

Charities in the Courtroom, Pt. 14: Donor Advised Fund

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A hot topic these days is donor advised funds.

They are wildly popular as an alternative for wealthy individuals to bypass the disadvantages of setting up and maintaining a family foundation. One of the leading commercial DAF funds – The Fidelity Investments Charitable Gift Fund – is now [the largest charitable fund in the United States](#), topping such giants as the United Way, the American Red Cross, and The Salvation Army.

They are also newsworthy because philanthropy leaders, as well as academic and legal experts, are souring somewhat on the donor-advised fund vehicle. The main objection: They are tying up vast pots of charitable funds without having to pay out enough currently. We discussed these issues recently in [Donor-Advised Funds: New Criticisms](#)

Sidestepping these more global concerns, one donor-advised fund, in particular, has grabbed some headlines recently – for all the wrong reasons.

Donor Advised Fund Sued

The Community Foundation of the National Capital Region (CFNCR) sponsors some 700 donor-advised funds within its umbrella.

One of these DAFs is CharityWorks, which has “attracted [some of the city’s most generous philanthropists](#).” But here’s the rub: CharityWorks operates differently than the usual donor-advised fund which relies on its founder’s money. CharityWorks, instead, operates “[like a typical nonprofit organization](#) – soliciting donations, hosting fundraisers, distributing money.”

The first hint of serious trouble arose in September 2016 when the Washington Post reported that CharityWorks “had [failed to deliver grants to local nonprofits](#) after it threw a fundraiser to benefit them.”

Actually, The Community Foundation has a role in this drama: It pays all the bills “for CharityWorks’ extravagant events, which cost close to \$1 million annually,” and – supposedly – writes checks to the designated recipients of the CharityWorks DAF.

So where is that money? Both CharityWorks and the Community Foundation are deflecting questions and concerns.

Leah Gansler is the founder (and fund adviser) of CharityWorks. She has access to the records of CharityWorks – the only person aside from the Community Foundation staff. She has asserted that she has controlled all the finances for CharityWorks, notwithstanding the Community Foundation’s role. “Gansler says that she has no concerns about the lack of transparency.”

Now, many months later, in late June 2017, a whistleblower has stepped forward and filed suit.

Plaintiff Adrienne Brown worked at the Community Foundation for more than a decade as an accountant. She alleges she was fired from the Community Foundation after – and because – she tried to report irregularities about the CharityWorks fund.

“In a statement, Bruce McNamer, president of the Foundation, said, ‘This lawsuit is an effort to create smoke where there’s no fire. Most of the issues described happened a long time ago and are mostly minor recordkeeping processes framed and conflated to make it look like something nefarious was going on when it wasn’t.’”

He notes, however, that CharityWorks is “no longer hosting galas” and that the CFNCR is “...working closely with the team at CharityWorks, which continues to raise funds to pay off their charitable commitments – all without big events.”

There are two key structural issues that create the opportunity for lack of accountability. First, “[t]he problem is that the information about fundraising cost vs. benefit is shielded in contrast to other free-standing nonprofits, so no one is really able to scrutinize that information.” Second, the CFNCR, as a community foundation, “is not required to publicly disclose the expenses or grants of individual funds.”

Conclusion

More information will emerge, not because of the federal tax laws that facilitate donor-advised funds, but because of news reports relaying concerns of disappointed charitable recipients, and the lawsuit by the accountant-whistleblower.

Due to the general lack of transparency in the donor-advised fund models, it’s unknown how many other DAFs are operating like public charities while retaining the cloud of secrecy afforded as a DAF.