purpose of the statutes
22 is set out in the statute, to protect the general public and
23 to protect the charities, and also is in keeping with what
24 Professor Karsch in his Harvard Law Review looks to as saying
25 that we should conserve and use the greatest portion of the

1 wealth donated to further the public charitable purpose, and
2 also adds that waste should be minimized and the diversion
3 of funds for private gain is intolerable. Now, these
4 statutes which are in --

5 QUESTION: Excuse me. General Thornburg, if
6 that is your objective, to make sure that as much money that
7 is collected goes to the charitable purposes, it seems to me
8 that a much more efficient way than requiring the fundraiser
9 agent to say what percentage of his collected funds went to
10 the charity, not in this campaign but in prior campaigns, a
11 much more effective way would be to require the charity
12 itself, whether it operates directly or through an agent,
13 to tell the prospective donor how much of the donor's money
14 is going to go directly to the intended recipients.

15 For example, requiring the Red Cross to say that X
16 percent of the money you give us is expended on salaries of
17 our officers and employees, and X percent goes to the donees
18 whom you think are going to be getting this money. Or any
19 other organization. Isn't that much more efficient?

20 MR. THORNBURG: Your Honor, we require that of the
21 charities, although they are not -- and through these fund-
22 raisers they are not involved, of course, in soliciting the
23 funds, and what we are trying to say is that this fundraiser
24 should make a disclosure to the prospective donor precisely
25 what percent of the money is going to the charity so that the

1 donor will have in mind what the costs are as to the
2 fundraiser.

3 QUESTION: You require the charities in North
4 Carolina to tell the donors how much of the money it is
5 getting for, let's say, hunger relief in wherever, will go
6 there?

7 MR. THORNBURG: We require, Your Honor, that they
8 file it with the regulator and it is available on request.
9 The same is true of the -- information is true of the
10 fundraiser.

11 QUESTION: These people have no objection to that,
12 to filing it and having it available on request, as I under-
13 stand what they are saying here.

14 MR. THORNBURG: I think that is correct, but they
15 do object to making the disclosure at the time of
16 solicitation.

17 QUESTION: But you don't require the charities
18 themselves to make that much more -- much more pertinent
19 disclosure.

20 MR. THORNBURG: If the charities themselves are
21 involved in the solicitation, that is correct, Your Honor,
22 but there is a substantial difference between the commercial
23 operator and the charity itself which of course is the end
24 user of the funds, and taking the property or the funds and
25 using it for the purpose that has been established and its

1 goals that have been established.

2 QUESTION: Well, I guess there are two cuts being
3 taken. The charity itself takes a cut out of it to pay
4 salaries and expenses before giving direct relief, and if
5 they rely on a profesional fundraiser, the professional
6 fundraiser takes a cut for himself before giving anything
7 to charity for which another cut is taken.

8 MR. THORNBURG: Exactly, Your Honor.

9 QUESTION: Your law that we are looking at relates
10 to the first cut, that taken by the professional fundraiser.

11 MR. THORNBURG: Exactly, and what we are hoping
12 is that this point of solicitation disclosure would bring
13 some interest to bear for the prospective donor on just what
14 is happening to the money, at least in the beginning.

15 QUESTION: I suppose we look at it under the
16 reasonable time, place, and manner sort of analysis? Is
17 that what we do?

18 MR. THORNBURG: Yes, Your Honor, I think that's
19 correct.

20 QUESTION: All right. Now, are some of these
21 solicitations made for little things like, come to the
22 Firemen's Relief Ball or the Police Ball and buy a \$5
23 ticket? And they do this on the telephone?

24 MR. THORNBURG: About 95 percent of them are
25 telephone solicitations dealing with some type of show or

1 entertainment. However, there are some --

2 QUESTION: For relatively small amounts. Buy a
3 ticket to come to X event.

4 MR. THORNBURG: Yes, Your Honor.

5 QUESTION: On behalf of some charity.

6 MR. THORNBURG: Exactly.

7 QUESTION: And North Carolina thinks that having
8 the telephone caller, if it is a professional solicitor,
9 tell the person being called, who is answering the telephone,
10 that over the past year, is it?

11 MR. THORNBURG: Yes, Your Honor.

12 QUESTION: That the average amount that this
13 particular fundraiser raised, a certain percentage was kept
14 for the fundraiser's fees and expenses?

15 MR. THORNBURG: A certain amount was returned
16 to the charity, and the average --

17 QUESTION: That is sort of a complicated
18 explanation, isn't it?

19 MR. THORNBURG: Well, it could bring on a
20 complicated explanation if the fundraiser chose to use it.
21 Certainly it would be required, the law would require this
22 disclosure prior to the time that a solicitation effort is
23 made.

24 QUESTION: You think it would be more reasonable
25 to have the person just disclose that it is a professional

1 fundraiser making the call and that some portion of it will
2 be retained and not given to the charity?

3 MR. THORNBURG: We think that the minimum amount
4 of information that should be made available would include
5 this number as to what percentage had previously been
6 returned to the charity so that the perceptive donor would
7 understand how much of their money is actually going to a
8 charitable purpose.

9 QUESTION: But what was done before wouldn't tell
10 you what is going to happen this time, would it?

11 MR. THORNBURG: Well, most of the time you rely on
12 past experience to suggest what the future may be, Your Honor.
13 And we felt that that was a much better way to do it, for
14 example, than to try to say this is the amount that is going
15 to be involved in this campaign when all you are doing is
16 guessing. You are dealing hard factual data when you give
17 a past experience.

18 QUESTION: Of course, you are almost killing every
19 donation by telephone by requiring this, aren't you?

20 MR. THORNBURG: I don't think so, Your Honor. We
21 require, for example, the banks to disclose their amount
22 of interest that they are going to charge, the automobile
23 dealers to disclose what the costs are and what they are
24 doing, and disclosure is nothing new to North Carolina law
25 or to federal law.

