

SCOUTS-L

**FRIENDS OF
SCOUTING**

Date: Fri, 16 Jun 1995 00:36:08 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@capaccess.org>
Subject: Scouting \$\$\$
To: SCOUTS-L Youth Groups Discussion List <SCOUTS-L@TCUBVM.IS.TCU.EDU>

There has been some good discussion on unit fundraising with some great ideas and a number of questions about different Council policies on raising money above the unit level. I can remember all too well the resentment I felt after struggling to raise enough money to keep a Pack running, when the local District fellow came around wanting more money for FOS to support Scouting. I thought what the devil? We don't get much from Council and need the money right here! Boy was I wrong. The high quality program we got was the result of a lot of unseen effort. I started thinking about what it cost to run the high adventure bases, camps, camporees, pinewood derbies, etc.; what it cost to keep the records, to have inventories of badges on hand, and just about everything else we take for granted. Its no small cost. And oh yea - there's the professional staff that's always there working a lot more hours for a lot less money than many of the folks that complained loudest in my Pack. Got to thinking that maybe it was just a little reasonable to have to pay for all this good stuff. Which brings me to this:

Now is a tough time for Scouting financially. Used to be that Scouting was one of the main beneficiaries of United Way/United Fund/Community Chest/Combined Federal Campaign fundraising efforts. Now we all know just how bewildering the list of supported organizations is - it takes over a hundred pages just to list them in our area. Scouting's cut of the pie has diminished. Over the years Scouting has attempted to shore up its finances with SME/FOS and other finance campaigns. At the same time the costs of maintaining camps, service centers, etc. has been increasing. Worse the number of lawsuits has been rising and they are expensive to defend, even if you win.

A lot of Scouting's financial support is also tied to the fortunes of the surrounding community. And when the local area is experiencing tough times, that means that Scouting is also going to feel the pinch.

Many smaller Councils and many in areas hard hit by economic problems are finding it increasingly more difficult to make ends meet. Our own Council has had the same experience of less community money and the devastating effect of downsizing economies.

Each of these Councils is and will continue to try to find methods to keep the program operating and open to as many boys as possible. For a very long time it was taboo to charge the actual cost of camp, the actual cost of programs, etc. because we wanted as many boys as possible to join regardless of financial circumstance.

Now each Council is coping in the best way it can. You will be seeing new approaches like Council registration fees, more emphasis on FOS, Councils taking a percentage of fundraisers, etc., depending on what the local Council feels is the best way to deal with its situation. Some Councils are merging to get a healthier financial base too.

Each of our Councils will be taking different approaches depending on circumstances and needs. And a lot of these approaches are based on what the volunteers in the local area have decided; e.g. the Council Executive Board.

Scouting needs financial support to continue to provide the quality of programs it offers. As much as we all might bemoan FOS, etc., its a reality.

Continuing to provide a high quality program is not without its costs. Its great, if we can get others to help pay the bills, if not we have to help as much as we can, whethers its a few dollars or many.

Date: Thu, 28 Sep 1995 10:34:30 EST
From: Peter Farnham <pfarnham@ASBMB.FASEB.ORG>
Subject: What FOS contributions pay for

Hi all,

Several of you asked me privately to post the 2-page list of items our council spends money on each year. You recall that I mentioned I was an area captain for FOS last year, and as part of the background info I received to help me with my job, I received the list reproduced below (Caps below do not denote shouting; rather, they are a verbatim transcript of what NCAC sent out).

* * *

WHAT DOES NCAC DO FOR THE LEADER AND HIS UNIT?

TO HELP THE LEADER WITH THE ADMINISTRATION OF HIS UNIT, OUR COUNCIL

MAINTAINS A SERVICE CENTER WITH CLERICAL STAFF TO:

- 1. Handle registrations, BOYS LIFE subscriptions, and special requests to the National Council and other organizations.**
- 2. Keep records of advancement, membership, training, etc., necessary to unit operation.**
- 3. Produce monthly and special council bulletins to keep leaders informed of latest local and national news, coming events, etc.**
- 4. Produce notices, minutes, agendas, etc., for district and council committees that are developing programs and service for leader and unit benefit.**
- 5. Handle countless phone calls and visitors for information related to unit operation and Scouting procedures.**
- 6. Provide, without charge, dozens of regular and special forms, applications, scoreboards, certificates and literature, helpful in unit program.**
- 7. Produce district and council calendars and schedules, programs, kits, and special aids to assist leaders and their committees.**
- 8. Make reservations for films, equipment, long term camping, day camps, short term camps, camporees, jamborees, training courses, meetings, Cub Pow Wows, Exploring activities, annual council and district meetings, and troop leader events.**

TO ASSIST LEADERS, THE COUNCIL EMPLOYS A TRAINED, FULL TIME STAFF

WHICH COUNSELS, GUIDES AND INSPIRES:

- 1. Through informal training in unit operation.**

2. Through person-to-person counseling on unit relationships, administrative and operational problems.
3. Through guidance of all committees, commissioners, roundtables, meetings, conferences, courses, district and council activities in the development of programs that directly benefit leaders and units.
4. Through contacts with the community resources (clubs, churches, government, etc.), securing help for all units that they alone could not obtain. The use of parks, recreational areas, use of buildings for special affairs, picnic areas, camp sites and swimming facilities are a few examples.
5. Through contacts with institutional heads giving guidance on unit organization, relationships, leadership and unit problems.

