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Nonprofit Ethical Case:

Repeat Offenders--Illegal and/or Unethical?

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Summary

Feed the Children, founded in 1979, is a well-known charity organization that aims to provide food to low-income children starving and unable to afford food, both in the US and around the globe. In 2009, Larry Jones, the founder and the CEO of Feed the Children, was sued by his daughter and the Board of Directors for a series of unethical behaviors, including misuse of organizational funds, nepotism, and mismanagement of the organization. In 2009, Feed the Children was also hounded for its out of control spending on fundraisers as well as overstating the amount of aid it provided to Haiti. Since Jones was made to step down from his position, they have not found a leader that can restore the organization. It is currently in a legal battle with the latest CEO, J.C. Watts, who sued the company for firing him after reporting problems at the charity to the state attorney general's office. Many issues this organization is facing may not be illegal in nature but would certainly be characterized as unethical. Will Feed the Children be able to survive? If so, what will it take to transform the culture of this organization?

https://www.youtube.com/watch?v=K-fMBkvwN8o

http://newsok.com/multimedia/video/51724087001#gsc.tab=0

Case Facts

Mission: Founded in 1979, Feed the Children's mission is to ensure that "no child goes to bed hungry"
Programs: A Domestic food program, Backpacks to Build Hope, Summer Meal, and Domestic and International Disaster relief

EARLY PROBLEMS:

- 1999: WTVF report on FC executive staff taking donations for personal use
- 1999*: The Daily Oklahoman* published that FC pressured media to not report on the founder's son owing the charity $950,000.
- 1999: CharityWatch's report on FC's former CFO forging the signature of the accounting firm, Arthur Andersen, on FC's 1997, 1998, and 1999 financial statements

Case Facts (cont'd)

FOUNDER IN TROUBLE

- 2009 Public family feud between the founder Larry Jones and his daughter, a FC employee--Jones' daughter and FC Board of Directors stated that Jones took bribes and kickbacks, gave unauthorized pay raises to himself and his wife ($300K salary), wiretapped executive's offices, and had incest-related pornography in his office.
- 2009: Larry Jones admits to approving the wiretapping of FC's Executives' offices to "record his conversations with employees" and is removed from his post.
- 2011: A legal dispute ensues between Jones and FC ("wrongful termination"). FC pays Jones over $800,000 in severance pay between 2009-2012.

Case Facts (cont’d)

UNSTABLE LEADERSHIP

- Kevin L. Hagan, a seasoned nonprofit executive with a track record of turning a troubled organization around, was hired in 2011 as the new President/CEO. FC’s revenue increase and charity watchdogs approve of the job he is doing. Hagan resigns after the initial 3-year contract.
- Former State Congressman J.C. Watts is hired in 2016 but he leaves in less than 10 months, suing the company for firing him in retaliation for reporting problems and irregularities at the charity to the state attorney general's office.
- Board is counter-suing Watts for payment it made to settle another lawsuit over a job offer that was rescinded.

Case Facts (cont'd)

MISREPRESENTATION OF WORK IN HAITI

- 2009: Jones announces that the FC camp in Haiti is helping 12,000 Haitians a day
- CBS news investigative team finds out that FC has a small team on site but maybe helping 100 or so people a day
- One of the original FC employees at that camp stated that no funds from Feed the Children ever actually reached the camp (she resigns quickly thereafter).
- Haiti wasn't the only place where FC had falsely reported on its involvement overseas.

Compliance

- Did FC keep good records ? (records are essential for defense against acts of impropriety)
- Was Information on 990 inflated, incomplete, or incorrect?
- Was there a Conflict of Interest Policy and Whistleblower Policy in place?
- How was compensation determined? (Outside compensation consultant?)
- Proper governance structure--was Larry Jones (paid staff) also the director of the Board?

Individual Responsibility

FOUNDER’S SYNDROME

- Larry Jones is accused of taking bribes and kickbacks
- Jones and his wife’s individual perceptions of entitlement that they deserved higher salary--Larry Jones increases the salary for himself and his wife without board approval
- Nepotism: Jones’ daughter spends 1.2 million of charity funds on a home in LA; Jones’ son has a free use of company facility and funds and owes over $800,000 to the company

Organizational Responsibility

MISUSE OF FUNDS:

- Lack of transparency and accuracy in financial reports

MISREPORTING OF WORK:

- Lying about their involvement in international relief program

PROGRAM/MISSION SHIFT:

- Most of the donations are in-kind and a majority not food. So they are now donating school supplies and medicine more than food

Systematic Responsibility

GOVERNANCE FAILURE:

- Who kept Jones accountable? The Board did not do its due diligence to provide checks and balances
- 2011, the Board of Directors sued by Jones for wrongful termination. The Board eventually takes charges and makes sure Jones and none of his family members or friends are no longer associated with the organization, but it still pays severance pay for the 3 years between 2009-2011
- When the Board first found out about Jones' unethical practices they had the responsibility of turning him over to the Attorney General's office and opening the orgs. books to the IRS
- The Board had an obligation to the nonprofit to get rid of Jones as soon as news about his first unethical act was reported

Systemic Responsibility (cont'd)

LACK OF FINANCIAL ACCOUNTABILITY

- The system of financial accountability had a breakdown between the Board and the management (false financial statements, inflated income reporting, conversion of in-kind donations to cash)
- Had the Board closely examined FC's financial documents, conducted independent audit of financial statements, and looked at IRS letters, they could have determined that there was internal fraud potentially taking place and taken the right course of action

NEGATIVE ORGANIZATIONAL CULTURE

- It is evident that FC instilled a culture of corruption within its organization. No acts of corruption by Jones were ever reported.