1 QUESTION: Well, it is one thing to disclose --
2 make them disclose what they are going to charge. You are
3 making them disclose what they have charged on earlier
4 occasions to different clients for different campaigns. It
5 is sort of like requiring a lawyer to say to a prospective
6 client how much he has charged for the last ten pieces of
7 litigation that he conducted. Now, there is no necessary
8 relation to what this piece of litigation is going to cost.

9 MR. THORNBURG: Your Honor, if it is the same type
10 of litigation, he certainly ought to have some idea as to
11 what the cost is going to be, and in the Zauderer case you
12 said to the lawyer that he had to disclose some information
13 about cost, at least that the costs were going to be there.

14 We are taking the hard facts and saying the
15 last -- thank you, Your Honor.

16 CHIEF JUSTICE REHNQUIST: You may finish your
17 answer to Justice Scalia's question at 1:00 o'clock.

18 MR. THORNBURG: All right. Thank you, Your Honor.

19 (Whereupon, at 12:00 o'clock noon, the Court was
20 recessed, to reconvene at 1:00 o'clock p.m. of the same
21 day.)

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AFTERNOON SESSION

(1:00 P.M.)

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3 CHIEF JUSTICE REHNQUIST: Mr. Thornburg,
4 you may continue.

5 ORAL ARGUMENT OF LACY H. THORNBURG, ESQUIRE

6 ON BEHALF OF THE APPELLANTS - RESUMED

7 MR. THORNBURG: Thank you, Your Honor.

8 By way of further reference to the disclosure
9 aspects, North Carolina's history had been that we have had
10 no trouble with the charities and the difficulty, the
11 problem had come from the fundraiser, and that is what
12 triggered the enactment of this legislation.

13 What the legislation did was define what a
14 fundraising fee was, prohibited unreasonable fees, established
15 a procedure to allow inquiry into these fees that were being
16 charged, authorize the regulator to set a reasonable fee after
17 a full hearing if the fee charged was found to be unreasonable,
18 mandated the factual point of disclosure or point of
19 solicitation disclosure, and prohibited commercial operations
20 until the licensure was complete.

21 Now, the definition was added to the statute as to
22 what a fundraising fee was, and unreasonable fundraising
23 fees were made unlawful. Now, percentage guidelines were
24 added to assist the factfinder in determination of the
25 reasonableness of a particular fee at issue, and to meet the

1 concern about First Amendment rights of charities when they
2 opt to speak through the commercial fundraiser the legislature
3 established specific rules to require a finding of reasonable-
4 ness when the high fee charged was caused by the speech or
5 advocacy requirements of the charity.

6 Now, the statute does not place a percentage
7 limitation on the fundraiser. It merely sets up levels that
8 shift the burden of producing evidence from one party to
9 the other at specified levels above 20 percent. Now, factual
10 mandatory disclosure has minimal First Amendment implications
11 in the commercial context, which is what we are attempting to
12 regulate. The pharmacy cases and the lawyer cases recognize
13 that disclosure operates to inform the potential user of the
14 service, and it is uncontested that the entity required to
15 disclose here is a commercial operator, and what must be
16 disclosed is factual information about past fees. And we
17 contend this Court has held that a state may require this type
18 of disclosure.

19 Now, arguments that the heightened free speech
20 rights of the charities should carry over to a commercial
21 operator, thereby eliminating the state's authority to
22 regulate the activities of the for profit commercial operator
23 we contend should be rejected because the speech rights of
24 the charity are not impacted by the disclosure requirement
25 placed on a hired fundraiser.

1 QUESTION: General Thornburg, suppose -- you say
2 this is just commercial and has nothing to do with free
3 speech rights. Suppose political candidates hire Hollywood
4 personalities to further their political cause. Do you think
5 -- and these personalities do it for pay. Do you think the
6 state could impose a requirement that before the famous
7 actor makes a pitch for a particular candidate he would have
8 to say at the beginning, I want you to know that I am doing
9 this for pay, and my usual fee is thus and such? That is just
10 -- do you think you could do that?

11 MR. THORNBURG: I think we could do that if it's
12 strictly commercial aspects, Your Honor, and that's what we
13 are trying to say, is, if you use -- if you are paying
14 somebody to do that, then you have to reveal at the point
15 of -- at the point of solicitation a disclosure as to what
16 your practice has been.

17 Now, you will note the information that has to be
18 disclosed, all it says is just two or three things there
19 that have to be told. It doesn't say how they are being
20 told or how you qualified or what they tell in addition to
21 that. It is not a censorship matter. It's a matter of just
22 requiring disclosure of minimum information.

23 And we contend that fee disclosure by a separate
24 entity used by a charity on an occasional basis neither
25 requires the charity to speak nor prohibits it from speaking,

1 any message that it wants, and public policy requires this.
2 Otherwise, any commercial operator could limit the state's
3 regulation by using the name of a charity to apply to its
4 operation. Now, why the difference between disclosure as to
5 a commercial operator and not the charity? Our position is
6 that the commercial operator is and has been the source of
7 the problem in North Carolina. The views and the conducts,
8 the fundraising operation as a business is involved and
9 usually works on a percentage of gross receipts and the
10 incentive is to obtain as many donations as quickly as
11 possible, which indicates or suggests that you give very
12 little information or it is almost an open invitation if
13 you do give information to give some misrepresentations.

14 Now, usually, one of the problems is, they are
15 usually transitory. Set up a phone bank. Hire a few
16 employees. Conduct the solicitation. Collect the funds.
17 And within a short period of time the fundraiser is gone,
18 and clearly the public's expectation is that the lion's
19 share of these proceeds are going to the charity, and
20 actually, in reality, in North Carolina, as indicated in
21 our joint appendix, where it is set out in full, usually
22 less than 20 percent is going to the charity.

23 Now, we say that such a discrepancy and a
24 disparity is ultimately going to cripple the charitable
25 fundraising throughout the state because once the people

1 are finally told or they get the message that this much of
2 the money is going into some place other than the charity,
3 then it is going to make it more and more difficult to raise
4 money in this or any other fashion, because the amount of
5 money there is limited, of course, while the number of
6 charities and the number of requests continues to grow.