**PROVIDING THE UNIT WITH DISTRICT AND COUNCIL ACTIVITIES AND SERVICE,
THE COUNCIL:**

1. Sets up and conducts various types of activities in which units participate such as Scout Anniversary Month, Scout Show and community service projects.
2. Organizes camporees, Cub Day Camps, Webelos Day, Explorer events, and absorbs the losses where they occur.
3. Works with various community groups to arrange for Scout participation in civic affairs.
4. Recruits and maintains a corps of commissioners for unit leader and committee visitation and counseling and roundtable planning and direction.

IN EDUCATIONAL AND RELATIONSHIPS PROGRAM, THE COUNCIL PROVIDES THE LEADER WITH:

1. A library of films, filmstrips, records, projectors, and screens for use in training and promotional programs, at no cost to the unit.
2. Informal and formal training courses with most of the cost of

trainer literature and materials, etc. and all the staff time included in the council budget.

3. Monthly roundtables for the benefit of leaders, committeemen, assistants, and den leaders, materials, staff and other costs.

4. Scouter's Key and training awards, Den Leader's Training Award, Silver Beaver, Arrowhead, and other Scouter recognitions and Eagle Badges.

5. The major portion of expense connected with troop leader training camps and programs, den chief conferences, Cubbing Pow Wows, junior leader training courses and council-wide Explorer activities.

6. A merit badge counselor corps offering assistance in more than one hundred subjects.

7. A variety of advancement forms and certificates without charge. These are processed in the thousands each year.

IN THE FIELD OF CAMPING AND OUTDOOR ACTIVITIES, THE COUNCIL:

1. Maintains Goshen Scout Camps for year-round camping and Cub family and Webelos outdoor events.

2. Offers units the use of equipment for short-term, weekend and year-round camping.

3. Employs full time camp rangers for the protection of the Goshen Scout Camps and the convenience of units using facilities. They keep these facilities available at all times.

4. Provides campers's savings cards, unit leaders' guidebook, camp slides, folders, literature, and other aids to help units with their outdoor program.

5. Provides a limited number of partial scholarships or "camperships" for Scouts who need some financial help to have a summertime camp experience.

6. Offers units the high adventure of Philmont Scout Ranch, Wilderness Canoe Trips, National Jamborees, field days, camporees, and

the like. These would not exist without a council giving leadership and coordination.

TO HELP THE LEADER DEVELOP HIS PROGRAM, THE COUNCIL PROVIDES WITHOUT CHARGE:

1. Program helps, program planning charts and calendar of activities, meetings and special events.
2. Awards such as ribbons, certificates, roundup awards, etc.
3. Scores of different certificates, Eagle Award Kits, and volunteer leader recognitions.
4. Roundup, camporee and scout anniversary kits, posters, and other materials.
5. Sample song sheets, ceremonies, parents' night program outlines, training aids, etc.
6. Source materials and personnel.
7. Materials, books, pamphlets, folders, filmstrips, and special helps from the National Council and cooperating organizations.

TO PROTECT THE UNIT LEADER, THE COUNCIL:

1. Screens requests for services, money-raising proposals or offers, guarding against improper use, Scouting commercialism and exploitation.
2. Maintains a liability policy that protects all leaders in the event of a suit arising from Scouting activities.
3. Has staff members available on what is practically an around-the-clock, around-the-calendar basis to meet any emergency.

Every year all units receive many direct benefits from the council. It is difficult to place an exact price tag on these as the services vary greatly from unit to unit. The Family Phase of Friends of Scouting conducted by units helps to pay only a portion of the overall costs of the direct service provided to our troops, packs, and posts

each year."

* * *

This is what the Council gave me last year. I understand that each scout in the Council is subsidized to the tune of about \$90 a year. While we can all probably quibble about one or two or maybe even several items on the above list, I think it is unfair--as well as just plain inaccurate--to state that FOS goes solely to pay the DE's salary. That just ain't so!

YiS,

Pete Farnham
SM, Troop 113
GW District, NCAC
Alexandria, VA
pfarnham@capaccess.org

Date: Sun, 9 Jun 1996 12:54:31 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@CapAccess.org>
To: SCOUTS-L - Youth Groups Discussion List <Scouts-L@tcubvm.is.tcu.edu>
Subject: Where Does the Money Go?

Awhile back in one of our discussion threads some folks were curious where the money went that was raised by FOS/SME campaigns. In the National Capital Area Council, we are midway through a two year fundraising effort called "Investment in Character." I thought it might be useful to share some of our successes here. We set out to raise \$9 million and have succeeded in raising \$4.5 million to date with contributions from over 3,800 companies, organizations, foundations and individuals. The money has been used to:

- * Retire the Council's debt (NCAC had been over \$1 million in debt)
- * Repair the dam and bridge at Goshen Scout Reservation (this was a major project that was much needed after a devastating flood last Spring wrecked the dam, draining the lake which served six camps.
- * Build six new program shelters at Goshen
- * Build handicap accessible campsites at Goshen
- * We are in the process of purchasing a camp property closer to the metropolitan area (Goshen is four hours away on average) for training, OA, Wood Badge, etc.
- * Make kitchen upgrades at Goshen
- * Establish an endowment for Urban Emphasis

*** Hire a volunteer services coordinator for the Scout Service Center**

It is wonderful to see so many supportive folks helping to raise money that is being used to directly improve the facilities for delivering a great program to the Scouts.

