

Raffle Secrets: Formula For Successful Raffle Ticket Fundraising

RAFFLE SECRETS

BY CHRIS BRISSON



THE COMPLETE RAFFLE FUNDRAISING SYSTEM

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Interview with Terrie Temkin

By: Chris Brisson

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CHRIS I have Terrie Temkin here with CoreStrategies for Nonprofits on the line. Tonight, I am going to ask Terrie some questions about raffle fundraising, to get fundraising in a nutshell from one of the experts. I want to welcome Terrie on the line.

Terrie, thanks for joining us.

TERRIE Thank you! It's really my pleasure. I appreciate the opportunity Chris.

CHRIS Terrie, I came across your website I guess a couple weeks ago and I saw that you offer some great information for nonprofits, so we decided to do an interview. Terrie, why don't you just give the listeners on the line basically an understanding of how you got involved in fundraising and what your company is involved in.

TERRIE My company is about approaching the fund development process from three directions. We look at fund development, yes, but we also look at the board and its role – what it has to do to strengthen itself to be effective – and the PR, interweaving the three.

I actually got personally involved in fund raising in one of my first jobs where I was doing a lot of community work. One of the things that of course everybody wanted to do was raffles. Later on I began to write a Q & A column for the *Miami Herald* which I continued for about five years. The topic of raffles came up frequently. So it became an area of real interest to me to explore what one can do and what one can't do, and what one probably shouldn't do without consulting a lawyer and/or an accountant that specializes in nonprofits.

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CHRIS Yes, it is a touchy subject, especially when it is across state lines. From state to state they definitely have different laws and rules and regulations. You are based out of Southeast Florida aren't you?

TERRIE That is correct. And Florida is not atypical. The State of Florida allows those nonprofits that are registered with the State as a 501c3 – meaning they have gotten a determination letter from the IRS placing them into the category of charitable institutions – it allows the nonprofits to conduct raffles – we really should call them drawings, free drawings – as long as they meet all of the obligations and legal responsibilities for doing so. This includes being legal within their own city or county, which by the way is not always the case. While a state may allow a charitable organization that is registered to conduct a raffle or drawing, its own municipality may not.

So obviously an organization should really begin by checking with its municipality to determine whether or not a raffle or drawing is legal. Unfortunately, it is hard to tell people where in their community to go for permission because in each area it is going to be someone different. For instance, it might be the sheriff's office in one community, or the county's consumer office, or the State Attorneys' office.

CHRIS As a first step for an organization, would they go to the State Attorney General's office, would they go to their city, would they go to their county? Where would they start?

TERRIE They really need to start in both their county and their city to ensure that the proposed raffle is legal from their perspectives, since it is okay with the state for registered charitable organizations.

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And of course at this point we are just talking about asking friends and neighbours face-to-face to buy tickets. We are not talking about mailing raffle tickets, which of course has its own set of rules, which we can certainly talk about. There you could be going outside of your own geographic area, sending the tickets into an area where the rules might be different. And, if you want to sell tickets online it is even more complex. So raffles are not the easy way to raise money that most people think. They can be effective, and I am not saying organizations shouldn't do them – they are certainly tried and true – but I think there are a lot of factors that we just need to look at.

CHRIS

I get a lot of questions from people about what the difference is between a drawing and a raffle, especially with the mailing of the tickets. What is the difference between a drawing and a raffle? Or is there a difference?

TERRIE

The concept is that with the raffle it is pure gambling. People have to buy their chance. In the free drawing – and the word 'free' is very important here – anyone can ask you for a free chance to participate in your drawing and you must provide it. We tend to think that since the money is going to a charitable organization, and people are really doing something good for the community through this, of course they should be willing to pay the dollar, the five dollars, the twenty-five dollars or even the hundred dollars for perhaps a limited raffle. But the state requires that, for the ability to legally hold a drawing, organizations make a drawing ticket available for free if someone asks for that.

Now of course you can make it a little difficult for them to get the free ticket by telling them they have to come to the office at such

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and such a time, or whatever, but a free ticket must be made available to those who ask. This is the same thing you see with businesses where they say 'Free Drawing – no purchase required to win.' Obviously they want you to make the purchase, but legally they have to allow a free drawing.

CHRIS Interesting. Now is that only in Florida?