7 QUESTION: Doesn't this approach, though, make
8 it awfully tough on the charities who rely on expensive
9 events to raise their money? They may give a dinner, and
10 they may only get \$10 a head, but it costs them an awful
11 lot of money.

12 MR. THORNBURG: Yes, and all of that is provided
13 for, Your Honor. If that is a reasonable part of the cost,
14 then of course the fee is allowed. The amount can go up
15 to 100 percent of the dollar, and that is no problem in
16 situations such as Your Honor is referring to. What we say
17 in the disclosure aspects is simply that it is the difference
18 between what you take in and what you take out, and that is
19 a very rational reason. You pay \$20 for a meal, sell the
20 ticket for \$25.

21 QUESTION: Well, I suppose the basis for the
22 invalidation was the First Amendment, is that it, in the
23 court below?

24 MR. THORNBURG: Yes. Yes, Your Honor.

25 QUESTION: And what was the argument, that

1 disclosure burdens First Amendment rights? Is that --

2 MR. THORNBURG: Yes.

3 QUESTION: By saying I -- if last year my
4 experience was so and so --

5 MR. THORNBURG: That you are effectively chilling
6 the rights of the charity to be heard, and that, of course,
7 is the interpretation. As a matter of fact, if I recall the
8 District Court's decision, there was simply a procuriam
9 at the Fourth Circuit level, he said that it was questionable
10 as to whether there was any way that the state could
11 regulate a fundraiser that is involved in solicitation for
12 a charity.

13 North Carolina's position is, of course, that this
14 is a commercial operation, and that we do have regulatory
15 rights under police power.

16 QUESTION: Reasonableness is determined on a
17 case by case basis?

18 MR. THORNBURG: Yes, Your Honor. When a
19 challenge occurs, reasonableness would be determined on a
20 case by case basis.

21 QUESTION: What happens if a charity has high
22 hopes but the fundraising thing is something of a flop? It
23 gives the dinner that Mr. Justice White talked about and
24 nobody comes. Or it has a big television advertising
25 campaign and nothing happens. You judge after the fact

1 whether the expense was reasonable?

2 MR. THORNBURG: Yes, Your Honor. We look at
3 it, or the regulator --

4 QUESTION: Are there any statutory criteria for
5 reasonableness?

6 MR. THORNBURG: Yes, Your Honor.

7 QUESTION: And what are they?

8 MR. THORNBURG: The statute sets up these
9 percentages, 20 percent --

10 QUESTION: I understand the percentages, but
11 other than that the only touchstone is reasonableness?

12 MR. THORNBURG: It is reasonableness with speech
13 aspect, dissemination of information and so forth, if I
14 understand Your Honor's question.

15 Now, you see, we have not been -- first of all, we
16 have not been able to develop any rules or regulations or
17 anything else dealing with this broad statutory scheme for
18 the simple reason that the day this was to go into effect
19 they came in with a restraining order, and that was the end
20 of the effective -- or any effort.

21 It is strictly a facial attack. No application
22 has been made, and we haven't had an opportunity to get
23 into the details.

24 QUESTION: But the statute doesn't even say
25 reasonable in relation to what? Reasonable in relation to

1 the amount obtain? Reasonable in relation to the
2 difficulty of the message?

3 MR. THORNBURG: Reasonable in relation to all the
4 facts before the regulator, the hearing officer, Your Honor.
5 All the evidence.

6 QUESTION: But time, place, and manner regulations
7 must be neutral and can't afford the -- any latitude
8 for discretion, and it seems to me this is an open-ended
9 standard.

10 MR. THORNBURG: There are minimum require
11 Your Honor, dealing with speech that we put in there that
12 the legislature sets out. If speech is involved,
13 dissemination of information is involved, go up to 100
14 percent. Otherwise, the regulator looks at all the facts,
15 and Justice White's example would be a good example of
16 the fundraiser would come in and lay his books on the table
17 and say, look, this is how much I paid for that meal. There
18 would be no contest or difficulty with that, or a
19 determination or a detailed explanation of reasonableness
20 or unreasonableness. It would be obvious what the answer
21 should be.

22 QUESTION: Mr. Attorney General, do you say that
23 this is a business tax?

24 MR. THORNBURG: A business tax, Your Honor?

25 QUESTION: Yes.

1 MR. THORNBURG: No, Your Honor, it is an effort
2 to --

3 QUESTION: Well, do you treat charities like
4 like any other business in North Carolina?

5 MR. THORNBURG: No, Your Honor, we give them
6 special --

7 QUESTION: I thought so.

8 MR. THORNBURG: Yes, sir, we do, and we are saying
9 that these fundraisers who are going out and getting the
10 money are just keeping too much of it, and we want more of
11 it to go back to the charity, and that the state has a right
12 to say your costs have got to be reasonable.

13 QUESTION: They have got to ask for this.

14 MR. THORNBURG: There are a variety and number.
15 I think the largest --

16 QUESTION: The Attorney General was
17 (inaudible), wasn't it?

18 MR. THORNBURG: No, I don't believe --

19 QUESTION: Wasn't that the one who asked for it?

20 MR. THORNBURG: No, I don't think so, Your Honor.
21 The National Federation for the Blind.

22 QUESTION: General Thornburg, religious
23 corporations, churches often hire professionals when they
24 are making a new building or some capital investment. You
25 do have an exemption in your statute for religious

1 corporations, don't you?

2 MR. THORNBURG: Yes, we do, Your Honor.

3 QUESTION: Why do you have that?

4 MR. THORNBURG: Because, I think the best answer
5 to that, Your Honor, is simply, we just don't have the
6 problems with those folks. The problems are with the
7 fundraisers who work for hire, for profit.

8 QUESTION: Well, churches, I have known churches
9 that hire fundraisers for profit and for hire.

10 MR. THORNBURG: We just simply in North Carolina
11 don't have that problem. We, as I understand what this
12 Court has said in the past, we can attack problems piecemeal.
13 We don't have to solve them all at once. This is a problem
14 that has been brought to our attention, and the legislature
15 has responded.

