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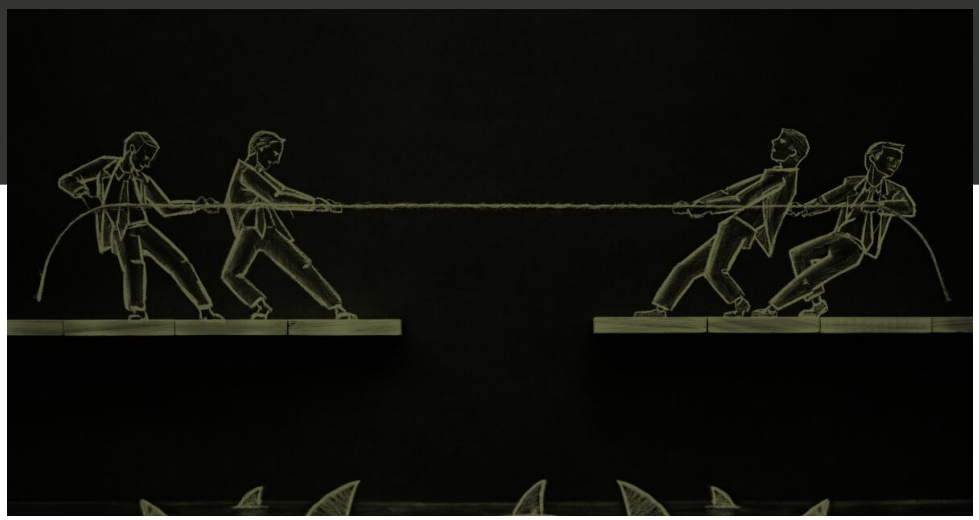
Charity Conflicts, Self-Interest, and More

11.05.19 | Linda J. Rosenthal, JD



Along with the hordes of ghosts and goblins roaming the American landscape on Halloween were altogether too many nonprofit organizations and leaders out in plain sight committing brazen acts of chicanery and impropriety.

It's probably no coincidence, then, that the folks at *The Nonprofit Quarterly* chose October 31st to launch its new Fall 2019 series on conflicts of interest and self-interest in the nonprofit sector.

Self-Interest in Charities: Good and Bad

In an introductory post, *Exploring the Problems and Benefits of Self-Interest in Nonprofits* (October 31, 2019), the NPQ editors ask and answer their own question; that is, why this prestigious publication would – right now – "prepare a special focus on self-interest both well and badly used in nonprofits."

First, they explain that "the opportunity to stray into dangerous territory in nonprofit life is omnipresent…." Some instances of bad behavior involve "… the obvious types of conflicts" but "many are more subtle," so a refresher course for all of us is in order.

Second, it's "because the topic of conflicts of interest has presented itself so often recently in investigations of large, well-known nonprofits, imbuing the sector with reasons for the public to be skeptical about its intentions." In this regard, NPQ points to "some high-profile stories" these days "about conflicts of interest among board and staff leaders" including a "…bird's eye view of the various ways in which executives and board members at the NRA have improperly profited from their leadership positions."

Of course, the National Rifle Association – a 501(c)(4) organization with four affiliated charities and a related political action committee – is just one of a number of headline-making spectacles in the last several months. But its shenanigans have been so "in-your-face" and outrageous that it's hard to look away. Indeed, the NPQ editors note that "the defense posed in even the most egregious of cases was a kind of wide-eyed wonder at the fact that anyone would think such behavior was out of line."

The Self-Interest Series

The Nonprofit Quarterly series begins with the relatively brief overview published last week along with the first article in the series by Professor David O. Renz titled *Charity Conflicts: A Guide*. Coming up within the first two weeks of November will be two more articles.

The first is by Vernetta Walker, president and CEO of Walker & Associates Consulting as well as senior advisor on diversity, inclusion, and equity (DI&E) at BoardSource. She is well-versed in the topic of conversation, and "…knows nonprofit boards like the back of her hand." Her article will include an "astute and practical examination of why recusals and disclosures are inadequate to the problem."

The Renz and Walker pieces will be followed by *NPQ*'s editor-in-chief, Ruth McCambridge, writing about "the role self-interest plays in nonprofit life in—as Minnesota Council of Nonprofits' Jon Pratt calls it—'the nonprofit wing of the nonprofit sector.'"

There are two key points to bear in mind right off the bat about this important series. First, the introductory article is titled "… *Self-Interest in Nonprofits*"; there's no mention, in the title at least, of "conflicts of interest" or the terms "self-dealing" or "private benefit" or "inurement." The emphasis is on the "problems and benefits of self-interest." Second, a recommendation by the NPQ editors in this overview appears to be just slightly at odds with an emphatic point made by Professor Renz in his outstanding treatise.

Acceptable Self-Interest: Views

The *NPQ* editors note that the ever-present "opportunity to stray into dangerous territory" is a risk that "requires … strong ethical practices and protocols to identify and avoid problematic situations." That's why they explain, it's a "slippery slope" and they "… have always suggested it is just better to steer clear of '…conflicts of interest…' altogether."

On the other hand, a key argument of Professor Renz is that "…conflicts of interest abound in our sector, and they arise for logical and even beneficial reasons." A problem is the lack of a nuanced approach to assess them from a "risk and reward perspective." Some are "worth navigating …." This point, though, is just the tip of the iceberg in this must-read article. In a separate post, we'll explore his *Charity Conflicts: A Guide* as well as the soon-to-be-published third and fourth articles in *NPQ's* timely series.

Conclusion

There's also a strong possibility that we'll post a bit more in a later post or two about the remarkable, self-inflicted, carnage at the National Rifle

Association – in case you managed to miss the glorious parade of misbehavior that was first widely exposed in the blockbuster Secrecy, Self-Dealing, and Greed at the NRA (April 17, 2019) [Former IRS exempt organizations director Marcus Owens: "The litany of red flags is just extraordinary."]
Other tantalizing articles followed including – just to name a few: WTF Is Up With the NRA, Explained (May 3, 2019); NRA Legal Bills Raise 'All Sorts of Red Flags' (May 14, 2019) [Stanford Law School legal ethics expert: "One hundred thousand dollars a day (in legal fees to a related law firm)? That's just off the charts."] NRA money flowed to board members amid allegedly lavish spending by top officials and vendors (June 9, 2019) [Noted D.C. exempt organizations attorney: "In 25 years of working in this field, I have never seen a pattern like this …. The volume of transactions with insiders and affiliates of insiders is really astonishing."]