

Helping Big Businesses Give Away Big Bucks

WESTPORT ATTORNEY FACILITATES DEALS BETWEEN CORPORATIONS AND CHARITIES

By CHRISTIAN NOLAN
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Robert Laplaca

So you walk into a Starbucks and see details of a promotion that says for every cup of coffee you purchase, the chain will donate five cents to a particular charity. Or maybe you go in the grocery store and see signs for Huggies that says your purchase will lead to free diapers being sent to military families.

These charitable endeavors — called commercial co-ventures — have become big business. They tend to draw in consumers while branding a for-profit company as also having a good heart.

However, this marketing tool — which dates to 1983 when American Express donated one cent of every transaction to Statue of Liberty restorations — is not as simple as it sounds and is fairly well-regulated. And where there are such compliance issues, there are lawyers.

That's where Robert Laplaca, of Levett Rockwood in Westport, comes in. In addition to a busy business litigation practice, Laplaca has carved out a niche for himself as the firm's go-to-guy for charitable marketing campaigns.

"Essentially, a commercial co-venture is where a company such as Starbucks says to the public buy this type of coffee and we will donate 50 cents to the American Cancer Society," said Laplaca. "It's really just a matter of trying to get the public to buy your product because it looks like you're doing a good thing. You see this all over the place nowadays."

Laplaca said about 30 states, including Connecticut, have regulations for how commercial co-ventures operate. Though the laws are generally consistent from state to state, Laplaca said lawyers need to be familiar with any subtle differences, since most commercial co-ventures are launched by large corporations that do business nationwide.

"States that have laws have specifics about written disclosures that need to be on the product," explained Laplaca. "You have to say either the exact dollar amount or exact percentage of the purchase price that's going to charity. You can't just say buy coffee and we'll give money to charity. [Regulations] generally require you to say, buy this cup of coffee and we'll give 2 percent, 25 percent..."

The rules don't stop there. Laplaca explains to commercial co-venture clients that they must commit to a certain range of dollars they will give to the charity. That amount is written into the contract between the donating corporation and the charities, which want to know ahead of time how much they're likely to reap.

For example, say five cents from every Starbucks coffee purchase goes to the American Cancer Society, up to \$1 million. Once that \$1 million is reached, the business immediately needs to tell the public, so coffee purchases aren't made with a charitable donation in mind. If such a step isn't taken, regulators view the practice as deceptive.

Further, Laplaca said, businesses need to be smart about their product stock. They don't want to advertise their charitable ties on, for instance, soda cans that represent three months of sales and then reach the maximum donation figure within a month, leaving surplus stock that needs to be removed from store shelves.

'Under The Lid'

Though it's rare for a company to get in trouble during a commercial co-venture, Yoplait Yogurt managed to do so.

Yoplait had what's called an "under the lid" promotion, where the consumer removes the yogurt container lid and mails it in to the company, which in turn makes a donation for each lid received. Laplaca said the maximum donation amount was disclosed under the lid, so the consumer was unaware of the total until after the purchase was made. Laplaca said such information should have been mentioned on the outside of the container.

"The vast majority of companies involved in commercial co-ventures are doing these things for legitimate reasons and trying to be fair with their disclosures to the public and are legitimately making the donations," said Laplaca. "The whole purpose of this is to make the consumer think you're a good charitable company. If [the public] finds out you're doing something wrong, you're in much worse shape than if you did nothing at all."

Laplaca explained that his firm began representing the Marketing Corporation of America 30 years ago. At that time, the company was big in promotions and handled a lot of mail promotions and sweepstakes for businesses. Levett Rockwood soon learned the regulations in all 50 states for such promotions.

Over the years, one lawyer at the firm would handle such work, and that torch has been passed along to Laplaca, who came to the firm a dozen years ago after working in New York City as a business litigator.

Compared to litigating hotly contested business disputes, Laplaca said this area of law is a nice diversion for him. "It's interesting and fun because they are programs you usually feel good about," said Laplaca. "When Huggies gives diapers to troops, it's nice to be a part of that."

Laplaca said it's also a nice way to explain to his small children what he does for a living. If he hears a disclaimer in a television commercial about a charitable promotion, or sees the fine print on the back of a cereal box, he can show them and say, "Hey I wrote that."•