

## Opinion No. 55-6256

August 18, 1955

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Mr. Jose E. Armijo, District Attorney Fourth, Judicial District, Las Vegas, New Mexico

Your request for an opinion, dated August 12, 1955, has been received. Your questions arise out of the following factual situation:

St. Anthony's Hospital, a corporation incorporated under the laws of New Mexico as a religious and charitable institution, has hired a private incorporated organization to conduct and supervise a fund raising drive for the benefit of the hospital. You further state that the private organization above, or its agents, are not directly soliciting or receiving any funds, but it is merely supervising others who actually solicit and receive the contributions.

The questions raised are:

1. Must the private organization above register and otherwise comply with the requirements of Chapter 249, Laws of 1955?
2. Must St. Anthony's Hospital register and otherwise comply with the said Act?

Concerning your first question, it is the opinion of this office that the private organization above comes within the Act and must comply therewith. A professional fund raiser is defined as:

"Professional fund raiser.' Any person who for compensation or other consideration plans, conducts, manages, or carries on any drive or campaign in this state for the purpose of soliciting contributions for or on behalf of any charitable organization or any other person, or who engages in the business of, or holds himself out to persons in this state as independently engaged in the business of soliciting contributions for such purpose. A bona fide officer or employee of a charitable organization shall not be deemed a professional fund raiser." § 1 (e), Ch. 249, Laws of 1955.

As thus defined, it seems clear that the professional fund raiser need not actually receive the contributions directly. It is enough that for consideration such organization ". . . plans, conducts, manages, or carries on . . ." the activity in question.

Concerning question No. 2, it is my opinion that St. Anthony's Hospital is such an organization as is exempt from compliance with the above Act, which, among other things, provides:

"This act shall not apply to corporations organized under the religious corporations law, and other religious agencies and organizations, and charities, agencies and organizations operated, supervised, or controlled by or in conjunction with a religious organization." § 3 (a), Ch. 249, Laws of 1955.

I trust the above answers your inquiries satisfactorily.

By Santiago E. Campos

Assistant Attorney General