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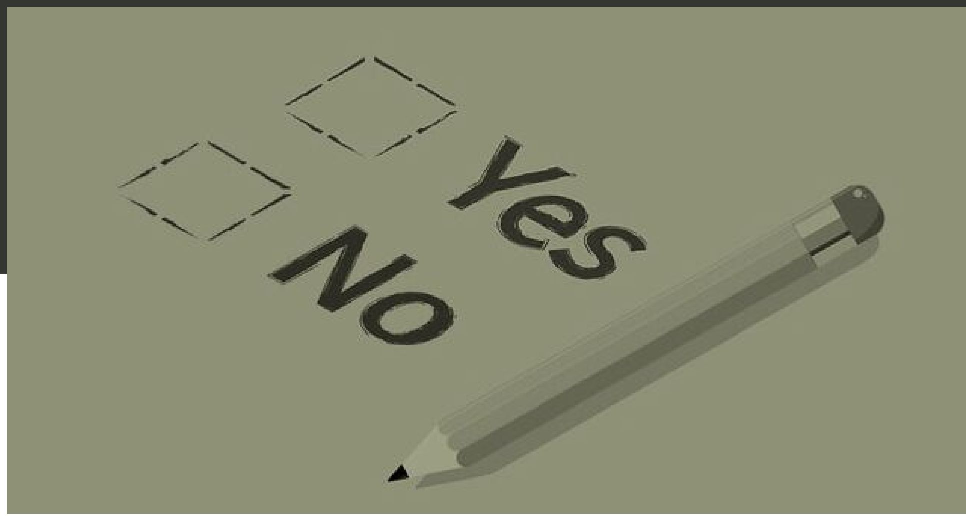
NONPROFITS: DONATIONS

Thanks, but No Thanks (For the Donation)

07.03.18 | Linda J. Rosenthal, JD



Long gone are the days when a nonprofit couldn't imagine turning down a donation – particularly a large one. In recent years, though, more and more organizations are rejecting contributions for a wide variety of legitimate reasons.

Two of the most frequently cited rationales for rejecting a charitable gift are: (1) too many restrictions on how the money is to be spent; and (2) ethical issues about how the donor gained the wealth from which the donation will be made. We've previously covered instances of each. Here are two more – current – examples.

Small Library Turns Away $3 Million Donation

A decision to accept or reject a charitable gift is best evaluated within the context of each situation. A contribution of – say – $X million would be considered routine and fairly inconsequential if made to a large organization with a huge budget and a deep and loyal donor base. But if the same $X million donation was proposed to a much smaller group, it would be reviewed and considered as a possibly "course-changing offer." The decision to accept or reject the contribution is much more difficult in the latter case.

Recently, the board of the Barry-Lawrence Library system in Missouri was faced with such a critical decision. They gratefully acknowledged and carefully considered a $3-million donation offer but – in the end – politely turned it down. These directors did everything right, including having a gift acceptance policy already in place that helped guide a difficult decision.

The Library system has needed a new location for its branch in Monett, Missouri. Any new facility must serve not only as the Monett area's library but also have space for the system's regional offices to conduct their business. The current building has leaks – the repairs for which would cost less than $4,000 – but the space is not big enough for these multiple purposes and is badly designed.

Last December, when bad weather compounded the leak problem, the Library system board learned of an offer by an anonymous donor interested in helping to build a new facility. This sounded like a perfect solution because the organization already had available a donated location – although not in downtown Monett – where it could build a new structure. They just needed the money.

Through an intermediary, the Community Foundation of the Ozarks, the Library system board asked for $2.5 million. The donor, however, wanted a downtown Monett location. The only available building there was a site needing complete renovation for the purpose.

This board faced a wrenching choice, but they (prudently) had an existing gift acceptance policy which wisely anticipated this kind of dilemma. The Library system's policy is to not accept gifts which are restricted. The Library director, Gina Milburn, explains the nuances: They don't accept donations when "… someone says, 'I'll give you money, but you have to renovate this specific building [with it]'."

We do let people say, 'We want [you] to spend our donation on this and that, but we don't let them pick out the items we purchase. For instance, late Sen. Emory Melton gave $25,000 for a specific purpose […use it for children and teens…] but he didn't say, 'You have to use it on books and furniture.'

Notwithstanding this gift acceptance policy, and recognizing that the anonymous donor had made an important and generous offer, they "continued to explore and negotiate." But when they toured the downtown site, they saw two additional obstacles: It was in the floodplain and flood insurance costs would have been prohibitively expensive, and there was insufficient parking space. This site visit confirmed that they had no choice but to decline the gift.

"Some large gifts are philanthropic versions of Trojan horses, and the wise nonprofit measures this possibility carefully." That's the lesson to be learned from this story. "Ultimately, the board made the decision to value its own assessment of the situation over the temptation of a large, restricted, gift."

"Tainted" Contributions

Anyone unaware of the prescription-opioid crisis devastating communities around the United States must be living under a rock.

The Sackler Family – specifically descendants of Mortimer and Raymond Sackler – have become billionaires from the sale of the drug OxyContin from the family-owned Purdue Pharma company. An important aspect of this story is that the medication has been notoriously over-prescribed by physicians nationwide as a result of a relentless marketing campaign and questionable promotional practices from the drugmaker.

For two decades, foundations formed and run by Mortimer and Raymond and their families have become "major philanthropists in the arts," donating "enormous amounts of money" to many institutions, including New York's Metropolitan Museum of Art and the Guggenheim, as well as London's Victoria and Albert Museum.

Earlier this year, activists – including some who became addicted to OxyContin after medical procedures – began a protest movement demanding not only that the Sackler family fund treatment for victims but also that major nonprofits refuse to accept any more money from their charitable foundations. In mid-March, demonstrators "unfurled banners and scattered pill bottles…inside the Sackler Wing at the Metropolitan Museum of Art in New York."

The Met was chosen as the protest site because of its high profile in the art world and "because [the protestors] see it as symbolic of the fact that Sackler family members are often viewed primarily as art patrons rather than as owners of a pharmaceutical company." The Sackler wing at the Met is "named after Arthur, Mortimer, and Raymond Sackler, brothers who in the 1970s donated $3.5 million toward its construction." Of course, that gift was made well ahead of the time that the family was involved in pharmaceuticals and the manufacturer and distribution of Oxycontin.

In the current climate of rising political activism, it's no surprise that protests are springing up against the use of this "tainted money" to enhance the family "brand" through their philanthropic activities. A key question for nonprofits is whether they should allow themselves to be complicit, so to speak, in rehabilitating those who became rich through "acts that violate the public good."

Or as the New York Times's Ginia Bellafante observes in When Should Cultural Institutions Say No to Tainted Funding?: "Having facilitated one of the biggest public health crises in modern American history, [the Sacklers] need a new profile. The art world should not help them achieve it."

Conclusion

The takeaway: A 501(c)(3) organization can and should – sometimes – just say no to a proffered donation.

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