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Help My Boss Tried To Kiss Me - Transcript

[Speaker 1]

Welcome to Charity Therapy, a podcast from Birken Law about building better nonprofits. I'm your host, Jess Birken. What's the one thing all nonprofits have in common?

People. And if you've got people, you've got people problems. Like what do you do if your boss wants you to go on a date with them or asks you to kiss them on the cheek?

Those are people problems. Today's guest, Kelly Reitow of Roo Solutions, and I answer your questions on how to survive nonprofit people problems. Stay tuned.

[Speaker 2]

My name is Kelly Reitow. I have an HR consulting business called Roo Solutions. I've been doing that for about 10 years, and I work primarily with nonprofits, all kinds of different areas, outsourced or fractional HR, where I do everything HR for an organization.

I do a lot of training and development. I do a lot of employee handbooks, some audits, some investigations, really a wide variety of things, which keeps it really fun.

[Speaker 1]

Right on.

Well, I'm super excited that you're here with me today because I think that for me, so much of what I do with my clients revolves around their people and their people problems. So much of that touches human resources and employment law that I'm just super excited to do some Q&A with you. I'm hoping that you would be willing to do a little question and answer.

[Speaker 2]

Absolutely.

[Speaker 1]

All right. So I'm going to read you a question and then yor kind of like give your Kelly expertise.

All right, so here's one that we have that says, my boss asked me if he could kiss me on my cheek. I said, okay, but the next day he kissed me on my cheek again and asked me to kiss him on his cheek. Nothing was forced.

He asked every time, but I am not comfortable. How should I deal with this?

[Speaker 2]

Number one, feel free to advocate for yourselves, speak up and say, hey, I'm not comfortable with this.

Please don't ask to kiss me on the cheek again. Let's keep things professional in the workplace and hopefully things will end right there.

[Speaker 1]

Yeah, now, this is the kind of thing that I can see my clients kind of getting in a tizzy about and wondering, does this count as sexual harassment?

[Speaker 2]

One minor kiss on the cheek in itself may not constitute harassment, but it may be the beginning of what's called grooming behavior, where it starts with something somewhat innocent or maybe you just feel uncomfortable and you don't know if it's wrong and you just go along with something, but then things start to escalate. It can go from a kiss on a cheek to a hand on your back and opening the door for you and hey, we're at this conference, let's go have dinner together and hey, let's go dancing and it can just escalate relatively quickly over time.

[Speaker 1]

So let's say, you know, I'm at a small nonprofit and it's, you know, maybe one staff and the board and this happens between the staff and a board member. If the staff person reports this to the board, like, hey, this happened, I'm not comfortable with this, you all need to do something about it, what's the best way for the board to sort of respond to that situation?

[Speaker 2]

Wow, that is a great question. Well, hopefully you have a well-established board that has had board training, and they know all about their fiduciary obligations, including governance, and hopefully they have an executive committee. This is something where the employee, the executive director would want to go directly to the executive committee and then it would be incumbent upon them to conduct an investigation or at minimum have a conversation with the accused offending board member to say, hey, this is not cool, can't happen again. I can't think

of any context in which it would have been appropriate unless it was maybe like at a gala and you beat the fundraising goal and everyone was hugging everyone and kissing everyone, then maybe it's just a, hey, let's not do that anymore.

But it doesn't sound like that was the kind of situation. So I think the executive committee needs to have a serious conversation with this board and depending on how that goes, potentially remove the board member. Right?

[Speaker 1]

Yeah. That's kind of a tough situation at a small non-profit too because if you're the only staff and you're reporting this up, you're sort of like, this is it. There's nowhere for me to hide.

[Speaker 2]

Right.

[Speaker 1]

Like we all have to interact. So yeah, that's a tough one.

Okay. Well, I have another one kind of along the same vein. It says, my boss called me into her office, complimented me on my physical appearance, and then suggested that we get together outside of work.