**Speaking Only for Myself in the Scouting Spirit, Michael F. Bowman
a/k/a Professor Beaver (WB), ASTA #2566, OA Vigil Honor '71, Eagle
Scout '67, Serving as Deputy District Commissioner for Training,
G.W.Dist., Nat. Capital Area Council, BSA - mfbowman@capaccess.org**

SCOUTS-L

**COMMERCIAL
EXPLOITATION**

Date: Wed, 31 Aug 1994 02:53:16 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Commercialism and the Benefits of Federal Charter

Alan Wolfson raised the question of what benefits the BSA derives from a Federal charter. The Congressional Report made at the time that Congress passed an Act incorporating the Boy Scouts of America made clear that the purpose of the charter was the protection of the insignia of the BSA. The report states "The passing by Congress of this bill will, it is believed, provide the organization with proper protection for its distinctive insignia, the integrity of which is essential to the maintenance of the movement, and protect it from those who are seeking to profit by the good repute and high standing and popularity of the Scout movement by imitating it in name alone." House Report No. 130, 64th Congress, 1st Sess.

At the time of the chartering act, BSA insignia were protected only by patents which expired after a set amount of time. The Act was intended to remedy the problem.

All BSA badges and insignia currently remain the property of the BSA. Under Article X, Section 4, Clause 12 of the Rules and Regulations of the BSA, only the National Office has the right to authorize the use of insignia, words, phrases, designation marks, pictorial representation, and descriptive remarks relating to the program of the BSA on commercial products, promotional efforts and/or sale and distribution to members of the Boy Scouts of America and/or the general public.

Most of these latter items are protected by trademark and copyright law as well.

Those who would seek to use the uniforms and insignia of the BSA in commercials, in my mind, are clearly infringing on the property rights of the BSA, which are protected under a variety of laws extending from our charter.

As individual Scouters, I think we need to let the offending commercial enterprises know that we aren't impressed - that in fact it's offensive. I agree with Wendy that it would be great to have a few addresses and better yet fax numbers to get the message across. I'd also like to hear what our National Office's General Counsel is doing about these situations. These commercials certainly reach a lot more homes than we

can with flyers, etc. and they carry the wrong message, one that denigrates all that we are trying to do to promote self-esteem.

**Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .**

_____ mfbowman@CAP.GWU.EDU _____

Date: Wed, 31 Aug 1994 11:18:20 +0900
From: Bruce Harper <bharper@VT.EDU>
Subject: Re: Commercialism and the Benefits of Federal Charter

From: "Michael F. Bowman" <mfbowman@CAP.GWU.EDU>

>Those who would seek to use the uniforms and insignia of the BSA in
>commercials, in my mind, are clearly infringing on the property rights of
>the BSA, which are protected under a variety of laws extending from our
charter.

I agree fully, but I don't see what remedy there is to the problem. I'm sure if one were to look closely at the T.J.Maxx commercial (if one could in 30 seconds), one would see that the kid in the uniform only looks like a Scout. Put a tan shirt on a child, stick some various insignia on the shirt, and stand back a ways, then have someone tell you if that child is a Scout. Despite the fact that the insignia on the shirt has nothing to do with Scouting, the person looking would see an image of what a Scout looks like and say "Yes, he is a Scout." I don't expect the ad agency that made the T.J.Maxx commercial used an actual Scout uniform, but used something close enough to present the image of "a Scout is helpful and helpful Scouts help little old ladies cross the street."

>As individual Scouters, I think we need to let the offending commercial
>enterprises know that we aren't impressed - that in fact it's offensive.
>I agree with Wendy that it would be great to have a few addresses and
>better yet fax numbers to get the message across. I'd also like to hear
>what our National Office's General Counsel is doing about these
>situations. These commercials certainly reach a lot more homes than we
>can with flyers, etc. and they carry the wrong message, one that
>denigrates all that we are trying to do to promote self-esteem.

Again I agree. Even if it is not a direct copyright infringement, it is still the use of an image of Scouting. As I said in a note yesterday, send letters to the corporate headquarters of T.J.Maxx (most libraries should have some type of Dun and Bradstreet directory of major corporations). And a word to the manager of your local store about his or her corporation's activities may have a slight impact (especially if you say you won't shop there until the offending ad is no longer running).

Bruce in Blacksburg

Auditors: Coopers & Lybrand

WHERE

HQ: 770 Cochituate Rd., Framingham, MA 01701

Phone: 508-390-1000

Fax: 508-390-3635

-

Phone and FAX numbers are there along with the names of the people in charge.

Note that the EVP of the parent company is also the President of T.J. Maxx.

