



OFFICE OF THE
CHAIRWOMAN

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20850

May 16, 2016

The Honorable Marsha Blackburn
Vice Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

Dear Vice Chairman Blackburn:

Thank you for your letter of April 12, 2016 regarding the Clinton Foundation, a non-profit corporation that the IRS lists as a public charity pursuant to Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3). You expressed concern that a media report stated that the Foundation spends only 15% of revenues on "direct program expenditures." You also raised issues about the Foundation's operational transparency, and questioned the Foundation's legitimacy given media reports of an FBI investigation into possible violations of public corruption laws.

As you know, the Federal Trade Commission has been directed by Congress to act to prevent persons, partnerships, or corporations from engaging in unfair or deceptive acts or practices in or affecting commerce pursuant to the Federal Trade Commission Act. Although any particular case would require a fact-specific analysis, the Commission generally lacks jurisdiction over non-profit entities. 15 U.S.C. § 44. In particular, the Supreme Court has held that spending only a low percentage of donations for charitable purposes, without more, does not establish fraud. *See, e.g., Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620 (1980).

When the Commission can establish that an entity claiming to be a charity is in fact operating to profit itself or its members, *i.e.*, is a "sham charity," the Commission can bring an enforcement action against the entity for making deceptive representations to donors. As you noted, the Commission has acted against sham charities in such egregious cases. *See, e.g., FTC, All Fifty States and D.C. v. Cancer Fund of America, et al*, Civ No. 2:15-cv-00884 (D. Ariz., complaint filed May 18, 2015).

Thank you again for bringing your concerns to the FTC's attention. If you should have any questions or concerns or wish to provide additional information, please feel free to contact me or have your staff contact Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2946.

Sincerely,

Edith Ramirez
Chairwoman