16 If the churches become a problem, if the charities
17 become a problem, then we can deal with that.

18 QUESTION: General, the problem -- I find it hard
19 to credit your argument that you are helping the charities
20 here and protecting them against something. One of the
21 plaintiffs here is a charity. The only amici we have had
22 who are charities have all intervened on the side of your
23 opponent, not on your side. They evidently don't think
24 they are being helped. Why is it that you think they are
25 being helped?

1 MR. THORNBURG: Because we think -- first of all,
2 we think that the case has been misrepresented and missold
3 to the charities. In Munson and Schaumburg you were
4 talking about, once you said -- if you don't meet this 25
5 percent test, then you don't get out and solicit, and this
6 cuts off all of your avenues. We think that is the type
7 rationale that has been sold to these charities in this
8 case, and it is just the opposite. We are dealing, for
9 example, if we have a problem with one for hire fundraiser.
10 All of the rest of the for hire fundraisers are still there.
11 The charity can continue its solicitation. It can get out
12 any message that it chooses. It can use its officers, its
13 members, its volunteers, its media, all of the rest.

14 QUESTION: Maybe it wants to determine for itself
15 what is a reasonable price for it to pay to get its message
16 across and doesn't want you to determine it for it.
17 Shouldn't it have that right?

18 MR. THORNBURG: It has the right to contract and
19 then the donor, the attorney general, the charity has a right
20 to contest if this is found to be unreasonable or if you
21 don't have these formulas involved.

22 QUESTION: Well, if the charity wants to spend 80
23 percent, what right have you to say they can't?

24 MR. THORNBURG: Your Honor, these -- the State of
25 North Carolina stands in a parens patriae relationship in

1 regard to charitable funds. At least that is our position.
2 States since the 1600s I think in England have been trying
3 to see that the maximum amount of these funds goes to the
4 charitable purpose, and we don't think the charity ought to
5 have the unlimited right.

6 QUESTION: Can you stop the charity from buying
7 a porch that is worth \$5 and paying \$5 million for it?
8 Could you stop them from doing that?

9 MR. THORNBURG: A porch? Not --

10 QUESTION: Could you stop them from throwing
11 their money away?

12 MR. THORNBURG: No, I think not, Your Honor.

13 QUESTION: Well, isn't that what you are doing
14 here?

15 MR. THORNBURG: No, I think we are regulating
16 at the right place, and that is where the first cut comes,
17 and we are simply saying that the charity -- that we are
18 regulating a commercial operation. We are not trying to
19 regulate the charity. And that this should be treated as
20 a control or an attempt to control the commercial operator
21 under the state's police power.

22 QUESTION: May I just ask you one other
23 question?

24 MR. THORNBURG: Yes.

25 QUESTION: Justice Blackmun asked about the

1 religious exemption, and this -- one of the interests you
2 seek to serve is that the donor know how much of the
3 donation will go to the charity. Why isn't that interest
4 equally implicated in these television ministries and the
5 like?

6 MR. THORNBURG: Your Honor, I wish -- I wish we
7 could control the television ministries --

8 QUESTION: Well, why couldn't this --

9 MR. THORNBURG: -- but I'm not sure we could
10 because I think, of course, I think speech rights are
11 very definitely involved totally there, and you have the
12 problems that, yes, that would be involved, but we are not
13 trying to do that. We are only trying to deal at this
14 point with one aspect of a problem, and we feel that we have
15 to start somewhere, and let me say again to the honorable
16 Court that this is a facial attack on what we consider to
17 be a valid economic regulatory scheme, and that the charity's
18 speech rights would be only minimally impacted, if at all,
19 and that the heightened scrutiny test of -- First Amendment
20 test is inapplicable, and the minimum rationality test is
21 that which should be used.

22 Thank you, Your Honors.

23 QUESTION: General, do you concede that the
24 heightened scrutiny is the proper standard?

25 MR. THORNBURG: In this instance?

1 QUESTION: Yes.

2 MR. THORNBURG: No, Your Honor.

3 QUESTION: I thought you just --

4 MR. THORNBURG: No, I say that it does not apply.

5 QUESTION: I thought you just mentioned that you
6 did.

7 MR. THORNBURG: No, I meant to say that we say the
8 heightened scrutiny test does not apply. The minimum
9 rationality test does apply.

10 CHIEF JUSTICE REHNQUIST: Thank you, General
11 Thornburg.

12 We will hear now from you, Mr. Copilevitz.

13 ORAL ARGUMENT OF ERROL COPILEVITZ, ESQUIRE

14 ON BEHALF OF THE APPELLEES

15 MR. COPILEVITZ: Mr. Chief Justice, and may it
16 please the Court, the value of speech is its content, not
17 its source. It is the activity, not the actor, which is
18 at issue. The Court has ruled twice in this decade that
19 charitable solicitation is entitled to full First Amendment
20 protection. It is a matter of constitutional indifference
21 whether the activity is carried out by the charity directly
22 or through a professional representative.

23 Charities perform many vital welfare functions for
24 the benefit of the state and its citizenry. The state seems
25 to recognize the desirability of having charities function

1 in North Carolina. At Page 4 of his reply brief, the
2 Attorney General makes the assertion that the regulatory
3 scheme at bar is "pro-charity." Those who speak for the
4 charitable community would answer by noting that if it is
5 the aim of the charity to help, it has missed by a wide
6 margin.

7 What the state in fact has done is to create a
8 statutory scheme based upon the subjective test of
9 reasonableness which creates a very real and present danger
10 of censorship. The pro-charity claim of the state is
11 refuted by the great number of charities that have joined
12 these plaintiffs as amici.

13 QUESTION: Could I ask you, is it feasible in your
14 mind to separate the professional fundraisers who help the
15 charities get their message out and those who just raise
16 money?