I

was interested to see that they operate in Canada as well as the US. Maybe some of our Canadian readers would be interested in letting them know that

they wouldn't want to see this kind of thing happen there as well.

Jim Miller, Jr(jmillerjr@aol.com) - Eagle Scout '88

Exploring Training Chairman

Advisor, Post 348

Vigil Honor Member, Mantowagan Lodge #14

Hudson Liberty Council, NJ

Date: Wed, 31 Aug 1994 13:48:50 +0000
From: Andy McElhannon <Andrew_McElhannon@BAYLOR.EDU>
Subject: Re: Benefits of Fede...

On the thread of the group who want to start their own scouting association.

I think that using any title using the word "scout" will get that organization into court, judging by past issues regarding the failed attempt to name a small

youth organization "wilderness scouts."

There are loop holes to this, one example that I know of is the St. George's Pathfinders of America. They claim their foundation, with some justification in

1909 in Tsarskoe Selo, Russia. They came to the US much later, where they tried

to continue as the Russian Scout Movement in Exile (or something similar) however, the BSA thought that these Russian Scouts living with their families or

friends in America should join the BSA and the BSA also disagreed with the use

of "Scout" in the name. Thus under legal pressure (many years ago btw) the

Russian Scout Movement in Exile (or some similar name) was forced to change to

the name St. George's Pathfinders. All that to simply say there are alternative

names. As my memory recalls, as I don't have the exact documents in front of

me, this is only from memory.

My \$.02, Andy McElhannon (Andrew_McElhannon@baylor.edu)

Date: Wed, 31 Aug 1994 12:13:27 EDT
From: Cly Bascone <SEQ184@AOL.COM>
Subject: Re: Benefits of Fede...

If you check that the boys in georgia neither had the money or time to go to court In the case here they do have the money and the time to go to court the lawyers which have taken this are willing to do it for free and they have a name to make for themselves or I should say to keep up. The main thing is I will not chnage but I do feel they have the right to and it will be a help to the BSA not a hinderence. The waking up of the bsa after loosing 6 court cases already this year is something which will continue the courts are no longer protectionists and the Sherman anti turst ruling agianst them in the 4 Court of appeals will make them walk softly for a little while. If they suceed it will at least make our council and two other stand up and take notice at the loss of troops and also some new york councils which shut down their last rover crews a few years back will also take notice maybe this is what we need. Above all this has nothing to do with the 3 g's it is pure and simple the rights of people to have an orginization they wish. In the California court case the BSA said they could always go out and start another organization this statement will come back to haunt them,it was not a smart choice of words to put on the court records. bye Cly

Please underdstand I am not leaving even if they suceed even though I would like to see rovers fully established again and rural scouts payed some attention to. Bye the way there is a legally federally chartered orginization on the books called the Progreesive farmer lone scouts and also the lone scout society of america in other words the BSA does not control scouts and never has since the teens

Date: Wed, 31 Aug 1994 23:23:00 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Benefits of Fede...

Cly,

I'm sure your friends' lawyer was sincere in suggesting that the name Boy and Girl Scouts of the USA would be okay. However, unless he/she is a very experienced intellectual property lawyer, he/she is out of his/her league. I doubt very much whether a Court would support that name - it is to close to both Boy Scouts and Girl Scouts which are protected. Because it would cause confusion with the general public, it is most likely the BSA or GSA would win in a confrontation over the name. Speaking in this case as a lawyer . . .

Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .

_____ mfbowman@CAP.GWU.EDU _____

Date: Thu, 1 Sep 1994 00:07:15 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Benefits of Fede...

Cly,

If I recall correctly from the old Scout books lining my shelf, the lone scouts merged with BSA sometime ago.

Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .
_____ mfbowman@CAP.GWU.EDU _____

Date: Wed, 31 Aug 1994 23:31:35 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Benefits of Federal Charter

Randy,

Regarding your suggestion of an achilles heel - its probably better described as a possible sprained ankle - potentially painful, but not fatal.

The Act incorporating the BSA does state that BSA shall have the power "to make and adopt bylaws, rules, and regulations not inconsistent with the law of the United States of America, or any State thereof, . . ." Your argument is that single state could enact a law that prohibited organizations from limiting membership with a anti-discrimination type statute. On its face that gives the impression that a single state could alter the rules of the BSA regarding membership. However, there is another side to the law that you should be aware of in this situation:

- 1. BSA as a Federal Corporation is entitled to all of the protections of the Constitution including the freedoms of assembly, religion and speech. Any State statute attempting to abridge any Constitutional protection would be found void and invalid.**
- 2. Federal law takes precedence over State law as a general rule.**
- 3. Even if a State Statute passed Constitutional muster, its effectiveness would be limited to the bounds of the state enacting the statute; e.g. a law passed in California would have no effect on BSA programs in Nevada, similar to health and safety laws. A law purporting to control a national organization beyond the boundaries of the state would run into Constitutional and Federal Law problems and not have much chance of surviving a Court challenge.**

It would seem to me that it would be very difficult for a State to pass a statute that would attempt to address membership in private organizations without running afowl of the Constitution. And if a statute could pass that hurdle, its effect would be limited.

**Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .**

_____ mfbowman@CAP.GWU.EDU _____

Date: Wed, 31 Aug 1994 23:51:34 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Commercialism an...

Jim,

Thanks for the information - as soon as I go off line, I'll take up the mighty pen and take a jab at 'em.

**Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .**

_____ mfbowman@CAP.GWU.EDU _____

Date: Wed, 31 Aug 1994 23:15:50 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Federal Charter
To: Larry Rinaldo <lrinaldo@r02dg05.r02.epa.gov>

Larry,

The best place to get a copy of the report is the extract reprinted in the Charter and Bylaws of the Boy Scouts of America No. 57-491, available at most Scout Shops and from the Supply Service.

Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .
_____ mfbowman@CAP.GWU.EDU _____

Date: Thu, 1 Sep 1994 00:51:38 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Benefits of Fede...
To: Cly Bascone <SEQ184@AOL.COM>

Cly,

Your last posting was bad news - beltway lawyers - argggghh! If these lawyers are part of the liberal group of "do-gooders" they most likely have in mind a new Scout organization that has no duty to God and one that is open to gays as leaders. If you don't mind my asking, who are these attorneys?

Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .

_____ mfbowman@CAP.GWU.EDU _____

Date: Thu, 1 Sep 1994 09:48:00 EDT
From: Randy Finder <NARAHT@DRYCAS.CLUB.CC.CMU.EDU>
Subject: Re: Benefits of Federal Charter

>Randy,

>Regarding your suggestion of an achilles heel - its probably better
>described as a possible sprained ankle - potentially painful, but not fatal.
You're right Achilles heel is certainly a term used for Fatal things,
which this is probably not.

>The Act incorporating the BSA does state that BSA shall have the power
"to
>make and adopt bylaws, rules, and regulations not inconsistent with the
>law of the United States of America, or any State thereof, . . ." Your
>argument is that single state could enact a law that prohibited
>organizations from limiting membership with a anti-discrimination type
>statute. On its face that gives the impression that a single state could
>alter the rules of the BSA regarding membership. However, there is
>another side to the law that you should be aware of in this situation:

I think you missed something in my original letter. I'm not sure that
California (for example) would be able to pass a law that had as its
effect requiring BSA to admit gay scouts. However, they might be able
to pass a law passing constitutional muster that would require BSA not
to descriminate according to sexual orientation for HIRING... I'm not
quite sure how BSA would react to this. (would it be worth fighting?)

>1. BSA as a Federal Corporation is entitled to all of the protections of
>the Constitution including the freedoms of assembly, religion and speech.
>Any State statute attempting to abridge any Constitutional protection
>would be found void and invalid.

Again this only really effects membership as far as I can tell, unless
BSA tries to get itself redesignated as a religious organization. (Which
I think is how the Roman Catholic Church uses the law)

>2. Federal law takes precedence over State law as a general rule.
Agreed.

>3. Even if a State Statute passed Constitutional muster, its

>effectiveness would be limited to the bounds of the state enacting the
>statute; e.g. a law passed in California would have no effect on BSA
>programs in Nevada, similar to health and safety laws. A law purporting
>to control a national organization beyond the boundaries of the state
>would run into Constitutional and Federal Law problems and not have
much
>chance of surviving a Court challenge.

Agreed. However the way I read the federal charter, a problem in one
state

is enough to pull down a lot more. However given BSA's standing in this
country, I could easily see federal legislation helping BSA with the
challenge
while the case was still in court.

>It would seem to me that it would be very difficult for a State to pass a
>statute that would attempt to address membership in private
organizations
>without running afowl of the Constitution. And if a statute could pass
>that hurdle, its effect would be limited.
membership, difficult. Hiring perhaps not so difficult.

I am neither a lawyer, nor play one on TV.

YiLFS

Randy Finder

Date: Thu, 1 Sep 1994 23:20:32 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Benefits of Federal Charter

Randy,

The way around the hiring question is that a condition of employment is membership in the organization.

Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .
_____ mfbowman@CAP.GWU.EDU _____

Date: Thu, 1 Sep 1994 23:33:23 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: State actions that cross state lines
To: "James H. McCullars" <mccullarsj@email.uah.edu>

Jim,

Oh how familiar the ring of your posting. While in law school, I became a licensed insurance agent and found the same thing true of an Ohio based concern doing business in Washington State with rates controlled by California. We discussed this sort of thing in law school and learned that there are a few areas where States have managed to go beyond their borders in influencing action. Usually though it was because they were never challenged. To take your situation a little further, suppose that you were manufacturing baby carriages and decided to market them across

the country. State A passes a law that they must have a hand operated brake on the handle connected to the rear wheels. State B passes a law that they must have a foot operated brake connected to the rear wheels. State C requires a brake connected to the front wheels. State D decides that only one braking system can be used because of user confusion. Now what? You're out of business you say? Naa. There is a whole set of law on conflict-of-law situations that will come into play, as well as federal law on restraint of commerce. Your lawyer will prosper and eventually most of the laws will either be limited to one jurisdiction or another or be superceded by an FTC regulation.