She made it clear that we'd need to keep it a secret from the other employees. I said, I wouldn't be comfortable with that and left immediately. There was no quid pro quo offer.

I don't know how it will affect my work hours or her attitude with me at work though. I'm going to quit as soon as possible. Any advice is greatly appreciated.

[Speaker 2]

That is a really difficult situation to be in when someone who has power over you, how much you're paid, when you work, where you work, even if you have a job anymore. So definitely a struggle to decide the best thing to do. I think you did the exact right thing by saying no and leaving.

While there was no quid pro quo, meaning this for that, and in terms of sexual harassment, for quid pro quo to occur, there has to be an offer by someone in a position of power that says, if you go out with me, you're going to get this benefit. Or if you don't go out with me, you're going to lose this privilege. Like I know you hate working second shift.

[Speaker 1]

Right.

[Speaker 2]

So I could give you cushy shift. It'd be great if we went for drinks. But you were very clear in saying no, there should be no repercussions for you at work.

I would document the incident, write down that it happened, and all the details that you can remember and definitely start looking for that other job. But in the meantime, just monitor things at work. You keep doing the good work that you do and don't give her any reason to try and discipline you or make any changes to your employment.

[Speaker 1]

Yeah. That's a tough one because you're kind of having to look for retaliation. And then I feel like people can tend to get very hyper vigilant.

I mean, my perspective on this is not necessarily harassment or illegal for your boss to ask you out. It's a really bad idea.

[Speaker 2]

It's creepy.

[Speaker 1]

It's super creepy and inappropriate and not a good idea. And I would not recommend that anyone ask out their direct reports. That's just not good practice.

[Speaker 2]

Most companies have specific policies preventing that from happening. So it's probably a policy violation at minimum.

[Speaker 1]

Well, we hope so, yeah. I mean, I don't have that information here, but definitely it should be a policy. And if your nonprofit doesn't have some sort of policy, you need to contact someone like Kelly or I because we can help you out.

It's like, this should not be happening, period. Oh, goodness. All right.

So this next one is a different topic. Super interesting issue that's kind of brewing in lots of industries right now. So here we go.

I serve on the board of a nonprofit that advocates for low-income households. Our position as an organization, and I think they mean their policy position, is to support increases to minimum wage so it meets basic human needs. That said, I'm having a hard time getting our board to realize that we need to prepare for this at our organization.

We've already consolidated several positions to save money, and an increased minimum wage will drive up our salary costs even more.

[Speaker 2]

That's really a quandary because, I mean, if you're advocating for low-income households, it's likely several of your staff members would fall into that category. So you definitely need to include them when you're designing your wage programs.

[Speaker 1]

Yeah, I mean, I feel like this is a really tough, the whole living wage thing. I know we're, you know, just locally here, I am seeing that at restaurants where they're adding a surcharge. Some friends of mine on Facebook had a whole debate going on, and most of them worked in the service industry.

So they were like, is this good? Is this bad? A customer had complained about the surcharge being added to their bill.

And so the discussion was around, you know, whether the restaurateurs should just increase their prices, or whether they are right to have this percentage and sort of identify, like, this goes to a living wage increase, and we're not going to increase our food prices, but you are ultimately going to pay for it at the end with your check. And I think nonprofits are sort of in that same boat, right? Like, we have a lot of low-paid positions, and we're supporting a lot of constituents that are needing a livable wage.

But how do we sort of wrestle with that when it comes to operating our own businesses? Because, frankly, nonprofits tend to be so lean and mean, and especially post-recession. I feel like everybody's doing more with less.

It's sort of like other duties as assigned is in everyone's job description, and that gets used liberally in a lot of places.

[Speaker 2]

Well, I know in the retail industry specifically, just two days ago, I was out to lunch with my husband and my daughter. And when we checked out, there was a sign at the register that says we are assessing a 3% employee wellness charge.

And I pointed it out to my daughter and explained what it was. And she's like, that's great. So some people think it's wonderful you're investing in your employees.