TERRIE No it is not. Again, the rules are different in every state, but I was in California prior to coming here, and they required a free opportunity as well.

CHRIS You know on the subject of California, I know their raffle program and their raffle laws are quite different from every other state, and they do not allow the Internet side of the advertising and so forth.

TERRIE That is correct.

CHRIS And is that strictly just California? What about Florida?

TERRIE No, the State of Washington actually is the strictest. It has totally banned internet raffles.

Right now this is a very tough issue. There are states that are allowing internet raffles. In fact, if you call our (Florida's) Department of Agriculture and Consumer Affairs – which is so incongruously the department that takes care of nonprofits – you will be told that it is perfectly fine to conduct an online raffle in Florida. However, I believe it's still a very chancy thing no matter where you are because the Federal government is very uncomfortable with online gambling. It put a moratorium on it years ago, using some old laws to try to prevent all online

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gambling. And the Feds consider that raffles, even charitable raffles, can fall in this category.

So for instance they have used the Wire-Wager Act of 1961 to crack down on those who are involved in online gaming. Sometimes raffle purchases for charities have been given a pass because the lawyers and the legislature have argued that the Wire-Wager Act wasn't designed to catch the casual bettor or to interfere in placing wagers in states where betting is legal, which again it often is for charities. But the Justice Department, at least during the Clinton administration, along with several Attorneys General, said that you've got to interpret the Wire-Wager Act broadly and this covers all forms of gambling. Therefore, they reason it covers nonprofit raffles as well.

Because there is room for interpretation in the Wire-Wager Act the Gambling Prohibition Act of 1999 was enacted to say, 'Okay, if the Wager-Wire Act didn't do it, then the Gambling Prohibition Act is going to.' This specifically covers all games of chance, which includes raffles. The thing is, the Gambling Prohibition Act is currently on appeal. It is actually expected to come up very shortly. My guess is it will be a very interesting debate.

So currently the State of Florida along with many others say, 'Yes it is okay if you are a nonprofit that is registered in the state. If it is legal in your area; go ahead and put it up online.' But then you've got the Feds who are saying 'Well gee, we might come after you.' So I think you really have to be very careful.

And there is another aspect of online raffles that I think is important to make note of: You are opening your organization up to the necessity of registering in every state. A lot of states have

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people that actually surf the web looking for organizations that post on the web, where somebody from their state could stumble onto the website and say, 'That's a raffle that looks good to me, I think I'll get involved.' And these states are cracking down if the charity is not registered claiming, "You're getting our people so therefore you have to be registered in our state." Frankly, Florida was in the forefront of this. If they came across such a site, they figured Floridians could come across it as well, make a donation or maybe purchase something that the organization was selling to make money for itself. They were contacting these organizations and requiring them to register with the State of Florida.

So you are opening yourself up, when you go into online raffles, to a lot of potential problems – at least today until this shakes out and we know better.

CHRIS

Now when you search on the internet you see these huge raffles with the Mercedes and the \$3 million house and other prizes that are kind of outrageous. It is interesting to see what will happen with that.

I read an article yesterday and a gentleman, representing the Naperville Rotary if I remember correctly, said when they send envelopes through the mail for raffles they send them as receipts. That is their way to get around the issue of sending tickets in the mail. They had some other techniques that they were using to skirt the issue as well. I definitely believe that there has to be some sort of unity nationally with raffles. I don't know when they are going to come up with that; hopefully soon. Until then, you definitely have to follow the local rules.

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TERRIE Let me just back up Chris, if I can for one minute, because you mentioned two things that I would like to talk about. You mentioned sending tickets through the mail, and you mentioned the big prizes. These are areas that people don't really understand and they need to.

First of all, sending raffle tickets through the mail is a very interesting issue because, while the Post Office has mailing regulations that are published, those regulations are not super clear. The *Domestic Mail Manual* – which is where these mailing regulations are found – does say that nonprofit organizations qualified as tax-exempt under Section 501c in the Internal Revenue Code may send lottery *materials* through the mail if the lottery is not itself prohibited by the states involved. But what it does not specifically talk about are the lottery *tickets*. So while we may reason that if the lottery is not illegal in our state and our organization is a registered 501c, it must be okay for our organization to mail lottery tickets, some postmasters have been interpreting this differently. They are looking at *materials* as such things as advertisements and prize lists, not tickets.