Back to your issue with all seriousness aside. The law has some strange twists and quirks like the insurance situation. Usually companies adopt a policy that complies with the most restrictive statute and just don't challenge, unless conflicts develop. However, if an organization like BSA feels that its basic premises are on the line, you would expect a challenge and some court imposed restriction on enforcement outside of the

State unless some nexus could be established between the state and what it

is trying to regulate outside of its jurisdiction. Which is often pretty hard to do.

**Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA**

Speaking only for myself, but with Scouting Spirit . . .
_____ mfbowman@CAP.GWU.EDU _____

Date: Fri, 2 Sep 1994 00:04:47 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Scout used in ad?
To: Steve Souza <76703.633@COMPUSERVE.COM>

Steve,

Thanks for the additional information. Aren't beaucracies fun? The Councils are like fiefdoms and National is like a King trying to keep the barons from defecting, occassionally take the lead. It does have an advantage though in this situation, it will allow BSA to take the position that a large numbers of its members across the country have been offended, giving more weight to its arguments of infringement.

Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .
_____ mfbowman@CAP.GWU.EDU _____

Date: Fri, 2 Sep 1994 19:46:44 -0400
From: John Pannell <PANNELLJ@DELPHI.COM>
Subject: Issue of discrimination

I have three posts here which did not go through... here goes a second time...

>====> However, they might be able to pass a law passing constitutional
>muster that would require BSA not to descriminate according to sexual
>orientation for HIRING...
>
>Randy,
>
>here in CA there already is a law requiring no descrimination in hiring
>based on many things, in some areas there are laws preventing bias based
on
>sexual orientation...
>
>But that's for the (few) professional staff... BSA can still hold whatever
>standards it wants for the "members" and "volunteers" of the organization,
>even in CA <g>.

I really shouldn't be starting in this... *g*

Since volunteers serve at the discretion of the chartered institution and the local council, could it be held that these volunteers are "hired" and are "employees" of the BSA in a legal sense? Then the anti-discrimination laws would apply to the BSA???

Are there any precedents along the above line of reasoning?

Any legal experts?

Sorry.
John
pannellj@delphi.com

Date: Fri, 2 Sep 1994 22:10:12 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Issue of discrimination

John,

As an attorney, I can tell you that for any theory you can probably find some dicta in some case to start an argument. However, the real trick is to be able to predict the outcome of a dispute. Lets say that there was litigation arguing along the lines that volunteers were subject to state statutes on discrimination because they are "employees" by virtue of being approved by the chartered organization and the local council. Probably the first counter-point would be to demonstrate that such a conclusion would work an absurdity; e.g. if being a volunteer creates an employee status, then the same volunteers would be subject to OSHA, Social Security withholding, all of the labor laws, etc. Under the various statutes governing employer duties to pay minimum wages and work hours, each volunteer would have the right to sue for back-pay effectively ending volunteerism in this country. Now what Judge would want to be on record making that decision? I don't think that the employee theory can really be stretched that far.

**Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .**

_____ mfbowman@CAP.GWU.EDU _____

Date: Fri, 2 Sep 1994 11:38:32 -0600
From: RYAN KEIL <RYAN.KEIL@M.CC.UTAH.EDU>
Subject: Re: Scout in Ad, And WalMart Address

Before I say anything else, let me say that I have NOT seen the ad [What's a TV? Nevermind, no time for that. ;-)], nor is this an endorsement of the concept in this specific case.

The use of an icon in advertising is not uncommon. In some cases, that icon may even represent the competitor of the entity portrayed in the ad. Such icons are usually protected by law. Nevertheless, it is extremely rare that the entity whose icon is used [victim] pursues legal recourse. The reason for this is that the net effect from an advertisement is that the icon is promoted. Although it is in a negative connotation in most cases, the viewing public rarely remembers the perspective in which that icon was used, but simply remembers the icon. This has a net effect of positive reinforcement of the offended entity in the viewers' mind. Domino's Pizza did not sue Pizza Hut over any of the numerous ad campaigns that compared the two because Pizza Hut was putting Domino's in people's minds. Domino benefitted from this.

Again, I'm not saying that Scouting--in the US or Canada--should simply take no action; however, National may have the view that such advertising is free promotion of the icon of Scouting. They certainly won't initiate litigation if doing so would be perceived as hostile and/or counter to public's perception of Scouting.

That said and done....

I called WalMart. Their number is 501-273-4000. I spoke with their Marketing Department and voiced my concern, asking where I could write. I was told to address my correspondence to:

Paul Higham, Vice President for Marketing
WalMart Stores, Inc.
702 Southwest Eighth Street
Bentonville, Arkansas 72716

YiS
Ryan Keil, BEAR-ly Scoutin'
ryan.keil@m.cc.utah.edu

Date: Fri, 2 Sep 1994 14:45:25 +0500
From: Bob Condon <rec@EPOCH.COM>
Subject: Scout used in ad - Contact Made

Ok Everyone, Here is your opportunity.

**If you want to state an opinion about your like/dislike
for the ad by TJ Max you can do the following:**

Send it to:

**TJ Max
P. O. Box 9123
Framingham, Massachusetts 01701
Attn: Customer Services**

I would send it attention of SUE in Customer Services.