Some people think it's wonderful you're being transparent, sharing the struggle, but also saying, hey, we're doing our part. And on the nonprofit side, you don't have people coming up to a register to check out where you can say, I'm adding this fee, right? So I think the opportunities within nonprofit are really to look at efficiencies and accountabilities, and maybe sometimes look at the things we shouldn't do.

We always add things to our to-do list, and then we get scattered, and we can't be on our A game at all of them. So sometimes it's worth taking a look at your roles. What do we not need to do anymore?

Or what's OK to do a B-level thing on where this other thing really needs the A?

[Speaker 1]

Yeah. And it's interesting because a lot of nonprofits, if you don't have a fee-for-service revenue model, or your fee-for-service revenue model is serving a constituency that you're already subsidizing the fee-for-service, it's not market rate.

This is hard for nonprofits. You can't just tack on a 3% surcharge and say, hey, great. We're doing the right thing.

I've seen this written about in nonprofit quarterly. What we're just going to expect donors to give more is basically the takeaway. And as a fundraising matter, that's not necessarily, you don't just turn on the donor faucet an extra 3%.

That's not how that works.

[Speaker 2]

Right. And depending on the type of nonprofit you operate, you may be largely government funded.

And your contracts with the government, if you're in mental health services, you have to negotiate those contracts every couple of years. And there's only so much piece of the pie that you're going to get. Additionally, if you're in something like mental health services, you're dealing with the insurance companies, and the insurance companies are reducing their rates that they'll reimburse.

So you're really kind of facing it from all angles. It's a huge quandary. And, you know, really organizationally looking at what are the businesses we need to be in, what are, you know, “profitable” and serving the mission.

If there are areas that are not profitable, and they're still critical to the mission, are there partners we can work with? Are there ways we can become more effective? It's a complex organizational development problem and financial.

[Speaker 1]

Yeah. I love that you bring up the funding streams too, because, and I'm just thinking on my experience with federal grants and time and effort, you know, a lot of organizations are getting grant funding, but maybe that grant is for a three year period. And you're locked into the rate at which you're going to be able to charge out that time and effort.

And then I'm thinking of other programs where it's a reimbursement basis based on like number of beneficiaries participating. You get a certain amount per day or per whatever. And those are definitely going down.

Like you're seeing a lot of mergers and consolidation of programming into larger organizations because the reimbursement rates are being squeezed. So it's not, yeah, it's just not as easy for nonprofits to adjust to this, which is, you know, to the listener's point, it's sort of like, hey, we're taking the position that minimum wage should be increased. We're pro living wage, but we're struggling to do it at our organization.

[Speaker 2]

And, you know, on a city basis as well, there's the Minnesota minimum wage, which just increased a couple of days ago. But you also have different minimum wages in the city of Minneapolis, and it's higher in the city of St. Paul. And overall, the state is trying to move towards a $15 an hour minimum wage.

So if you look at nonprofits with multiple locations as well, perhaps in multiple cities, you need to take a look at holistically. Are we going to try and bring everybody up to the best standard, the most difficult to meet standard, but where we want people to be? Or are we going to have different rules for different locations?

[Speaker 1]

Well, and like, what's going to be the fallout on the sector when we do that? Because it's too Pollyanna-ish to think, well, we'll just raise that minimum wage and everyone will get paid more. Because I think if you look at, I want to say it's Seattle had raised their minimum wage, and they did sort of a assessment three or four years in.

And what they found, I believe, and I can find the link to the article to post, but I believe what they found was that employers were hiring less. And then you're seeing things like the self-serve kiosks everywhere because they're just like, well, it's now it's time to invest in technology to replace some of these people jobs because they're so expensive. I don't know how we're going to deal with that in the nonprofit sector.

I mean, what does the reality look like?

[Speaker 2]

You can't do self-service social work.

[Speaker 1]

Right, you can't. But then also, where will the money come from? So I think a lot more consolidating positions and consolidating services.

It's going to be an interesting decade for the sector.