17 MR. COPILEVITZ: Where the professional
18 representative is acting as a conduit or an agent of the
19 charitable organization's speech it is not possible to
20 separate that out.

21 QUESTION: Well, the charity hires a professional
22 fundraiser to raise some money. Say it is an annual
23 basis, annual basis. You don't -- you think any time a
24 professional raises money for a charity, that it is
25 distributing the message of the charity and should be treated

1 in that manner?

2 MR. COPILEVITZ: I think the important thing
3 to keep in mind, and the important consideration is the
4 message of the charity, and when a professional representa-
5 tive is speaking for the charity, taking their message forward
6 and seeking financial support, he is also involved in an
7 activity that includes the dissemination of information. It
8 may be advocacy. It may be public education. His putting
9 forward the message of the charity is the speech of the
10 charity, and in that instance I believe that it is
11 entitled to the highest possible speech.

12 QUESTION: Just asking for money? Just asking for
13 money?

14 MR. COPILEVITZ: I think --

15 QUESTION: I get telephone calls that say, I am
16 calling for a certain organization. I know the organization.
17 They never tell me a thing about it. This is the annual
18 campaign for X. I am familiar with it. They never say a
19 word. I know what it's all about. I give them some money.
20 Now, is that --

21 MR. COPILEVITZ: If I call you for the National
22 Federation of the Blind of North Carolina, I am calling you
23 on behalf of their causes and what they represent, and if
24 you know what those causes are and accept what they
25 represent and want to answer with your financial support,

1 I think we have been involved in an aspect of speech.

2 QUESTION: You are arguing then that there is no,
3 there is just no situation in which the restrictions may
4 be applied, for instance, the licensing provision could not
5 be applied to any professional fundraisers for a charity?

6 MR. COPILEVITZ: No, I don't believe that that is
7 a correct statement of what I am saying. I am saying
8 that there is speech --

9 QUESTION: Well, here is a professional fundraiser
10 for a charity. Now, you say every time they raise money
11 for a charity it is furthering the message of the charity
12 and it is protected by the First Amendment and you can't
13 have a prior restraint.

14 MR. COPILEVITZ: But this Court has ruled in both
15 Schaumberg and Munson that you can have a disclosure by
16 registration and by passing certain rigid standards to
17 quality that professional to act, and in the State of North
18 Carolina and in this case the lower court held that it was
19 not a burden on the charity's free speech right to have that
20 person identify not only their name but the fact that they
21 were a professional, giving the name and the address of those
22 that they worked for.

23 QUESTION: Well, I know, but that isn't all that
24 this North Carolina scheme does in licensing, does it?

25 MR. COPILEVITZ: Well, if we are talking about the

1 licensing of the --

2 QUESTION: That's what I am.

3 MR. COPILEVITZ: -- professional fundraiser, the
4 licensing provision is standardless, and the Court
5 invalidated it because it did not comply with
6 Shuttlesworth --

7 QUESTION: All right. So you say there is no
8 professional fundraiser for a charity in North Carolina
9 that may be subjected to the licensing provision because
10 of the First Amendment.

11 MR. COPILEVITZ: There were certain other
12 provisions of the North Carolina registration requirements
13 for professional representatives that were not challenged,
14 that are still on the books, and that are still being
15 complied with by professional representatives.

16 QUESTION: What about the licensing provisions?

17 MR. COPILEVITZ: There is still a license being
18 issued and granted because there are requirements to file
19 a bond and file certain information, and this provision
20 amended an existing provision that required the providing
21 of information, the filing of a bond, and the filing of
22 financial reports, all of which were things that this Court
23 pointed to in Schaumburg, and that is what is in place in
24 North Carolina today.

25 QUESTION: Mr. Copilevitz, do you think a state

1 could regulate the price of theater tickets, put a maximum
2 price on theater tickets, or do you think the -- could the
3 theater object that you are suppressing the playwright's
4 free speech if you do that?

5 MR. COPILEVITZ: I don't know that a state could
6 impose a maximum price on a theater ticket unless there
7 was a given consideration that was a substantial state
8 interest to do that.

9 QUESTION: In other words, you don't think that
10 a state has police power to, say, set maximum prices for
11 bread like we said they did in *Nebbia* versus New York, and
12 cases like that?

13 MR. COPILEVITZ: I think that where there is a
14 compelling state interest --

15 QUESTION: Well, but did *Nebbia* say anything about
16 compelling state interest?

17 MR. COPILEVITZ: Well, in this case we are dealing
18 with a speech interest.

19 QUESTION: No, I mean, I asked you about *Nebbia*.

20 MR. COPILEVITZ: No, sir.

21 QUESTION: *Nebbia* just said it is within the
22 police power of the state. Wouldn't the same thing apply
23 to setting a maximum price for theater tickets?

24 MR. COPILEVITZ: It would depend upon what the
25 state's interest in doing that. If we were coming at it

1 from the avenue of the concern of the free speech and
2 interstate commerce and other things, I think it would be
3 problemmatical.

4 QUESTION: Well, supposing the state says we want
5 a lot of people to be able to go to the theater, just like
6 we want a lot of people to be able to buy bread. That's
7 what they wanted in Nebbia.

8 MR. COPILEVITZ: I think in that circumstance
9 you probably could, but I think that in this circumstance
10 where we are dealing with the burden on free speech there
11 are other considerations at hand.

12 I would like to go back --

13 QUESTION: Do you think the state could put a
14 maximum price on how much a political organization can
15 rent a hall for a political rally?

16 MR. COPILEVITZ: No, sir, I do not.

17 QUESTION: So I guess what we are talking about
18 on your view of it is whether this is closer to a political
19 type speech than it is to whatever normal theater speech
20 would be, on your view.