**I spoke to Sue and she was very nice. I told her that I did not
like the ad because it did not display the proper spirit nor
would a true scout ever be involved in this type of activity.**

I also said that I will be following up with National's Legal Dept.

**She was very nice (and very nervous). She took my name and number
and said that she will pass the info on to the Advertising Dept.
immediately and they probably would call back**

**WRITE THEM OR CALL THEM (508-390-1000 ask for Customer service
(Sue))
THE TIME IS NOW.**

Can someone give me the name of someone in the Legal Dept at National?

I have never called in but would like to now...

Thanks All!

**Bob Condon Phone: (508)-836-4711 Ext 393
SM Troop 1, Acton, Ma. Fax: (508)-836-4884
rec@epoch.com**

Disclaimer: The opinions expressed here are mine alone and not those of my employer.

Date: Fri, 2 Sep 1994 22:44:05 -0400 (EDT)

From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>

Subject: Re: Scout used in ad - Contact Made

To: Bob Condon <rec@EPOCH.COM>

Bob,

As I understand it, National doesn't really have its own legal department per se. Like local Councils that have a General Counsel (an attorney who has volunteered to represent the Council) on the Executive Board, National has its volunteer General Counsel. Probably the best thing is to call the National Office and ask for that volunteer's name and number.

**Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .**

_____ mfbowman@CAP.GWU.EDU _____

From mfbowman Fri Sep 2 22:58:03 1994
Date: Fri, 2 Sep 1994 22:52:52 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@cap.gwu.edu>
Subject: Re: Benefits of Fede...

Sue,

The Chartering Act at Section 7 states:

"That said corporation" (BSA) "shall have the sole and exclusive right to have and to use, in carrying out its purposes, all emblems and badges, descriptive or designating marks, and words or phrases now or heretofore used by the Boy Scouts of America in carrying out its program, it being distinctly and definitely understood, however, that nothing in this Act shall interfere or conflict with established or vested rights."

The Act was passed in 1915 and consolidated the words and phrases used by BSA at that time under its protection. Words and phrases developed since that time have come under copyright and trademark protection.

Which is to say that it is doubtful another organization could get started with a name that could be confused with either BSA or GSA.

Yours in Scouting, Michael F. Bowman, a/k/a Professor Beaver
Deputy District Commissioner Exploring, GW Dist., NCAC, BSA
Speaking only for myself, but with Scouting Spirit . . .
_____ mfbowman@CAP.GWU.EDU _____

Date: Thu, 4 Jul 1996 17:22:05 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@CapAccess.org>
To: Steve Letnaunchyn <sletnaun@mail.bcpl.lib.md.us>
Subject: New "Dynamic Den Meetings" kit! (fwd)

Steve,

Thought you might be interested in seeing this posting. Sounds a little screwy to me that folks would be marketing Cub program material for a profit. May be something that should be looked into.

Speaking Only for Myself in the Scouting Spirit, Michael F. Bowman a/k/a Professor Beaver (WB), ASTA #2566, OA Vigil Honor '71, Eagle Scout '67, Serving as Deputy District Commissioner for Training, G.W.Dist., Nat. Capital Area Council, BSA - mfbowman@capaccess.org

----- Forwarded message -----

Date: Wed, 3 Jul 1996 12:46:30 -0400
From: Nancy Rector <Nanrector@aol.com>
To: Multiple recipients of list SCOUTS-L <SCOUTS-L@tcubvm.is.tcu.edu>
Subject: New "Dynamic Den Meetings" kit!

Looking for some fresh new ideas?

The "Dynamic Den Meetings" contains the following:

52 COMPLETE den meetings!
Over 130 5" x 8" cards!
AWSOME new crafts, songs, activities and much more!
Full of ready to duplicate charts, flyers booklets etc!
Each meeting lists requirements passed off!
New forms to keep track of your boys and meetings!

Each den meeting is completely planned out for you.
Includes step by step instructions.
Lists supplies needed for each meeting.
The one kit covers BOTH Wolf and Bear dens.

Call or E-mail for a free brochure or to order:
Send \$19.95 check or MO
(shipping and handling included)

Cub Resources
3676 W Bawden Ave
Salt Lake City UT 84120
Phone (801)969-5566
Fax (801)969-5566

From mfbowman@CapAccess.org Thu Jul 4 17:30:20 1996
Status: O
X-Status:
Date: Thu, 4 Jul 1996 17:30:19 -0400 (EDT)
From: "Michael F. Bowman" <mfbowman@CapAccess.org>
To: Jon Eidson <eidson@UNIX4.IS.TCU.EDU>
Subject: New "Dynamic Den Meetings" kit! (fwd)
Message-ID: <Pine.SUN.3.91-FP.960704172215.7095H-100000@cap1.capaccess.org>
MIME-Version: 1.0
Content-Type: TEXT/PLAIN; charset=US-ASCII

John,

The attached e-mail is a bit troublesome to me. Seems like we're getting a few folks trying to use the list to promote their own interests, e.g., Jet Setters Software, Scoutwise, Dynamic Den Meetings, etc. Anyway, in this forwarded e-mail, I was concerned that these folks might be trying to sell Scouting stuff that should be freely available as a commercial venture, not just paying for the cost of reproduction and mailing. I hope this is not a rip-off of Scouting stuff. I don't plan on saying anything on the list, but have referred the matter to a friend on the National Cub Scouting Committee for review. I wonder whether we need a message discouraging use of Scouts-L for private business ventures, commercial sales, software offers, etc. Not an easy matter. I know I like to learn about things that can help the program. But at the same time I've seen a few folks trying to take advantage for personal benefit.