I would always suggest to those who would like to send lottery tickets through the mail that they contact their local post office and ask the mailing requirements department to give them an individual ruling clarifying whether or not they can send tickets through the mail. You really don't want to get in trouble with the government! So that is one issue.

The other important issue is large prizes. In Florida, if you offer \$5000 or more in either cash or prizes you have to file with the Department of State. You also have to post a bond or have a trust account that communicates, 'Our organization has

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sufficient funds to cover what we say we are giving away,' whether that is the Mercedes you mentioned or the house you mentioned or something else.

Now there are also some other things that have to be done that a lot of organizations don't realize. For instance, you've got to notify the IRS whenever there is a winner of anything where the value of the prize is \$600 or more. You do this by sending in a 1099 miscellaneous form, indicating the amount of money the person has won under the prizes and awards section. Unfortunately the government doesn't trust that the winner is going to do this, so the burden is on us – the organization.

Also the organization has to have possession of the prize prior to selling tickets. Let's say you are giving away that Mercedes you talked about. You must either have the Mercedes in hand or you need something saying that you legitimately have this prize to give away, something such as a voucher from the dealer that is donating it. You are not allowed to figure, 'Well if we sell 1000 tickets for \$100 each then we'll have enough money to buy the Mercedes and have money left over, so therefore we are okay.' Because the reality is that you may never sell enough tickets to actually buy the prize, and if you have promised that prize you have to be able to give it. So, the laws require you have the prize ahead of time, and organizations don't necessarily know this.

One other thing we have to be concerned about particularly in Florida is non-resident aliens. You know we have a lot of European visitors and a lot of people from South America who live here part of the year. Each country has different treaty provisions with the United States. So often times you are going to have to be sure that you withhold the taxes on any winnings

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of non-resident aliens to ensure the IRS is paid prior to the distribution of any prizes.

Again, raffles seem like a very straight-forward thing: we sell the tickets, we make the drawing, we give the prize and everybody goes home happy. However, these are issues that a lot of times people aren't aware of.

CHRIS Yes, it definitely sounds like you need a lawyer and you definitely need a good accountant by the sounds of it.

TERRIE Yes you do.

CHRIS Now, I want to go back to the car issue. A lot of people, you know, they mention, 'Oh I want to do a Hummer raffle or a Mustang raffle.' What about if they get a vehicle or a car donated to them on consignment?

TERRIE This is fine but that goes back to the voucher concept that I mentioned earlier, that the nonprofit would have to have in its hand a letter or something that says the dealer will provide this car and what the terms are – whether it's turning over the title or paying the lease for two or three years or whatever, and what is and isn't covered.

It's a different story if you were offering a car if someone guessed the correct number of jellybeans in a jar. You wouldn't necessarily have to have the car or a voucher in hand if you could demonstrate you can cover a win in another way. For instance, this can work in the same way as golf tournaments which often promote a hole-in-one deal, where somebody will win a car if they get a hole in one. There are insurance policies that can be taken out that cover these things so that the

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organization is protected in those unlikely situations where someone actually wins. But again, with the raffle it is different because once the organization says that there will be a drawing, someone has to win. The prizes must be awarded regardless of whether or not sufficient tickets have been sold. You cannot say, 'We will only give the prize if we sell X number of tickets.' That you cannot do, and no insurance company will cover you in this situation.

Another thing that is very important is that most organizations don't realize what all has to go on the ticket. I think it is worth talking a little bit about that. First of all, what should go on your ticket and what everyone selling your ticket needs to be very aware of is that you cannot promote this as a tax deduction because it is not. Everyone who buys a ticket has an equal chance at winning and therefore the government considers that everyone is a winner. Since the value of what they have purchased – what they are taking a chance on – is almost always greater than the ticket price that they spent, they are paying less than the fair market value of the prize and there's only a donation when paying above fair market value. Therefore, they do not get any deduction and your ticket must clearly state this.

It also should clearly state the rules of the drawing; when are you going to make the drawing, does the winner have to be present; what is the full name of your organization and where is its principle place of business? What is the source of funds used to award prizes? Because frankly, a lot of people are not exactly happy to think that their donations to a charitable organization went to buy that Mercedes that is going to be used for a drawing. So you really have to say, in this case, it was donated or whatever.

