

Who "Owns" Tipitina's Foundation?

07.30.19 | Linda J. Rosenthal, JD



In August 2018, The Nonprofit Quarterly ran a story titled [Who 'Owns' Your Nonprofit?](#)

It's not a new article. Written 15 years earlier, it "remains" so much "a classic" that the editors know it's a good idea to keep posting it from time to time because too many nonprofit boards keep getting the answer wrong.

To be clear right out of the gate, the ownership issue for a nonprofit, 501(c)(3) organization is entirely different than for a profit-making corporation. In the business setting, a corporation is owned by the shareholders, and the board members owe exclusive duties to these owners.

In the nonprofit world, there is what sometimes has been described as "dual ownership." Nonprofit boards have –

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*“a legal responsibility to **discharge a public benefit purpose** and an ethical obligation to meet the expectations of those on whose behalf the organization exists. This means that nonprofit boards are accountable to both a legal ownership and an ethical, or moral ownership. By law nonprofit ownership is vested the community, which has granted it certain exemptions and entrusted it with scarce resources to serve a particular social need.”*

Nonprofit boards may feel pulled in many directions or otherwise accountable to **“multiple stakeholder groups who place competing demands** on organizational operations,” but the bottom

line is that “moral ownership must be fundamentally linked to the basic purpose for which the organization exists.”

Neither a founder nor a sole or major funder of a nonprofit is the “owner” of the corporation. The 501(c)(3) may not be used for the personal financial or other purposes of any such individual. That concept is simple and clear but – judging from headlines around the nation including from the highest corridors of power – that concept has apparently not yet been understood or acknowledged.

A Too Familiar Tale

One such example is from Louisiana, involving: (1) a real estate mogul and businessman named Roland Von Kurnatowski; (2) a famous New Orleans club named Tipitina’s that he sold to the funk band, Galactic, in around late November 2018: and (3) a charitable organization founded “and controlled” by Mr. Von Kurnatowski named Tipitina’s Foundation that focuses “on supporting the city’s music scene.”

“As funk band Galactic announces that it has bought famed New Orleans club Tipitina’s from a local businessman, the nonprofit Tipitina’s Foundation **finds itself under scrutiny** for the founder’s apparent self-dealing” explains The Nonprofit Quarterly’s editor-in-chief, Ruth McCambridge. In **A Funky Bad Board Story at Tipitina’s Foundation**, she makes this (ironically understated) observation:

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“Following a pattern perhaps most recently exemplified by examinations of the Trump Foundation, Tipitina’s Foundation is reported to lack appropriate boundaries between its charitable assets and Von Kurnatowski’s business interests.”

Foundation “Facts”

Tipitina’s Foundation is a 501(c)(3) non-profit organization established in 2003 that “that grew out of the Tipitina’s music venue, a revered New Orleans cultural icon that continues to be instrumental in the development and promotion of Louisiana music around the world.”

Tipitina’s Foundation is a 501(c)(3) organization founded in 2003 by Mr. and Mrs. Von Kurnatowski which, according to its impressive website*, “works diligently to uplift the music community of Louisiana through educational programs and musician support services. Through these efforts, [it] is preserving the musical cultures of Louisiana.”

[Note: Until recently, there was a link to this website, but it now appears to be inactive.]*

There are programs like “Instruments A Comin’” that has “placed millions of dollars worth of musical instruments in Louisiana school band programs.” At the “Sunday Youth Music Workshops,” students “play and learn with some of the region’s best musicians.” The “Internship Program” is an “after-school jazz and digital recording” experience. These programs are “supported in part” by federal and state grants as well as from the William H. Donner Foundation. There is also a donation button on the website.

Turning Over Rocks

The old adage – any publicity is good publicity – is sadly untrue much of the time. The news about the recent, high-profile sale of Tipitina’s restaurant attracted media interest. But when reporters from the *New Orleans Advocate* began turning over rocks and peeking underneath, some unpleasant facts slithered out.

For instance, apparently, “two former board members say they had little access to information about the financial flows between the foundation and for-profit entities controlled by Von Kurnatowski.” Neither did they receive any written financial reports. “Little wonder,” muses Ms. McCambridge, “since they never attended nor were asked to attend a meeting.”

According to Jeffrey Goldring, a New Orleans businessman and long-time friend of the Von Kurnatowskis, who “served as a foundation board member until 2014”: “Kurt didn’t seem like he was running it right as a true nonprofit, but he kind of ran it as his business.” Goldring added that “it didn’t really occur [to him] that I’m an active member of this foundation – because I’m not.”

Among the facts that emerged from this long-overdue scrutiny of Tipitina’s Foundation is that three buildings that the foundation had owned were “transferred for free... to businesses that Von Kurnatowski owned and controlled” and that were “later converted into luxury lofts and retail space.” Adding insult to injury, Von Kurnatowski borrowed half a million dollars “in the name of the foundation and used it to pay a construction company he owned to work on the buildings.”

In similar fashion, Tipitina’s Foundation used other property that Von Kurnatowski owned; while part was a donation, he charged the Foundation for the remainder. Likewise, the organization disclosed on its 2016 Form 990 that it purchases “accounting, computing, and other services from businesses owned by the founder and president.”

It should be no surprise at all that, apparently, “Von Kurnatowski’s problems are by no means restricted to the foundation.” (If you think you’ve heard this tale before – you have.) “A number of musicians report not being paid by the club until they threatened legal action. He is accused of defaulting on loans and is facing federal and state lawsuits related to an investment scheme.”

Conclusion

Von Kurnatowski reportedly “boasts” about the Foundation’s “transparency” – pointing to financial statements posted on the website. But “board members claim they have not seen them.” Doug Thornton, a leading New Orleans businessman who is reportedly a “Tipitina’s board member of ten years” says he’s “never seen any minutes” and has “never had any involvement with the board at any level. I just agreed to serve...; to basically lend my name and that was it.”

Now, in a scenario we’ve all seen repeated too many times, he is “a bit worried” about it all: that his name was used to give the Foundation credibility, and that many actions were taken without “... proper notice, or without the advice of the members.”

So who “owns” Tipitina’s Foundation? Not the Von Kurnatowskis, of course, but there’s been a lot of confusion on this score for many years down in the bayou.