21 MR. COPILEVITZ: Well, this Court has held twice
22 in this decade that this -- the activity of charitable
23 solicitation is the functional equivalent of political
24 speech, and when you impact that you take different
25 considerations into effect as you do in an outright

1 commercial situation, and the impact on the free speech
2 interest here is illustrated by the example that the Court
3 made earlier this morning where under the existing North
4 Carolina law if it were not challenged and I were calling
5 you on a controversial type of issue, let's say Contra aid,
6 whether I am for it or against it, involving an organization
7 that is involved in advocacy on one side of that question
8 and wants financial support to accomplish some of the goals
9 to further its aims, its program service, when I call you
10 under this law as it is written I have to begin my
11 telephone conversation by identifying my name, the name of
12 the company that I work for, their address, what their track
13 record was for the preceding 12 months of delivering funds
14 to charitable organizations in North Carolina --

15 QUESTION: Well, Mr. Copilevitz, that, of course,
16 is the disclosure section. Could we return for just a
17 minute to the limitation on fees that I thought we were
18 discussing?

19 Under -- as I understand this statute, under
20 Section 10(d) the fundraiser can charge as much as 100
21 percent of the gross receipts if it is necessary for
22 advocacy reasons. Isn't that right?

23 MR. COPILEVITZ: It is --

24 QUESTION: It really isn't a limitation on amount
25 that can be collected if it is necessary for advocacy.

1 MR. COPILEVITZ: It is theoretically possible.
2 Practically it is impossible. What will happen is, those
3 who are the professional representatives, if they are faced
4 with this statute knowing that the burden of proof shifts
5 once 35 percent is expired, if they are involved in a
6 special event that includes dissemination of information
7 about the National Federation of the Blind, the director of
8 human resources has no guidelines as to what he may
9 determine as to both reasonable or unreasonable, and the
10 statute is unclear as to who may institute a complaint.

11 It can be done by the director of human resources.
12 It can be done theoretically by any resident of the State of
13 North Carolina. And if he does this hearing and the burden
14 is on the would-be speaker rather than the would-be censor,
15 and if the director of human resources can then in his
16 discretion grant a judgment against the professional
17 representative, why would any professional representative
18 choose to work in the State of North Carolina?

19 The affidavits of the plaintiffs, who are two
20 individuals that have worked, have said that they would not
21 work in North Carolina, and if we take the professional
22 representative away from the small organization that
23 needs this medium to reach the public to seek support, then
24 we will kill the small charity as compared to their ability
25 to get into the marketplace.

1 And I would point out another thing, that the
2 statute and this statutory scheme is a most clear example
3 of form over substance, and I would like to illustrate that
4 to the Court. Suppose for the moment that there is an
5 issue of Time Magazine that has 25 pages on the Contra issue,
6 and here is a large organization that can buy 50,000 of
7 these at 80 cents apiece, and they have a large sales force,
8 they have a large group of employees.

9 They put their employees on the phone, and they
10 call up people and say, buy this magazine, it is all about
11 the issue, the price is a dollar, and they make 20 cents
12 profit. They are not burdened with any of these provisions.

13 If, on the other hand, the National Federation
14 of the Blind, who does not have the manpower or the
15 expertise, has the same opportunity in a commercially viable
16 product of a controversial nature, it cannot do the same
17 thing. It has to hire someone to sell those magazines,
18 and that someone is going to want some money for their
19 effort.

20 And so, if there is 20 cents' profit and they
21 divide that profit evenly, the National Federation of the
22 Blind gets their message out and everybody is -- the
23 consumer gets the same product, but the person selling it
24 for the National Federation of the Blind has to go through
25 this litany of disclosures.

1 And there's even more in the North Carolina
2 law by administrative law. In the affidavit filed by Ed
3 Edgerton they also have to say that they are being
4 compensated and that you can make donations directly to
5 the charity. They have to put up a \$20,000 bond, and then
6 they face the uncertain judgment of the director of human
7 resources as to whether that was a reasonable expenditure.
8 Dividing the 20 cents 50-50, was that reasonable? Was
9 paying 80 cents for the magazine reasonable? Who knows
10 after the fact what he is going to determine? Who knows
11 how many of those magazines are going to be sold? The end
12 result is that they could lose money.

13 The director of human resources could say it is
14 unreasonable and enter a judgment against the professional
15 to protect the charity. I am telling you the professional
16 representatives will not make their services available
17 if this kind of statutory regulation is allowed to stand.

18 QUESTION: Well, that is not really dispositive.
19 I mean, you acknowledge that the state could impose a tax
20 on engaging in the business of being a professional
21 fundraiser, I presume, right?

22 MR. COPILEVITZ: Yes, sir.

23 QUESTION: And a fundraiser might say, well,
24 given the choice of fundraising in North Carolina or
25 somewhere else that doesn't have the tax, I will just stay

1 out of North Carolina, but that wouldn't make it
2 unconstitutional, would it?

3 MR. COPILEVITZ: Well, if they are staying out
4 of North Carolina because the statutory scheme creates a
5 prior restraint, it is the charities that are complaining.
6 It is the charities that are the plaintiffs in the case at
7 bar.

8 QUESTION: Well, if it's a prior restraint, fine.
9 But the mere fact that its effect is to keep people out --
10 keep fundraisers out of North Carolina, that in and of
11 itself doesn't prove anything. A lot of things can keep
12 professional fundraisers out of North Carolina.

13 MR. COPILEVITZ: But we are talking about them as
14 a class of -- a medium for a certain group, a certain size
15 of charitable organizations, and this certain group or class
16 of charitable organizations is being joined by the larger
17 and the most substantial charitable organizations in this
18 country.

19 QUESTION: Probably a lot of bucket shop operators
20 had the same reaction to states which passed blue sky laws
21 requiring securities disclosure. They wouldn't work in
22 those states. But we never held those statutes
23 unconstitutional because the bucket shop operators
24 complained.

25 MR. COPILEVITZ: From the aspect of the charity we

1 are talking about a free speech interest as compared to a
2 commercial speech, and --

3 QUESTION: Well, probably the corporations that --
4 whose stock is being sold by bucket shop operators could make
5 the same contention, that they were complaining, they didn't
6 like the blue sky laws, either.