Stakeholders Analysis

Community Partners

- Will they want to partner with the troubled organization?
- How will it affect their in-kind donations?

Funders

- How will the current state of affairs of the organization affect cash donations?

Recipients of service

- How has the turmoil at FC affected the clients?
- **Internal Staff**
- How is the internal morale of the organization?
- Has it affected the staff attrition rate?
- Should there be a systematic change of staff?

Sector

- Has the FC example created public mistrust for other similar organizations?
- How is nonprofit sector in general affected when such a scandal is publicized?

Alternative Solutions

- Stricter scrutiny on organization by the Attorney General's office
- Employing a CEO whose career has been in the nonprofit field and can restore an organization to its glory
- Review Bylaws and redefine Board membership requirements
- Reviewing governance documents--compliant with U.S. law? Conflict of Interest policy in place?
- Independent financial audit
- HR overhaul

Questions

1. There are nonprofit organizations that suffer from a disease called "Founder's Syndrome." When a founder of the organization is no longer relevant or effective as the organization evolves, s/he becomes more of a hindrance to the organization than an inspiration. This becomes evident when the founder lacks the necessary skills to lead and manage the growing organization. Sometimes the cultish personality of the founder becomes disengaged from the evolving identity of the organization. What should be the proper responses when an organization is faced with such issue? Are there ways to prevent it from happening?

2. What are some of the leadership shadows that Larry Jones has casted on the day–to-day management of Feed the Children? How about on the legacy of this organization? How can you identify dysfunctional leadership pattern in an unethical leader?

Questions (cont'd)

3. One study shows that while "60 percent of nonprofit employees who observed misconduct reported it, nearly 40 percent of witnesses remained silent, due largely to feelings of futility or fear of retaliation. Indifference is harder to combat than fear."[1] What is the best way to deal with your leader's unethical behaviors—1) if you were his subordinate? and 2) if you were sitting on the Board?

4. Discuss the industry best practice in dealing with and reporting on in-kind donations. How do you collect and account for them and how do you make a financial report on them as tax-exempt income? What are the common mistakes organizations make (knowingly and unknowingly) in reporting sources of income derived from in-kind donations?

Questions (cont'd)

5. "The goal of nonprofit marketing is to have a way for nonprofits to market their causes in a way that encourages people to help, which could be a dramatically different way than a traditional business would be able to get attention." Feed the Children is well known for having produced many heartbreaking TV advertisements, often with celebrities speaking on behalf of the starving children, urging viewers to donate their money to end hunger for these sad, helpless children. Feed and Children is reported to have spent 54% of its cash revenue on television advertising. How much is too much for a nonprofit to spend on marketing? What are some other ways in which Feed the Children could have communicated their message to engage the public and increase donors?

6. When there is a revolving door at the top of the organization's leadership, one cannot help but wonder what deeply-rooted internal issues would allow such phenomenon. If you were the Human Resources Director at Feed the Children, what might you suggest to prevent this quick turnover? Or, is this a symptom of dysfunctional governance practice and relational breakdown that exists at the Board level? How would you diagnose this problem and what might you suggest as a solution?

References

Johnson D. L. (2009-2010). Seeking Meaningful Nonprofit Reform in A Post Sarbanes-Oxley World. *St. Louis University Law Journal.* Retrieved October 24, 2017. from http://heinonline.org/HOL/LandingPage?handle=hein.journals/stlulj54&div=8&id=&page=

Lawry, R. P. (1995). Accountability and Nonprofit Organizations: An Ethical Perspective. *Nonprofit Management and Leadership, 6*(2). doi:10.1002/nml.4130060206 Retrieved from http://onlinelibrary.wiley.com/doi/10.1002/nml.4130060206/full

Malloy, D. C., Agarwal, J. (2001) Ethical Climate in Nonprofit Organizations: Propositions and Implications, doi: 10.1002/nml.12104 Retrieved from: http://onlinelibrary.wiley.com/doi/10.1002/nml.12104/full

O'Neil, M. (December 1992) Ethical Dimensions of Nonprofit Administration, doi 10.1002/nml.4130030207. Retrieved from: http://onlinelibrary.wiley.com/doi/10.1002/nml.4130030207/full

https://www.cfjacksonhole.org/learn/nonprofit-resources/nonprofit-best-practices/

http://www.thenonprofittimes.com/management-tips/6-tips-for-strong-organizational-ethics/

https://ssir.org/articles/entry/ethics_and_nonprofits