NONPROFITS: GENERAL INFORMATION

# Post-Scandal Update for Local Nonprofit

05.24.22 | Linda J. Rosenthal, JD

In early May 2021, the San Diego nonprofit community was rocked by disturbing allegations about one of the region's prominent social-services agencies.

Over the course of the next few weeks, Volunteers of America Southwest imploded under the weight of troubling headlines about serious financial wrongdoing. Government audit reports had "uncovered sweeping deficiencies and improprieties, including lax internal controls, unsubstantiated travel and hotel stays, overbilling for routine supplies and a host of other questionable practices ...."

By the end of May, the long-time CEO was gone – along with each and every member of the board of directors. Lucrative public contracts were halted on top of demands for repayment of millions in grant dollars. And there were reports of a referral to the county district attorney.

Not long after, we featured these startling developments. See *Social-Services Nonprofit: Pervasive Fraud Alleged* (August 4, 2021). There we noted the invaluable investigative reporting of Will Huntsberry of local nonprofit *Voice of San Diego*, as well as the contributions of Jeff McDonald of the *San Diego Union-Tribune*.

These journalists encountered significant investigative obstacles. Public officials were not permitted to reveal much about open investigations. And personnel of both Volunteers of America Southwest (current or former) and the parent organization, Virginia-headquartered Volunteers of America, were not saying much either.

The situation – at the end of May 2021 – could fairly be described as uncertain and fluid.

Now – a year later – it's much the same. That's according to the newest reporting by Voice of San Diego's Will Huntsberry. See *Volunteers of America Southwest Under Investigation by Office of*

*Inspector General* (*May 18, 2022*).

His recent sleuthing efforts were largely stymied by obfuscation or silence from organization officials. That's on top of lingering confusion about whether the local affiliate is operating independently or has been "subsumed" by the national organization.

Nevertheless, Mr. Huntsberry has been able to pry loose one significant government update: a confirmation by Veterans Administration officials that "there is an active criminal review on this matter…."

### *Rough Waters*

Navigating through and beyond a corporate scandal is tricky; there are few definitive guidelines or formulas.

While businesses have a tough time recovering from bad press, it's much harder for nonprofit organizations. It's clear that "[n]onprofit organizations (NPOs) are held to higher moral standards…" than other sectors of society and the economy. "The public has entrusted these special types of organizations with a mandate to 'do good and do it well.'"

And there are repercussions beyond the reputation and viability of the particular organization in the hot seat. Allegations of wrongdoing in the nonprofit sector create a ripple effect of harm. "Experience confirms that scandal at individual charities can have deleterious effects on sector-wide trust."

According to a just-released study by Independent Sector, public confidence in all institutions of society is slipping. That trend includes the general attitude towards nonprofits and philanthropy. "Public trust is the currency of the nonprofit sector. The public's belief that nonprofits will 'do the right thing' is one of the central reasons the sector exists."

Regardless of any culpability for, or negligence in connection with, the underlying wrongdoing that has just splashed across the headlines, how the board and senior management handle the situation going forward matters a great deal. At a minimum, it requires reasonable disclosure and transparency.

Sadly, it appears that's been missing in this case: from the time the scandal first broke in the local press in May 2021 through the present.

### *The Players*

Volunteers of America, headquartered on the East Coast, was established in 1896 as a faith-based ministry to help the nation's most vulnerable populations. "VOA has become one of the nation's largest and most comprehensive human services organizations…." It "operate[s] 30 affiliates in 46 states, the District of Columbia and Puerto Rico."

San Diego-based Volunteers of America Southwest was established over forty years ago as the Southern California (south of Los Angeles) branch. Under the long-time and high-profile leadership of (now former) CEO and president, Gerald F. McFadden, this affiliate grew and prospered.

By early 2021, Volunteers of America Southwest had become "one of San Diego's largest charities serving marginalized populations," running "several treatment centers for those struggling with mental illness and addiction, as well veterans and those experiencing homelessness." Its average annual revenue was at least $20 million a year, mostly from federal and local grants.

### *The Alleged Wrongdoing*

Sometimes, an organization's leadership can be blindsided by bad news suddenly splashed across the headlines.

But that's *not* what happened here. See –

- *Volunteers of America Southwest Accused of Double-Billing, Fraud and Conflicts* (May 4, 2021) Will Huntsberry, *Voice of San Diego*
- *San Diego County demands $6.5 million repayment from local Volunteers of America charity* (May 5, 2021) Jeff McDonald, *San Diego Union-Tribune*

These news articles describe two distinct lines of alleged financial irregularities and wrongdoing.

The first is a depressingly familiar tale of garden-variety embezzlement. A few years ago, a new chief financial officer hired two of her relatives and plunked them down in the finance department. Shortly after, they created new corporations that falsely billed for products and services never received or used.

This was not news to the organization's leadership in early May 2021. Two accounting-office employees had long before discovered these irregularities. When they informed the CEO, he told them not to worry about it. But their core finance-office duties and access to evidence disappeared. Eventually each was let go. One filed a whistleblower lawsuit. As for the chief financial officer and her family members, they have been gone for some time.

The second saga of financial shenanigans involved the mishandling of several government contracts for social services to Southern California's disadvantaged communities. As early as 2018, County of San Diego auditors noticed discrepancies and began an audit. Among the irregularities they sniffed out was evidence of double- or even triple-billing; that is, charging multiple funders for the same item of service for a particular client.

That investigation continued into 2019 and 2020 and broadened to cover more years and a much wider pattern of apparent wrongdoing. County auditors issued a number of reports with detailed findings and demands for reimbursement and correction of practices.

