Governance Gone Bad: Lessons Learned to Help Your Not-for-Profit

Nicole Riley, CPA, CFE
Audit Director
PKF Texas

Emily Smikal, CPA
Tax Director
PKF Texas



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Polling Question





What is Good Governance?





Bad Apples



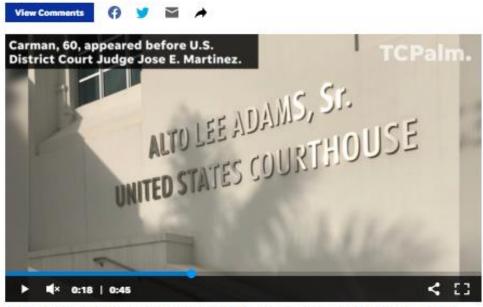


Bad Apples



Former Indiantown Nonprofit Housing director Donna Carman sentenced to probation

Melissa E. Holsman Treasure Coast Newspapers Published 5:19 p.m. ET Jan. 17, 2020



Donna Carman, former executive director of Indiantown Nonprofit Housing, pleads guilty

Donna Carman, former executive director of Indiantown Nonprofit Housing, pleads guility in federal court after allegations of embezzling. Video taken Oct. 16, 2019. Will Greeniee, will greeniee@topalm.com



Oversight and Accountability

- Executive Director credit card and expense report review
- Executive Director performance review and salary determination
 - Have in writing!
- Program accomplishments
- Financial statement review
- Segregation of duties



Polling Question





Embezzlement Myths

- It hardly ever happens to nonprofits.
- My employees are dedicated, honest people –
 I only employ trustworthy people
- Everyone who works here is a really good person.
- We don't have enough staff to have financial controls.
- Audits catch embezzlement and fraud.



Gift Acceptance Policies













Conflict of Interest Policy

Former baseball director charged with embezzling more than \$165,000 from Boys & Girls Clubs of Milwaukee



Conflict of Interest Policy

- Require those with a conflict (or think they may have a conflict) to disclose the conflict/potential conflict
- Prohibit interested Board Members from voting on any matter in which there is a conflict
- State how you will manage conflicts
- Annual discussion by the Board



Red Flags for Governance Issues

Example: College Admissions Cheating Scandal





Red Flags for Governance Issues

Example: College Admissions Cheating Scandal

- Form 990 indicated the review process was that only the President would review, rather than a Board of Directors or Finance Committee
- Governing documents, conflict of interest policy, or financial statements not made available to the public
- No whistleblower or document retention policy on file
- Functional expense allocation not in alignment for an organization of its size
- Donations were made to other organizations, with no records substantiating eligibility or the selection criteria



Common Nonprofit IRS Audit Triggers

- Referrals
- Foreign activities
- Discrepancies of Fundraising Income vs.
 Fundraising Expense
- Compensation issues
- Form 990 indicators
- Unrelated Business Income (UBI)



Form 990 Indicators

- Form 990 is incomplete or inconsistent
- Omission of any required schedules based on responses to Checklist of Required Schedules
- Reports political campaign activity
- Reports a significant diversion of assets, which could indicate embezzlement or theft



Form 990 Indicators, continued

 Form 990 reports fees for non-employee services but does not report that any 1099s were issued

Pa	t IX Statement of Functional Expenses						
Sect	on 501(c)(3) and 501(c)(4) organizations must comp	lete all columns. All	other organizations	must complete colu	mn (A).		
	Check if Schedule O contains a response	or note to any line	e in this Part IX .		🔲		
Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.		(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses		
a b c d e f g	Fees for services (nonemployees): Management						
Par	Statements Regarding Other IRS Filin Check if Schedule O contains a response Enter the number reported in Box 3 of Form 1096	or note to any line	in this Part V .		Yes No		



Form 990 Indicators, continued

 Form 990 reports compensation but does not report that any W-2s were issued

Pa	art IX Statement of Functional Expenses						
Sec	tion 501(c)(3) and 501(c)(4) organizations must comp	olete all columns. Al	other organizations	must complete colu	mn (A).		$\overline{}$
	Check if Schedule O contains a response	e or note to any line	e in this Part IX .				
Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.		(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundrais expense		
5	Compensation of current officers, directors, trustees, and key employees	-					
6	Compensation not included above to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)						
7	Other salaries and wages						
Pa	t V Statements Regarding Other IRS Fil	ings and Tax Co	mpliance (continu	red)			
					Y	'es	No
	Enter the number of employees reported on Statements, filed for the calendar year ending w	ith or within the yea	r covered by this re	turn 2a			
	If at least one is reported on line 2a did the orange	anization file all regu	iired federal employ	ment tay returne?	2h		



Unrelated Business Income Triggers

- UBI: 3 Factor Test
 - The activity is a trade or business that is engaged in for profit
 - The activity is regularly carried on by the organization
 - The conduct of the trade or business is not substantially related to the organization's exempt purpose
- Have all sources of UBI been identified?
 - Rental income received from debt-financed real property
 - Advertising
 - Facilities Rental
 - Pro Shop Sales
 - Green Fees by Non-members
 - Parking Lot
- How reasonable is your organization's allocation of expenses to unrelated business activities?



Polling Question





Tips from IRS Audit Survivors

- Keep a binder with key organizational documents, such as articles of incorporation, IRS approval letter, conflict of interest policy, and other documents
- Keep a binder for minutes from the Board and any Committee meetings
- Keep Board minutes very brief action only
- At the end of each year, pull all the brochures, reports, and newsletters for the year and put them in a folder
- Save all financial documents in line with your document retention policy
- Stay calm



Resources

- Board Source
 - https://boardsource.org
- National Council of Nonprofits
 - https://www.councilofnonprofits.org/
- Blue Avocado
 - https://blueavocado.org



Thank you!

Questions?

Audit Director
PKF Texas
NRiley@PKFTexas.com

Emily Smikal, CPA

Tax Director

PKF Texas

ESmikal@PKFTexas.com