[Speaker 2]

Oh, I definitely agree.

[Speaker 1]

As we move toward this, it's a good thing.

I do think living wage is important, obviously. But I think there are a lot of collateral consequences that we don't actually know. If you push here, what will pop up outside of the box that you weren't expecting? I think that's going to be interesting to watch.

[Speaker 2]

And a lot of agencies are hiring part-time people instead of full-time people because then you don't have that extra cost of benefits. So you have people who may be fully qualified for a full-time job, but they're working two or three part-time jobs with no benefits.

[Speaker 1]

Right. Which really is also not a living wage, but just quality of life as an employee problem. If you're having to cobble together a career out of three part-time jobs, and none of them have benefits, and you have to buy your health insurance, Lord knows how expensive that is.

I want to say it's upwards of $600 a month just for one person. So yeah, crazy. Well, you brought up the municipal law angle and I've got one more question that kind of touches into that. And this actually came up for me recently too. So I'm very curious what your answer will be.

All right. So the listener says, I know that the laws around employees who work in Minneapolis and St. Paul have changed. Our small nonprofit has several employees that work remotely from home.

If they work from their home and they are located in Minneapolis or St. Paul, but our office is in Andover, what law applies to those employees?

[Speaker 2]

That is a really complicated question that I can't answer fully without.

[Speaker 1]

Rright? You sound like a lawyer, Kelly.

[Speaker 2]

Looking at all of the relevant legislation. But in general, I can tell you about the Minneapolis Ordinance, any Minneapolis employer who meets a certain employment threshold, I think it's like six employees, you have to offer sick and safety time to employees. And they have to earn that at a rate of one hour sick and safety time for every 30 hours worked to a maximum of 48 in a year.

So if they're physically working in Minneapolis, you have to abide by that. If your corporate office is in Minneapolis, but your employee works from home in Andover, I don't think that applies unless that employee has to spend time coming into your Minneapolis office. If you have people who work outside Minneapolis, but they spend at least 80 hours per year in city limits working, then they would accrue sick and safety time.

So you can see from an administrative standpoint, this is really kind of a nightmare. And especially if an agency has drivers, like they're picking up stuff from different food banks and bringing it, they're crossing city lines all the time. Just crossing the city line doesn't make you have to pay it.

But if you spend actual work time in the city of Minneapolis or in the city of St. Paul. And how does one even calculate that for a job like that, where you might be going to certain locations, dropping off, picking up? Like, how do you calculate the time?

[Speaker 2]

Right. Is it 15 minutes? And this side of the street is Minneapolis, and this side is Edina, let's say. How am I going to count that? It's just administratively, it's really challenging.

[Speaker 1]

Yeah, it's interesting because it’s kind of, I think for smaller organizations especially, you kind of tend to want to take a tack that's like, let's do whatever meets all of the requirements. Which

theoretically, I kind of wonder if that, what are they thinking at the municipal level when they do this?

Like they must know how complicated they're making it for everyone. So is that sort of the goal that they will sort of exert this pressure and make people effectively bump up their entire organization because it's such a pain in the butt to try and figure this all out otherwise, or?

[Speaker 2]

I think they're trying to take the lead and you know, Minneapolis, St. Paul, Duluth, we're going to be the leaders in, you know, sick and safety time. Because once these big three cities adopt it, can we push that up towards the state level then?

[Speaker 1]

Yeah.

[Speaker 2]

Because ultimately, it would be much easier for people like me anyway, if it were just the same role for everybody in the state, you know?

[Speaker 1]

That's the thing. And it's like, and for the organizations that don't have someone like you, you know, they're just trying to muddle through and I can already just sort of see the employment law plaintiff side lawyers drooling over this because there's so many potential claims to be had.

[Speaker 2]

And you don't even know what you don't know. Because you're working to serve your mission and serve your clients and your consumers.