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CHRIS I guess going into that, as far as the actual sale of the tickets, who can sell the tickets? Is it just members involved in the organization or others outside?

TERRIE No, you can definitely go outside. If it is legal in your area it is legal in your area, and you can absolutely go to whomever you can rope into selling those tickets. But, as a charity, I would hope you aren't paying people to do it!

This brings up the issue of control. Usually the way that raffles are handled in an organization is that every member gets, let's say, a booklet or 10 booklets to sell. But, since most of the sales are in cash, there is a real potential for theft here, especially if you are mailing the ticket books. Somebody could say, 'Six of my booklets got lost in the mail.' But, they could actually have been selling those tickets and pocketing the money. So you've got to come up with some way to control this. I wish I could say that those who are volunteers or even staff for nonprofits are honest because they are doing all this important work. Unfortunately, I have been in this business for over 30 years and that is not always the case. So you really have to design some methodology for making sure that this cash business is well controlled, and that you are getting the money back for the tickets that are being sold.

CHRIS Would you recommend setting up, I'd like to say a website, but some source where people could simply write checks. The last thing I would want to do, or any organization to do, is to go out with the booklets and collect cash. What would you recommend for an organization to control how they accept payments?

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TERRIE This is hard because there is no real effective way. You mention checks. Checks are hard because people don't always necessarily have a check book at the point of sale. Today many people, myself included, do everything on QuickBooks. I don't carry a check book anymore. And people don't like to write checks for small amounts of money generally, especially since it isn't a contribution. As an aside, I've always recommended to the nonprofits that I've worked with that anytime they collect checks for things that really are not deductible, such as raffles, meals, or trips, that they stamp the checks 'special event' so that it becomes very clear to the IRS if they ever do an audit that the individual needs to demonstrate what portion – if any – of that check is deductible, because you are saying with that stamp that at least a portion of it is not. Anyway, so you have to go through the whole hassle of stamping those checks, your bank might charge you for excessive transactions... It's tough.

What I would say is if checks aren't the way and credit cards are equally bad with this sort of transaction because the credit card companies charge a percentage every time someone uses their card, whatever control system you use –and I would leave that up to the smart people in your organization – you should set up a separate page in the organization's ledger to record the income and expenses associated with the raffle. It's very important not to co-mingle those funds with donated funds, because remember, raffle money is not a donation.

CHRIS Now you mentioned organizations. It sounds as if this is more for a well organized, medium to larger size nonprofit. How would a smaller, very low funded organization get by with a raffle or some other form of fundraising?

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TERRIE Truthfully it is often times the smaller organizations that have turned to the raffle because they feel it is an easy way to make money. Unfortunately all these rules and regulations that I am mentioning are incumbent on any organization that runs a raffle. The IRS doesn't care; the state doesn't care if you are a small organization or a big organization. They just care that in fact you follow the rules.

Now, there is no reason why a small organization can't do a raffle and follow the rules, they just have to know what the rules are. And that is where this interview is hopefully going to be very helpful to them in recognizing what they can and cannot do.

I've got to tell you, I started in this business as a special events coordinator and I've really moved away from believing in that concept. I've come to the conclusion that, whether you're a small organization or a large organization, if you're going to ask people to buy a raffle ticket, you're still asking them for money. You're still asking them to help support your organization. It is just as easy – very honestly the butterflies in your stomach are the same whether you're asking for a big amount of money or a little amount of money – it is truly just as easy to say to someone, "Will you just make an outright donation to support the organization? That way you know that all of your money is going to do the good work of the organization. It's not going to buy prizes; it's not going to put on an event. It's going straight to help the organization fulfil its mission. And, it's deductible!" People tend to think 'Oh I've got to do a raffle or an event' because it's easier. It's not easier because you are still asking people for support. And, you usually have to make a lot more asks to reach your goal because raffles tickets are usually only a few dollars each!

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CHRIS When I speak to some nonprofits they just assume they will do a raffle and it will be a success. I just spoke to a gentleman a couple weeks back and they had a vacation spot in Naples, Florida donated to his organization. He said "Okay, I will sell 1000 tickets at \$10 a piece and they will sell like crazy." Well there is a lot more to it than that. Literally it is a business. You have to market it. You have to first set yourself up correctly, legally, to make sure you are doing things by the book, and then you have to market it. Some people think it's just a raffle; we'll go out and sell a bunch of tickets. That is one thing that a lot of nonprofits don't understand.

