

Charities in the Courtroom 12: A Donation with Baggage

07.14.17 | Linda J. Rosenthal, JD



More than once we've discussed "problem donations" and "tainted donors."

With a "problem donation," the gift itself – (often an in-kind donation) – is gratefully accepted but turns out to be much more trouble than it's worth. See, for instance, [*Who Would Run Away From a Big Charitable Gift? You Should . . . Sometimes.*](#) The "tainted donor" situation is where the gift is wonderful – generally, an enormous wad of cash – but the donor is unmasked as an unsavory character.

See, also, for example, [*How a Huge Donation Can Turn Into Bad News*](#), (June 1, 2014) *FPLG Blog* and [*What Happens When a Charitable Gift Begins to Smell?*](#) (April 2, 2014) *FPLG Blog*.

Here, in each case, there's a twist: An apparently reputable donor gives a large gift of cash; the complication being that a third party has crashed the party, claiming that the donor didn't have the right to give the money away. The "lucky" charitable donee is now in the middle of a gigantic tug-of-war.

Problem Donation for Massachusetts College

[Worcester Polytechnic Institute \(WPI\)](#) is a private university in Massachusetts that focuses on instruction and research of technical arts and applied sciences.

In 2014, WPI was thrilled to receive the largest donation in its history: \$40 million from one Robert Foisie. This donor was an engineer who had founded wildly successful businesses: a Connecticut company specializing in paper-processing machinery and a Swiss firm that manufactured packaging machines. As a result of Foisie's [staggeringly generous gift](#), WPI named a building on campus for him. The name: The Foisie Innovation Studio.

Everyone was happy.

Everyone, that is, except the former Mrs. Foisie. She now claims that \$4.5 million of the gift had “technically belonged to her.” She alleges that, during their divorce proceedings in 2011, Robert hid money in overseas accounts to which she did not have access. In her complaint filed in federal court, Janet Foisie asserts that Robert transferred money from a Swiss account to WPI for the \$40-million donation. She argues her husband’s transfer of the money to WPI constituted an effort to defraud her, like a person laundering the proceeds of a criminal enterprise to avoid detection.

Worcester Polytechnic “was largely able to steer clear of the drama by acknowledging both Robert and Janet Foisie as donors.” But the story has taken a bizarre turn: Shocking allegations have been brought against Robert, most recently that he hired a hit man to kill his own son. The FBI is investigating the father/donor for wire fraud. Although these allegations have not been substantiated, the very public nature of the scandal hangs a cloud over those affiliated with Robert Foisie, particularly WPI, where Foisie’s name was celebrated as the largest donor to the institute.

Harvard Dragged Into Donation Controversy

Harvard University is in the midst of a similar situation

But unlike Worcester Polytechnic (at least so far), Harvard has been formally thrown into the middle of litigation. In early March 2017, a federal judge ordered the prestigious institution to produce any financial information it has on one Charles C. Spackman, a rich entrepreneur who has made several donations to the university.

Spackman is not simply a graduate; he is also prominent in Harvard circles as a co-chairman of reunion gifts for his class, as a sponsor of a scholarship fund for Asian students, and as a leader of the Harvard-Asia Scholarship Council.

The lawsuit in question was filed by an investor named Sang Cheoi Woo who seeks to collect a judgment against Spackman. He alleges that Spackman “diverted funds to Harvard when he should have been paying his judgment”; that is, the donor had made a fraudulent transfer. The judge ordered Harvard to turn over “all bank accounts, routing numbers, wire transfers, and other interbank messages Spackman used to send the money.”

This ruling may have “implications for the money already received by Harvard from Spackman.” At this time, the defrauded investor has no plans to sue Harvard directly for a return of the allegedly diverted money.

Conclusion

As events play out, we’ll see if – and to what extent – either WPI or Harvard are enmeshed further into the web of their donors’ scandals.

— Linda J. Rosenthal, J.D., FPLG Information & Research Director