7 MR. COPILEVITZ: Well, I would take exception with
8 the example and illustrate it perhaps by the Zauderer case,
9 which the state has relied on a great deal, that says that
10 the advertising of a lawyer can be regulated as to his
11 client, as to potential clients.

12 The State of North Carolina again already has a
13 statute in place that makes a professional representative
14 advise a charity in advance if his contract is going to
15 exceed more than 50 percent. Once the lawyer is hired by
16 the client, as I am before this Court today, I believe I
17 am engaging in protected expression in urging my client's
18 point here today.

19 But if I choose to run an advertisement next week
20 to attract potential new clients, then I am engaging in
21 commercial speech.

22 The professional fundraiser, to the extent that he
23 seeks to attract business from charities, is engaged in
24 commercial speech. To the extent that he wants to do
25 business in North Carolina, he can be subjected to

1 reasonable and rational and definitive legislation and
2 reporting requirements but where, and once he has that
3 client --

4 QUESTION: I assume we can rule against you and
5 not touch the lawyers.

6 MR. COPILEVITZ: I don't think that is possible.
7 I think that one is a conduit of free speech.

8 QUESTION: Try me.

9 (General laughter.)

10 MR. COPILEVITZ: I think I will decline.

11 The plaintiffs in this case by affidavit have
12 expressed very real and legitimate concerns. Their
13 assertions remain unrefuted. Unlike the larger, more
14 substantial groups, these groups cannot rely on media
15 advertising, door-to-door or telephone solicitation without
16 the help of professional representatives and be financially
17 successful. They lack name recognition, they lack expertise,
18 they lack the manpower.

19 These challenged provisions make the availability
20 of those services to them most unlikely and in our view
21 impossible.

22 No one seeks to avoid the right of a prospective
23 donor to inquire. No one ask that misrepresentation be
24 allowed. And indeed, North Carolina, even without these
25 challenged provisions, has the most substantial disclosure

1 provisions of any state in this country. In spite of
2 protestations to the contrary, the concept of disclosure
3 itself is not at issue. The main distinction between this
4 case and the matters that this Court was confronted with
5 in both the Maryland statute in Munson and the Village of
6 Schaumburg ordinance in Schaumburg was that this disclosure
7 goes to content of speech. The disclosure that was talked
8 about in Schaumburg and Munson was a disclosure of public
9 record.

10 There are three kinds of disclosure. There is
11 government-compelled disclosure, which is the filing of
12 registrations, the obtaining of licenses, the bonds, the
13 financial report. There is the disclosure upon request,
14 North Carolina as a part of these amended statutes -- or,
15 excuse me, prior to these amended statutes, still on the
16 books and unchallenged, is a state statute that makes it a
17 criminal offense not to disclose upon request by a citizen
18 of North Carolina in writing, giving a full financial
19 report.

20 That remains on the books.

21 The third type of disclosure is a compelled
22 disclosure to every prospective donor. The North Carolina
23 legislation had three separate parts. The trial court
24 found that it was not an undue burden to require the
25 disclosure of the name, to require the disclosure of the

1 name of the professional company and the fact of employment.
2 They did find that it was an undue burden to disclose the
3 track record of the professional for the preceding 12
4 months, calling it irrelevant. It also -- the Court
5 raised the question rhetorically that if the interest --

6 QUESTION: If you are going to rely on the First
7 Amendment how did it infringe First Amendment rights?
8 Anything that was irrelevant burdens First Amendment rights?

9 MR. COPILEVITZ: What burdens the First Amendment
10 rights is that when you are dealing with face to face
11 solicitation, or telephone solicitation, as this Court
12 said in Members of the City Council of Los Angeles versus
13 Benson, that face to face solicitation and telephone is
14 entitled to extra consideration because of the nature of
15 the activity. It is the most accessible to the smaller and
16 the less financially able. It is the most delicate
17 speech-wise, and when --

18 QUESTION: So? So? So?

19 MR. COPILEVITZ: So that when the state requires
20 me that in addition to being able and before I can give
21 the message of those I represent I have to tell you my name,
22 the name of the company I work for, their address, and what
23 that company's track record is for the preceding 12 months,
24 by the time that I get to talk to you about the message of
25 the National Federation of the Blind and their interest in

1 advocacy on the right of blind citizens, I will have
2 received a dial tone. That is the burden on the First
3 Amendment interest of the National Federation of the Blind.
4 That is why this case was filed.

5 QUESTION: I would think -- I would think you
6 would challenge on the same grounds, the requirement that
7 you give that information if it is required. I mean, if it
8 is asked for, if it is asked for by the person you are
9 soliciting.

10 MR. COPILEVITZ: I don't think that there is the
11 same constitutional problem. I don't think there is any
12 limit to what you can require a charity or those who
13 represent them to disclose.

14 QUESTION: After all, if you -- I guess then you
15 could just hang up if you didn't want to give the
16 information, I guess.

17 MR. COPILEVITZ: If you could not get the
18 information you would hang up. But what we are talking
19 about is the method or manner of how we deliver that
20 information to the prospective donor. If we allow the
21 charity to choose a context of its message, I think we can
22 require the charity to disclose all types of matters,
23 including financial.

24 The other, contrary to the fact assumption of this
25 particular type of statute, is that summary financial

1 information somehow measures the true worth of a charity,
2 and that simply is not so. This Court has ruled that high
3 costs are not a measure of fraud or indeed the worth of a
4 charity. Charities have high costs for a number of
5 different reasons. The worth of a charity involves its
6 program service, its message, its past performance, its
7 plans, and yes, to some extent its financial efficiency, but
8 there are a number of considerations that we want people to
9 consider before they part with their money, and in order
10 to give them all of that information, the charity should be
11 allowed to choose a context.

12 There are other states, like New York, that
13 require a written disclosure on all materials that go out
14 in the mail that says you may obtain additional financial
15 information by writing to the Office of the Secretary of
16 State, and it gives you a mailing address.

