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Jiminy Cricket Reporting for Duty - Transcript

[Speaker 1]

Welcome to Charity Therapy, the podcast where we explore the ups and downs of the nonprofit sector and answer your burning questions. I'm your host, Jess Birken, owner of Birken Law Office, and I'm excited you're here. Imagine hanging out with me and my super smart funny nonprofit expert pals.

You get to ask them anything about your nitty gritty nonprofit life and get their wisdom for free. Whether you're a seasoned pro or just strapping on your nonprofit boots, we're here to share stories and remind you you're not alone on this journey. So get ready to join the conversation and bring me the tough questions.

I ain't scared. Ready to rock? Let's dive in.

Hello, hello, and welcome to this episode of Charity Therapy. I'm your host, Jess Birken, and Meghan is here with me today.

[Speaker 2]

Hello, hello. How are you, Jess?

[Speaker 1]

I'm good. I'm praying that my ducks don't start quacking incessantly outside because I feel like they've all learned from Clover that they should quack real loud sometimes.

[Speaker 2]

Clover is your smallest one and is your loudest one, and she has spread the good word.

[Speaker 1]

Yeah. It's her purpose in life is to quack.

[Speaker 2]

Truly. And you would think that just being inside her home with the windows closed would be enough to not be able to hear a duck, but you would be surprised.

[Speaker 1]

Yes. It's wild. We have many a meeting that are interrupted by Clover and her feathered friends.

[Speaker 2]

All right.

[Speaker 1]

Well, what are we doing? What's going on?

[Speaker 2]

Let's talk about some fundraising stuff.

[Speaker 1]

Okay.

[Speaker 2]

I've heard from folks before, like on the podcast, but also talking to new clients of the firm that they feel like just kind of icky about asking people for money. Like it's the unsavory part for a lot of people, but obviously as a nonprofit that thrives on donated funds, it is super important and necessary to have a growing nonprofit.

So we've got a listener question today that's about the Cole fundraising practices. So hopefully not too unsavory, but just first, can you tell us like, what are some of the best practices about fundraising?

[Speaker 1]

Yeah, absolutely. Although the thing that first popped into my mind was how funny and demented the nonprofit sector is, because we're really based in this like puritanical, like charity is the best, but then like you can't be charitable unless you have donations. But then like the asking for the money feels bad to a lot of people.

So there's this weird like paradox there.

[Speaker 2]

It's like a vicious cycle.

[Speaker 1]

I don't know. Is that just because we're in Minnesota and largely Scandinavian white culture, we don't like to ask people for things? Like I'd be interested to like hear from listeners about, is this a thing on the East Coast or in the South or whatever, but I find it fascinating.

And maybe part of it is that there are a bunch of scammy things that happen around fundraising. So to get to your question, what the hell is ethical fundraising? Was that what you asked me?

That is the question of the moment. It's actually pretty easy to understand what the industry thinks is ethical fundraising, because there's this association of fundraising professionals, AFP, that basically sets a code of ethics. So it's real, real easy to like look at their code of ethics.

And that is what the community of professional fundraising folks has decided is their ethical standard. So you can look at that list online, but a lot of it is just like common sense, like follow the law, you know, put the mission above your own personal gain, maintain donor privacy. Another one is like, don't do like a bounty.

If you raise this much money, then you get this much money. That's seen as unethical. There are some pretty clear things in that list.

It's not rocket science. It's kind of like, trust your gut. If it feels bad, it's probably bad.

[Speaker 2]

Exactly. Be in touch with your conscience, the little like Jiminy Cricket in your head that's like, don't do that.

[Speaker 1]

That's literally what I was thinking. I was like, cue the Jiminy Cricket music.

[Speaker 2]

Yeah. And so gotta love when it's just spelled out, but it's also not, like you said, rocket science.

[Speaker 1]

Jiminy Cricket, the poster child for AFP. They really should do a licensing deal. I think they could win with that.

[Speaker 2]

Truly. I love it. I love it.

So let's answer the question of someone who has maybe keyed into their internal Jiminy Cricket. So.

[Speaker 1]

As the youth would say, let's go.

[Speaker 2]

I'm the only staff member for a small membership nonprofit. My board chair is asking me to send them all our member emails belonging to certain zip codes. I told them I wasn't sure the database could do it.

Obviously it can, but something about the request sounded a little fishy. They then came back and said to just send them all the member email. This board member is super active at another nonprofit board and they run their own for-profit business.

