

When Efforts to Support a Charity Take a Wrong Turn: Takeaways from the Kars-R-Us FTC Settlement

[Christie Grymes Thompson](#), [Katrina Hatahet](#)

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Companies regularly engage in cause marketing, supporting charitable causes through a variety of marketing initiatives, and a recent action brought by the FTC and attorneys general from 19 states provides a roadmap for how not to navigate those campaigns. Kars-R-Us.com, Inc. and its owners settled with the regulators for over \$3.8 million (partially suspended) for allegedly engaging in deceptive charitable fundraising practices in violation of federal and state laws.

Kars allegedly solicited donations on behalf of the United Breast Cancer Foundation (UBCF), claiming that donations would help save lives by providing free and low-cost breast cancer screenings. According to the complaint, however, only 0.28% of the \$45 million raised actually went toward those screenings, while the majority of the remaining funds were used to pay Kars and its vendors. The regulators alleged that Kars and its owners knew or should have known that the breast cancer claims they drafted and made on behalf of UBCF were deceptive or lacked substantiation. In addition to the monetary payment, the settlement includes significant injunctive relief limiting future fundraising activities by the company and its operators.

For anyone involved in cause marketing, the Kars case serves as a reminder of the importance of conducting due diligence and proactively reviewing charitable partnerships, campaign communications, and internal procedures to ensure compliance. Here are key takeaways to help reduce the risk of an enforcement action:

- **Partner with reputable charities:** Partnering with established and transparent charities reduce the risk of misleading donors. Review the charity's IRS 990 filings and financial statements to evaluate how funds are generally allocated. Confirm the charity's compliance and good standing, including 501(c)(3) status with the IRS and state registrations to solicit donations. Check whether the charity has previously faced regulatory scrutiny related to its use of donations.
- **Ensure accuracy in statements to donors:** Statements regarding how contributions will be used must be clear, truthful, and substantiated. Disclose any limitations or conditions associated with donations. Fundraisers may be on the hook for any deceptive claims they make.
- **Deliver funds to charity as promised:** It's not enough to solicit donations in good faith. Funds must actually reach the intended charity. Ensure that internal teams execute payments in accordance with agreements and donor representations.