TERRIE It's interesting, Chris, because one of the articles that I wrote for the *Miami Herald* years ago was on raffles and someone called me shortly after and said 'We're a small organization, we just meet in a little meeting room of a hotel, do we really need to be conscious of all these things you're telling us about?' And I said 'Yes. I wish I could say no but it doesn't matter if you are big or small. All it takes is one person who is disgruntled to get you in big trouble.' And he said 'Oh, so I suppose that's why we got busted, huh?' It turned out there was an off-duty police officer in the room and a couple of the people got arrested. This was just a small organization, thinking it was doing, you know, what every other organization does. Fortunately 99.9 times out of 100 it will go smoothly without a hitch, whether or not you pay any attention to what we've been talking about so far. But it's just that one-tenth of a percent.... You don't want to be that person being hauled off in the back of a police cruiser.

CHRIS No, definitely not. Most of us in nonprofits have great intentions to fund raise and help our causes. The last thing we want is to see ourselves in the newspaper associated with a fraudulent

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nonprofit. So what did they actually do? Were they selling raffle tickets?

TERRIE Yes, they were selling raffle tickets and it was really just a small group, it was \$1 a chance, they weren't going to make a lot of money on it, but they had not taken into consideration what was legal in their community.

CHRIS I'm sure that happens. It definitely happens across the states. I recently read an article, probably a couple of months ago, there was a raffle where the organization offered a Rolls Royce and a \$3.3 million home in Orlando – a huge raffle. But, what happened is that the State Attorney General actually shut them down because they kept postponing the drawing. They started the raffle in 2003 and they never sold all their tickets, so they kept postponing, postponing and postponing. Finally the government stepped in because they never had a set date.

TERRIE Yes, and see this has major ramifications. First of all, you have to have good records because you would have to return all that money to the people who purchased tickets. But more significantly, what a black eye on the organization. Here it is trying to do really good things and the publicity ramifications from this are just horrendous. This reiterates what we talked about earlier, that one of the things that must be listed on the ticket is the date of the raffle itself. And again, you have to have the prize in hand. You cannot just say that we'll bring in enough money from the raffle to award the prize.

CHRIS Is there a set amount of money an organization can actually raise? I know you mentioned \$5000. Is there an actual cap amount an organization can raise?

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TERRIE Not to my knowledge. I believe that you can raise whatever you want. The \$5000 I mentioned refers of course to the fact that notification has to be made to the government about any prize valued at \$5000 or more. I guess that any cap would be self-imposed by the buyer that would decide at some point the prize isn't worth paying taxes on.

CHRIS Okay. From other states I hear there is a multi-state filing. I don't know if this falls into the raffles, but can you discuss the multi-state filing and exactly what that is?

TERRIE Yes. What has happened over the years is you've got 50 states all of which had different regulations for nonprofits, saying that 'If you are going to register in our state as a nonprofit you must do X-Y-Z.' And every X-Y-Z would be different for each of the 50 states. Well when you have national organizations with chapters all over the country, that becomes a real headache because you are not only filing once, you have to re-certify yourself in essence, re-register every year, and there is a cost involved with this. Sometimes it is relatively inexpensive – around \$50 – but it can be \$250 or more. Now multiply that times 50 states if you are going to work in all these areas. That is really outrageous, and it was a lot of work. So a number of the states said that they would be willing to work with a single form, that if an organization completed this multi-state registration form they would be registered with the state. I think it is a great, great thing. It just makes life much, much easier.

CHRIS Let's talk about sponsorship. How would an organization go and get sponsorship, such as from a car dealership or local radio stations?

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TERRIE That is a great question. Clearly, if you can get a sponsor who donates your prize or your list of prizes your organization saves money because you don't have to go out and purchase those prizes. More money can go to the mission. That's a really great deal.

Sometimes sponsors will give cash or in-kind services... the car dealer might make the payments on a car lease or donate a car outright. But I think we have to look at a couple of things. Often times the sponsor is doing it in essence for the advertising value of what they are doing, and we have to be very, very careful because there is a difference between sponsorship and advertising.