For example, as of January 1st, every employer in Minneapolis, excuse me, had to provide a written wage statement to their employees, which beyond what the Minnesota wage statement requires, has to also include information about their earning of the sick and safety time. So that's different than the Minnesota law, which they probably just figured out, right? So let me back you up there.

So you're talking about the Minnesota Department of Labor form that you need to put in your employee's file.

[Speaker 1]

That's the wage theft law, which is new in Minnesota. It's within the last year or so, since July. So that came out and that put a requirement on every employer in the state to sort of paper their employee's personnel file with this document that says who they are, their address, their rate of pay, how it's calculated, when they get paid. Yeah, and you know, I believe it's sort of intended to more protect agricultural workers, peace workers, workers where they are more abused and getting ripped off. Right.

And then also it's providing if you are under investigation or get audited or something, you have this paper trail that's easy for the agent to look at. So now what you're saying is Minneapolis has... They had to have their own thing.

They can't be left out. So they're like, hey, you got to do this piece of paper, which everybody, half of my clients don't even know about this. When I'm like, hey, are you doing this?

They're like, what? So to your point, you don't know what you don't know. So now Minneapolis is like, oh, and you need to do this other paper too on top of this state level one, which is, that's crazy.

So in there, it's documenting if you are appropriately tracking their sick and safe time.

[Speaker 2]

Right. And is it showing up on their checks, which the Minnesota law doesn't require.

So, I mean, if you're a Minneapolis employer, I'd recommend just combining the two because why have two separate pieces of paper? It's just going to increase the odds that you make a mistake. It's going to irritate the employee.

Why am I always getting all this paperwork? So it's making it more complicated for every employer, large employers and small.

[Speaker 1]

Yeah.

I don't know how I feel about that. You know, I get the thing of we want to go first and sort of apply the pressure so that the state will do this. And, you know, I get that the legislature has been ineffective in some of these areas, but man, they're making it hard for people.

Yes.

[Speaker 2]

It's tough.

[Speaker 1]

I work with a lot of small nonprofits and it's like, could you just, these are, these are people who are already struggling to do it right. Do we really have to make it even harder? But yeah, that's that whole tussle with from a policy perspective, how do you actually get it to a living wage, right?

It's a huge challenge.

Okay.

So that feels like a good place to segue. I've got three questions that I ask everybody. Are you ready?

Absolutely. All right. So first, is there a cause or a charity that you want to give a shout out to?

[Speaker 2]

Absolutely. I work with an amazing number of nonprofits throughout the state, but on a personal level, my number one organization is Girls Taking Action, founded by Dr. Verna Price, maybe 15 years ago about. I've been involved with them for over 10 years.

And what they do is they work in school systems with at-risk girls. So their first school was in North Minneapolis. And at that time, the dropout rates were terrible.

The girls were fighting, few kids graduated. But right now they're in, I believe, 13 schools.

They have a 98% high school graduation rate. Which you look at the other graduation grades of primarily persons of color, it's more like 60%.

So they've got a 98% graduation rate. 80% of those girls are going on to college.

[Speaker 1]

Right on.

That is a great shout out. I love that mission. Okay, number two.

What is the strangest job you've ever had or the weirdest thing you've had to do at work?

[Speaker 2]

I've been working a long time. So it would take me a long time to come up with the absolute weirdest.

You know, back in the day, before FMLA and all that stuff, I used to smoke like a pack a day at my desk. So times have changed a little bit since then. I was a safety coordinator and legal assistant.

So I'd be up on top of cement mix, concrete mixers and scraping out chutes and trying to prove to these, you know, 40, 50-year-old white guys that I knew what I was doing while I still had to go into the break room and pull down the swimsuit calendars. And it was a ridiculously different time to work. More recently, a lot of my day-to-day is simple, you know, recruiting, benefits, employee relations.

But there is some weird stuff that goes on for sure. The guy who claimed unemployment, he couldn't come to work because he was in jail.

[Speaker 1]

Yeah, right.

[Speaker 2]

And I had to fight that. People doing drugs and getting busy in the parking lot. That was a good one.