Speaking Only for Myself in the Scouting Spirit, Michael F. Bowman a/k/a Professor Beaver (WB), ASTA #2566, OA Vigil Honor '71, Eagle Scout '67, Serving as Deputy District Commissioner for Training, G.W.Dist., Nat. Capital Area Council, BSA - mfbowman@capaccess.org

----- Forwarded message -----
Date: Wed, 3 Jul 1996 12:46:30 -0400
From: Nancy Rector <Nanrector@aol.com>

**To: Multiple recipients of list SCOUTS-L <SCOUTS-L@tcubvm.is.tcu.edu>
Subject: New "Dynamic Den Meetings" kit!**

Looking for some fresh new ideas?

The "Dynamic Den Meetings" contains the following:

**52 COMPLETE den meetings!
Over 130 5" x 8" cards!
AWSOME new crafts, songs, activities and much more!
Full of ready to duplicate charts, flyers booklets etc!
Each meeting lists requirements passed off!
New forms to keep track of your boys and meetings!**

**Each den meeting is completely planned out for you.
Includes step by step instructions.
Lists supplies needed for each meeting.
The one kit covers BOTH Wolf and Bear dens.**

**Call or E-mail for a free brochure or to order:
Send \$19.95 check or MO
(shipping and handling included)**

**Cub Resources
3676 W Bawden Ave
Salt Lake City UT 84120
Phone (801)969-5566
Fax (801)969-5566**

**From mfbowman@CapAccess.org Sun Dec 8 12:57:49 1996
Date: Sun, 8 Dec 1996 12:57:48 -0500 (EST)
From: "Michael F. Bowman" <mfbowman@CapAccess.org>
To: Doug Roach <djroach@IX.NETCOM.COM>
cc: Multiple recipients of list SCOUTS-L <SCOUTS-L@TCUBVM.IS.TCU.EDU>
Subject: Re: Salvation Army
In-Reply-To: <32A77B21.29A5@ix.netcom.com>
Message-ID: <Pine.SUN.3.91-FP.961208123912.13034B-
100000@cap1.capaccess.org>
MIME-Version: 1.0
Content-Type: TEXT/PLAIN; charset=US-ASCII
Status: RO
X-Status:**

Doug,

Your instinct that Scouts should be taught to be civic minded is right on target, though I would disagree with some of your thoughts on just what is allowed. You may well feel that someone is scrooge-minded not to allow Scouts to participate as bell-ringers for the Salvation Army, but please remember that it is not always up to individual leaders to determine when and where it is proper to wear a Scout uniform. This is determined by Article X of the Rules and Regulations of the Boy Scouts of America at Section 4, Clause 6, which states "The official uniforms are intended primarily for use in connections with Scouting activities as defined by the national Executive Board, and their use may be approved by the local council executive board for council events or activities under conditions consistent with the Rules and Regulations of the Boy Scouts of America." Those same rules at Article IX at Section 2, Clause 1, state that "With the consent of the local council, members of the Boy Scouts of America may cooperate with established non-partisan and nonsectarian national movements for the relief of humanity in undertakings to raise money or by giving personal service, provided, however, that this shall not involve the use of BSA youth members as collectors or solicitors of money."

What this means is that you and other adult leaders can ring the bell to your heart's desire, but that youth members cannot take part in the fundraising. They can, however, help set up bell-ringing stations, help transport the kettles to locations where fundraising takes place, and help in any other way that does not involve direct solicitation of funds. Similarly, other Scouts can help their sponsoring organizations with fundraising with the same restrictions. For example, a Troop can help unload Christmas trees and set up a sales lot for the local Methodist Men's organization. They can serve hot cocoa to visitors. They can help clean up the lot. They just can't sell the trees or ask for donations.

You may well have strong feelings on a personal level about all of this, but you also need to help the young men in your charge to understand that citizenship (one of the aims of Scouting) is more than selectively obeying the rules, even ones you don't care for. If you don't like the rules or think they need to be changed, work for change and make suggestions through your Scout Executive to the National Office. In the meantime set the example as a leader by following BSA's rules - your boys will respect this a lot more than if you make personal statements about what is right to you and how the rules don't make sense. Right now in

their developmental process they tend to get more than a little confused when they hear about rules and then hear adults explain why they don't apply. :-)

**Speaking only for myself in the Scouting Spirit, Michael F. Bowman
Dep.Dist.Commissioner-Training, G.W.Dist., NCAC, BSA (Virginia)
U. S. Scouting Service Project FTP Site Administrator (PC Area)
ftp1 or ftp2.scouters.com/usscouts E-mail: mfbowman@capaccess.org**