The national Volunteers of America office was reportedly well aware of these problems. By the time Will Huntsberry's first story was about to go to press, the County had canceled these lucrative contracts that had been an important part of VOA Southwest's revenue stream.

### *More Fallout*

There's an interesting twist to this story. Officials at the Veterans Administration – another major funder – were unaware of the problems the organization had with the County of San Diego contracts or about the CFO-and-family embezzlement scheme (and cover-up).

That's until they read about it in their local newspapers over morning coffee or were startled by their daily online scrolling. See —

- *VA Pulls Funding From Volunteers of America Southwest in Wake of Fraud Allegations* (May 24, 2021) Will Huntsberry, *Voice of San Diego*

"Leaders of Volunteers of America Southwest," Mr. Huntsberry explains, "did not inform VA officials about the [San Diego County] audit, or about a lawsuit filed by one of the employees who alerted company officials about potential fraud.*** Both were violations of its contract, VA officials said."

Promptly, officials at the VA invoked these fine-print contract obligations of full disclosure and financial propriety to suspend its own project grants with VOA Southwest. The May 12, 2021, letter to CEO Gerald McFadden is quite a read!

It also should serve as a cautionary tale to all government grantees to read the fine print.

There was additional rapid-fire fallout for Volunteers of America Southwest. The two final headlines succinctly capture the gist of these big troubles:

- *CEO and Board Are Out at Volunteers of America Southwest* (May 26, 2021) Will Huntsberry, *Voice of San Diego*
- *National office takes over local Volunteers of America chapter in wake of audit* (May 31, 2021), Jeff McDonald, *San Diego Union-Tribune*.

### *"No Comment"*

In the May 4th article, the first in this series, Will Huntsberry reported that "Volunteers of America Southwest acknowledged some, but not all, of the double-billing to county auditors," Similarly, on May 5th Jeffrey McDonald told readers that "Volunteers of America Southwest … issued a statement … acknowledging that past accounting practices fell below accepted standards and that corrective actions had been taken."

Otherwise, there was little information forthcoming to the press and the public. The five news articles describe some of these unsuccessful interactions. Adopting mostly a pattern of dodging and weaving throughout the month of May 2021, organization officials effectively said little more than "no comment."

This is in sharp contrast to the information well-known at that time *within* the organization of past problems and future plans to restore the tarnished reputation. For example, there's an internal email dated May 14, 2021, to "Volunteers of America Southwest Family," from (by then former) board chair Philip Curtis.

Mr. Curtis opened this communication acknowledging that "[y]ou are all aware of the turbulent situation we have been going through…." He continued with significant details, all of which were being held close to the vest by VOA representatives as they evaded the press.

### *One Year Later*

Not for lack of trying, Will Huntsberry was unable – at the one-year mark after the cut-off of key revenue sources and the major management upheaval – to uncover much information at all about Volunteers of America Southwest. See –

- *Volunteers of America Southwest Under Investigation by Office of Inspector General* (*May 18, 2022*), Will Huntsberry, *Voice of San Diego*

The key tidbit of news he reported was: "Volunteers of America Southwest, a prominent San Diego charity dedicated to helping vulnerable people, is under criminal investigation by the [Veterans Administration] Office of the Inspector General,…. The investigation follows allegations that the charity's managers engaged in mismanagement, misuse of public funds, conflicts of interest and potential fraud, revealed by Voice of San Diego last year."

Because this probe is active, that's the full extent of available detail from sources at the Veterans Administration.

As for the organization itself, "Vicki Bendure, a spokeswoman for Volunteers of America responded in a text message: 'VOASW has been cooperating and all parties are working diligently to resolve this.'"

Otherwise, "[o]fficials for the charity did not respond to questions about the current breadth of their operation and how much funding they lost after the alleged fraud was exposed."

Mr. Huntsberry's request to speak directly with the "new CEO," Barbara Banaszynki, was also thwarted. He "wanted to ask Banaszynki, about the state of the organization today and how it is serving San Diego's most vulnerable citizens." But "Bendure did not make her available."

Ms. Banaszynki had been described as "a woman who was sent from the corporate office to take over last year's debacle." Actually, though, she is a senior vice president of the national organization, and came on board a year ago as the "acting CEO."

Employees of the local affiliate had been told last May that she "… spent a great deal of time at the affiliate [the preceding November and December] and is very familiar with our funding sources, plans to rebuild and repair, and has worked with many of you…." It was in October 2020 that the County of San Diego's official audit findings had been released, resulting in cancellation of contracts and other serious repercussions.

## *New Website*

Volunteers of America now has a freshly designed website up and running. While it's impressive visually, there are certain … oddities.

First, beyond the considerable text and appealing graphics, it's hard to pin down the concrete details that Mr. Huntsberry set out to learn: that is, information about current operations, funding, and governance.

Second, ousted CEO Gerald McFadden is still "there" in video clips including in an introductory segment. He's also splashed over a number of entries in the "news updates" section, although

these TV interviews and other appearances are several years old.

A website section for “news” that has nothing other than stale items from as far back as 2017 is not only confusing; it’s misleading. There’s a widely accepted legal principle principle that most law students learn in first-year torts. While there isn’t always an affirmative duty to reveal information, if you choose to open your mouth on a particular topic, then you have to tell the whole story.

### *Conclusion*

How this situation has played out from the earliest shocking headlines through to the present is hardly a model for post-scandal rehabilitation of a nonprofit organization. While there’s no definitive blueprint for navigating turmoil and bad press, a “no comment” policy rarely works out well.

It also fails to meet acceptable standards of disclosure and transparency. That harms the organization itself and the nonprofit sector as a whole.

*– Linda J. Rosenthal, J.D., FPLG Information & Research Director*