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Legal Services In A Charity Auction

Can anybody here see any problems with offering say 1-2 hours of free legal consultation in a charity auction? Has anybody here ever done such a thing?

I'd be curious if people have any thoughts about it.

Several years ago, the environmental organization I chaired held its annual fundraising auction on Valentine's Day. A lawyer friend of mine donated an uncontested divorce. We put it in the silent auction part of the program, but promoted it during the live auction, getting a lot of mileage out of the divorce-package-offered-on-Valentine's Day aspect. We were primarily trying to make sure people checked out all of the silent auction items. But we did manage to auction off the divorce, too.

Nice thing about a divorce or will is that conflicts of interest are pretty unlikely. But as long as you put in warnings that the legal services are subject to an initial conflicts of interest check, you should be OK. (And even if you have a conflict for the particular service, the person can probably use the consultation in another manner.)

Andy Simpson, Christiansted, St. Croix, U.S. Virgin Islands

I've done something similar to that, although not exactly the same thing. I have offered a "free will" in that kind of auction. I would be concerned about the notion of a free legal consultation, as the scope of the advice could be outside my expertise, and as there could be issues regarding conflicts. The "charity auction" arrangement doesn't deal adequately with questions of conflict and the normal screening I would do before taking on any work.

Bill (William H. Pope)

I think the nature of the way this auction would work, the consultation would be on topics I do know something about. But the conflict point has already occurred to me. It's also my sense that my consultation would be part of a larger package that would be bid on.

Jake London

I would be concerned about conflicts of interest. You might find yourself in the position of sending away the highest bidder because a conflict precludes you from hearing what s/he has to say. Along the same lines, though probably less likely, someone might bid high and meet with you to conflict you out of something in the future.



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I'd also be very careful about explaining that the consultation does not create an attorney/client relationship. You are there to provide general advice on general (or specific) topics, but you will not represent/speak to others on bidder's behalf/be the attorney for bidder unless an engagement letter is signed and retainer is received.

John Yoak

No problem as long as you don't try to deduct your time as a charitable contribution (personal services are not deductible).

Lisa Runquist, California

I, too, gave a certificate to a charitable (school) auction for a durable general poa, durable health care poa and living will and made sure to put a one year limit deadline on the certificate. The year has passed and it has not been redeemed. But, due to Katrina, I'm giving the "winner" a little more time to decide whether she wants to use it.

I would not agree that a Will is not likely to create a conflict of interest. I sometimes write simple wills for a husband and wife and there is an inherent conflict of interest that my clients are required to waive. The real problem comes when one of them wants to change his or her will and not tell the other. The rule is, if they both come to me to write the will, I will not revise it without the other knowing about the revisions.

Mark E. Peneguy, New Orleans, Louisiana

I have done this periodically and have revised my practice with experience. I now donate a Certificate for a specific thing, usually Durable Power of Attorney, Advance Healthcare Directive and HIPAA release. I assign a specific dollar value on the certificate and have a reserved bid, guaranteeing that the Charity receives a certain minimum and the recipient values the service offered. If the minimum bid isn't achieved, I donate that amount. I also put an expiration date on the certificate, usually 1 year.

I have found this works well. I used to give a certificate for a Will, or a Simple Will, but if the client needs more i felt like it was bait and switch to start advising more than what was covered by the purchased item. Wills have too many variables. But in my view the DPOA and Health Care documents are part of a good estate plan and I do charge a flat fee for them. Also, it gets clients into the office so you can talk about what they might need for wills or trusts or whatever, without feeling like you lured them in and are now trying to sell more.

I use the minimum bid because once there was a badly attended auction, where one of my certificates which I valued at \$150, was purchased for \$15. The purchaser didn't seem all that interested and I would rather donate more myself than waste my time doing the work for such a little donation. (I had the group buy back the certificate and then I donated my

now minimum bid price.) Also, after having some certificates outstanding for several years and losing track of them, and having modified my rates in the mean time, I have now put an expiration date on them.

I see it as a great way to help organizations, get your name out in the community and get some clients into the office to discuss not only what you donated, but to see what other needs they might have that you can address.

Michael D. Caccavo, Barre, Vermont

Check the archives. I seem to recall a discussion of the tax consequences (no deduct; no income) and the prof liability issues among others.

Pat Crotty, Oak Brook, Illinois

Indiana State Bar Ethics Committee ruled it improper recently.

Ted A. Waggoner, Rochester, Indiana

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