What else? You'll read it in my book. For a long time in the back of my head, I've had this book title, Real World HR.

Yeah, there you go. You know, the funny, the sad and utterly unimaginable. Yep.

And, you know, because as an HR professional, I'm asked to give advice. So in this book, I'm going to present a scenario. Then I'm going to say, okay, here's the textbook HR answer and what you should do.

And I'm going to say, okay, really, from a practical standpoint, here's your plan.

[Speaker 1]

That's awesome. I love that.

[Speaker 2]

You heard it here first, Kelly's book. Soon to be on shelves everywhere, hopefully. You got to get on that.

[Speaker 2]

That's great.

[Speaker 1]

And the guilty shall remain nameless.

[Speaker 2]

Yeah.

[Speaker 1]

Oh, absolutely. Absolutely. Right on.

Okay. Well, final question. What advice would you give to a board hiring their first ever employee?

[Speaker 2]

That is a huge undertaking because it will change the very fabric of the organization. I have helped a couple organizations that had been volunteer-led for, you know, 10 plus years hire their first person. And I think the most important thing is for the board to get aligned around clarity of purpose.

Is the board going to be wanting to stick their fingers into operational issues? Or are they truly ready to be a governing board? I think they need to clearly lay out the job description, but also make sure there is clarity and agreement surrounding the mission of the organization and the core values and taking a look at their strategic plan if they have one.

And then use those core values, the job criteria, and the strategic initiatives as the foundation for launching their search and conducting their interview process. Have a structured interview process, for sure. Behaviorally based interview questions.

Checking references. Not just check the box references, but, you know, really talk to a boss, talk to a subordinate, talk to a peer. Probably ask for some writing samples because this person is going to be the voice of the organization.

And then use a structured, simple, but structured evaluation tool. So you can really rank the criteria. Because we have this list of 30 things we want to have, right?

[Speaker 1]

Yeah.

[Speaker 2]

But you really need to stratify your must-haves versus your nice-to-haves. And then beyond that, once you make the hire, have a really solid onboarding plan. Especially since this is going to be a solo person.

Anyone would come in and flounder in their first few weeks. They don't have a boss looking over them. You know, they don't have a task list of things to do.

They're largely just there trying to figure it out on their own. So helping them craft a plan for who are the key funders you need to meet with first? How can you best learn about our programs?

How do we work together to prioritize your first 90 days? That type of thing.

[Speaker 1]

Yeah, so what I'm hearing is don't rush in.

[Speaker 2]

Don't rush in, but also don't be too slow. Because this is a candidate's market.

Yep. And lots of people are getting ghosted by candidates all the time.

[Speaker 1]

Yeah, so fast but thorough, if that makes sense.

[Speaker 2]

Yes.

[Speaker 1]

Don't sit on people's resumes after they apply for four weeks and then get back to them.

[Speaker 2]

Right. They're gone. Yeah.

[Speaker 1]

Right on. Well, thanks so much for being here, Kelly. I really appreciate your visit.

[Speaker 2]

Absolutely. Thanks for having me, Jess.

[Speaker 1]

Cool.

All right, folks, that's our show. Be sure to follow me on Instagram or Twitter at Jess Birken. We want to hear from you.

Send us a message at our website, charitytherapy.show. And don't forget to subscribe to our newsletter at Birkenlaw.com/signup. Charity Therapy is a production of Birken Law Office, PLLC. Our theme song is by WhaleHawk.

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About the Author

Hi, I'm Jess Birken.

I'm the owner of Birken Law Office, I help nonprofits solve problems so they can quit worrying and get back to what matters most – The Mission. I'm not like most attorneys, I actually have an outgoing personality, and – like you – I like to think outside the box. Most of my clients are passionate and have an entrepreneurial spirit. I'm like that too. My goal is to help you crush it. Getting bogged down in the minutia sucks the joy out of the important stuff. My clients want to do the work – not the paperwork.

Let's connect!

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