If in return for that car you are promoting this car dealer as the best dealer, if you are saying 'You've got to go visit this dealer,' or 'We have an exclusive relationship with this sponsor,' you're getting into the realm of advertising. The income from the ticket sales is now looked at as unrelated business income, because you're giving advertising in return. This means your organization will have to pay taxes on what you have just earned. So you want to keep the relationship as a sponsorship.

You can certainly publicly thank the sponsor, putting the sponsor's name in a booklet or posting it around the room, but you can't appear to endorse them. You can't promise the sponsor that a minimum number of people will see their name, either. For instance, organizations that think they are going to sell 1000 tickets often say, 'Well, we are selling 1000 tickets and so 1000 people a least are going to see your name associated with our organization.' But, the minute you do that it potentially becomes advertising. So do not promise a minimum audience.

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Again, I really think you need to go to your tax advisor and make sure you are staying within the guidelines.

Now on the other hand, if you are going to make an awful lot of money from this process, you may not care that you pay taxes. Having to pay taxes means that you made money. So it's not necessarily a bad thing. But people should be aware of the fact that this is the case.

The other thing that we have to be very careful about with sponsorship is not going to the potential sponsor and saying, 'If you give us your car this is going to be tax deductible for you.' The deductibility issue is based on so many factors that it is strictly an issue between the sponsor and their own tax advisor. We have to be very, very careful not to promise things that we can't substantiate.

CHRIS Would the marketing or advertising expenses be able to be written off or put into the organization's advertising fees?

TERRIE That's again a very good question, and again it would be dependant on each organization's own tax structure. While we think nonprofits are always non-taxable, but that is not necessarily true. I would suggest each organization speak with its tax advisor.

CHRIS Interesting. I'm assuming the winner of the car or the prize at the end would obviously have to pay the taxes on the vehicle.

TERRIE Anytime you win money, prizes, whatever, you are supposed to pay taxes on it. But, often people don't. That's why I mentioned earlier that if the value of the prize is over \$600 the IRS wants the organization to file a 1099 on the winner to make it easier to

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go after that person. Some organizations are now collecting and sending in the tax money upfront.

CHRIS Another question; how many raffles can an organization organize for a year? Is it one – I have heard one or two at the max.

TERRIE I can't give you a specific answer. It can differ state to state. However, it is important to remember that one thing preventing the government from calling nonprofit raffles "gambling" is that they are considered non-common events. It is like holding a garage sale. You can hold a garage sale once or twice a year without a problem. If you start holding a garage sale every week, the police are going to come by and say "Where is your business license? Are you paying sales tax on this?" because it's clearly a business. Organizations are held to the same logic, so you really can't hold constant raffles, but I really can't give you a number under which you are safe.

CHRIS Well Terrie, you gave some amazing, great information. For everybody on the line tonight, how can people get in touch with you?

TERRIE They certainly can go to our website which is www.corestrategies4nonprofits.com; the "4" is the numerical 4 and everything runs together as one word. Again, that is corestrategies4nonprofits.com. Or, they can call us at 888-458-4351. I'm at extension 3 and I'm happy to talk to anyone.

CHRIS Wonderful. Terrie you know I appreciate you getting on the call tonight and giving out just some great information. A lot of people can definitely take this information for getting their organization raffles off the ground the right way. I'm sure it

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opened a lot of people's eyes about what it really takes not only to run a successful raffle but to follow the rules.

So Terrie, any last words before we sign off tonight?

TERRIE Two things: First I believe strongly that organizations make sure that they're getting money from a balanced source of revenues. Raffles or other event-type activities can only be one small portion of that. You can't put all your eggs in one basket. What happens if you drop or lose your basket? I just think that it is very important that organizations really think strategically about how they raise their money.

Second, I wish everybody a lot of luck. Nonprofits around the country – and in fact around the world – are doing very important work that the governments can't and won't do, that private industry can't or won't do, and without them we would be a much sadder community. I am grateful for all that these organizations are doing and I just want them to continue doing it without getting in trouble. So if I have been able to help at all today with that, it has been my pleasure to do so.

CHRIS Thank you very much Terrie, and thanks everybody for joining us on the call tonight.