17 The State of West Virginia has a comparable
18 written provision. These are notice disclosure provisions,
19 and I believe that they are constitutional. It says to
20 people, you can find out more if you want, and it allows
21 the charity to go into the marketplace of ideas and support
22 and deliver its message without having to dilute its message
23 with summary financial information that is inherently
24 inaccurate.

25 We have attached a copy of a financial position

1 paper issued by the American Institute of Certified Public
2 Accountants to illustrate that whenever you deal with a
3 summary financial figure, whether it is percentages as to the
4 costs or whether it is the percentage on the track record,
5 you are dealing with allocations.

6 Fundraising is never carried on in a vacuum. The
7 charity receives more than dollars. It receives the benefit
8 of having its name increased by awareness in the community.
9 It may get mailings sent out. It may get a number of
10 services. How you allocate the goods that the charity
11 receives is critical. How the director of human resources
12 decides whether a cost is 20 percent or 35 percent is
13 absolutely critical. The purpose of including the document
14 in the appendix was to illustrate the absolute imprecise
15 nature of non-for profit accounting, that you measure
16 functions.

17 It is possible to send you a letter and have
18 that letter be two pages, and one-and-three-quarters pages
19 of that letter deal with the program service of the
20 National Federation of the Blind, and the last paragraph
21 of that letter says, if you like what you hear, if you think
22 we are worthy, we want your support.

23 Now, what portion of those expenses are allocable
24 to fundraising expenses and what portion is allocable to
25 program service? What did the charity really get? They got

1 more than money. They got increased name recognition.
2 They delivered a program service. I am standing before
3 this Court telling you I have had this argument with
4 accountant after accountant, state after state. There is
5 no precise answer. It is a subjective area. And when we
6 deal with presuntually protected speech, and particularly
7 here, speech that is analogous to political speech, core
8 speech is entitled to the highest protection that the
9 Constitution allows, and subjective criteria is not suitable
10 to determine whether someone has the right to speak or not
11 to speak.

12 QUESTION: May I ask if your argument applies
13 equally to telephone -- I know in the strongest context
14 over the telephone because people probably hang up pretty
15 fast, but what about a written disclosure? Why is that so
16 harmful, because you can add a further explanation in the
17 written material.

18 MR. COPILEVITZ: I don't believe that written
19 disclosure is harmful at all. I believe that --

20 QUESTION: In other words, this would be all right
21 if applied merely to written solicitations?

22 MR. COPILEVITZ: If it only was required to be
23 given in writing, even before a person parted with
24 consideration --

25 QUESTION: And even to the donor, not just to a

1 central place where they can call up and get the information.

2 MR. COPILEVITZ: I don't believe that that creates
3 the constitutional problems that point of solicitation
4 oral disclosure --

5 QUESTION: Well, you would still have the problem
6 that it doesn't mean anything. I mean, the problem you
7 were just immediately addressing, that these figures
8 as to what the past record --

9 MR. COPILEVITZ: But what it does is, it gives
10 the charity a chance to explain figures and amplify.

11 QUESTION: I see.

12 MR. COPILEVITZ: It gives them the context of
13 allowing you to understand what it's all about, and that
14 form the charity needs because worthy charities have high
15 costs, and if they have to start by telling you that they
16 have high costs, and that professionals are involved, and all
17 these other things, they are never going to receive your
18 support.

19 QUESTION: Counsel, do you have any answer to
20 the statement made by the Attorney General that the study
21 shows practically all of the charities only get 20 percent?

22 MR. COPILEVITZ: Well, I think what the Attorney
23 General said is that they picked out five particular
24 professional fundraisers and as to those five the studies
25 showed 20 percent.

1 The question here is compounded --

2 QUESTION: What does the record show?

3 MR. COPILEVITZ: I don't know what the overall
4 record of the State of North Carolina would show.

5 QUESTION: You mean, this is not in the record in
6 this case?

7 MR. COPILEVITZ: This is in the record as to, I
8 believe, five different companies. It is not the record of
9 every charity and every --

10 QUESTION: If he is telling us the truth, and
11 I certainly assume he is, it is the five largest for profit
12 professional fundraisers licensed between 1980 and 1984 in
13 North Carolina, the five largest.

14 MR. COPILEVITZ: I would suggest to you that the
15 records also show from Mr. Edgerton's deposition that there's
16 many times the number of five professional fundraising
17 representatives that are licensed to work in the State of
18 North Carolina, and that North Carolina would be better
19 served to enforce its existing statutes and require the
20 disclosure of professional fundraisers to the charities as
21 to what kind of track record they have.

22 That's where the meaningful part is, not to the
23 prospective donor.

24 QUESTION: May I just go back? Your principal
25 concern is either telephone or in person solicitation,

1 isn't it, to people who have not met before or
2 communicated before? You don't want the introductory
3 conversation to include this information.

4 MR. COPILEVITZ: I am willing to live with the
5 introductory part. I am willing to tell you my name as
6 the Court has required that I must do and give you notice
7 of the fact that I somehow am a professional representative.
8 I think that those are fine, and the Court so found. What
9 I find difficult and impossible to live with is then
10 including some summary financial figure, and in this case
11 the summary financial figure has no relevance necessarily
12 to the charity that I am calling for. I may have as
13 a professional representative never dealt with this charity,
14 and my experience may be totally irrelevant to my current
15 experience with this charity and my contract.

16 Thank you.

17 CHIEF JUSTICE REHNQUIST: Thank you, Mr.
18 Copilevitz.

19 General Thornburg, you have one minute remaining.

20 MR. THORNBURG: Nothing further, Your Honor.

21 CHIEF JUSTICE REHNQUIST: Very well. The case
22 is submitted.

23 (Whereupon, at 1:46 o'clock p.m., the case in the
24 above-entitled matter was submitted.)

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DOCKET NUMBER: 87-328

CASE TITLE: Riley v. National Federation of the Blind
of North Carolina

HEARING DATE: March 23, 1988

LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence
are contained fully and accurately on the tapes and notes
reported by me at the hearing in the above case before the
Supreme Court of the United States.

Date: 3/29/88

Margaret Daly

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