I suspect they want to use the contact info for one of those other organizations. I asked what she wanted the emails for and she quickly just said personal sub lists or whatever that means. Either way, is this ethical to do?

My gut says no. Does it happen? Probably yes.

But should I do it or just stand my ground?

[Speaker 1]

Bruh. Also, as the youth would say, this is no bueno. No, your gut is correct.

You cannot be giving out your member list emails to somebody for their personal use. That probably violates a policy you have somewhere. I hope it violates a policy you have somewhere because wouldn't it be nice if you could consult with another board member and point to a policy that prevents you from doing that?

By the way, if you don't have one, maybe just do a little Google search for donor privacy policy or member privacy policy or just privacy policy because it's not cool to distribute the list to third parties. And if you were going to do it, you would be selling that list, not just giving it away because it has value. Also, can we just talk about the conflict of interest for this board member?

Yes. And I'm sure you have a conflict of interest policy, one that meets the IRS requirements, hopefully, which you could Google and see what their requirements are in their suggested conflicts of interest policy. Or you could reach out to someone like me and Meghan, and we could just give you one because this is a fiduciary conflict.

This person has allegiances to multiple entities, including their own for-profit business and another non-profit. When they're interacting with this non-profit, they need to be acting as a fiduciary and acting in the best interest of the non-profit, not putting their personal interests ahead. So if the members were polled and asked, would it be cool if we share your email address with our board member so she can add you to her day spa business mailing list?

What do you think they would say?

[Speaker 2]

Yeah, absolutely not.

[Speaker 1]

Yeah, probably not going to be okay with that.

Probably don't want a bunch of spam from you. So there's a conflict of interest problem here on top of any sort of fundraising issue.

[Speaker 2]

Yeah. And so I'm reading this as, you know, we don't know what the staff member does, but they are clearly the ones that are like in the donor database and are probably the one that does a lot of the fundraising and interfacing with members. And, you know, it is a really unusual request when you are doing the day-to-day work for a board member who does not do this day-to-day work to say, send me all of these things and to be cagey about what they're going to use it for.

But it does put a staff member in a really tricky place because in theory, their board chair has hiring and firing control over them.

[Speaker 1]

Okay. But that's actually a good point because do they? We don't actually know.

[Speaker 2]

True.

[Speaker 1]

We don't know if this is, well, they're the only staff.

They do say they're the only staff. So theoretically, yes. Theoretically, yes.

I would run to another board member and talk to them about this though, because you don't just have one supervisor. You have at least probably three, maybe more, and this is a problem. You're absolutely right.

They could be fired. Sorry. That's my bad.

[Speaker 2]

Yeah.

[Speaker 1]

But like if it was a bigger organization, I would be like, you need to talk to a CEO ED right now.

[Speaker 2]

Exactly. Like go up the ladder in whatever way that is appropriate, whether it's your immediate supervisor, like an executive director or a different board member and get somebody in on this. But yeah, just to kind of like break down what you had said about the fiduciary duty of this board member when they are, you know, acting as a board member for this nonprofit, they need to keep the nonprofit's best interests at heart.

And if they, like you said, are going to go out and add a bunch of people to their marketing messages for their spa, like it is not within the board or the nonprofit's best interest to promote this board member's spa. Like no matter what the actual nonprofit does, I can tell you that they are not existing in order to market another board member's small business or a different nonprofit for that matter. Even if it is a like related mission or things like that, that's not what the purpose of having these emails is for.

[Speaker 1]

No. And the other thing is like membership nonprofits. So like we can assume that maybe it's a C6 and maybe AFP standards don't really apply because they're not really soliciting donations there.

Maybe they're only doing membership dues, but man, I don't care. Like that's not cool. It smells.

It's not cool at all.

[Speaker 2]

And that's where we've talked about this in the past of, yes, you want to like follow the letter of the law in nonprofits, but also transparency and trustworthiness matters a lot. So even if none of these people are members of the Association of Fundraising Professionals and they don't have to follow that code of ethics, like it doesn't look good for it to be like, oh, all of our membership randomly ended up getting these mailers about something else. You are definitely removing any perception of trustworthiness there.

[Speaker 1]

Oh, and depending on the organization, you can guarantee somebody in that membership pool is going to put it together that Sandy's Day Spa is emailing them and Sandy's on the board and they sold or rented the list. And help you, Lord, whoever, if you have pissed off members contacting you over this, because, oh my God. It's going to be a mess.

There is no hell-like members being angry at you. Hell, like the drama does not need to happen. Just don't do it.

[Speaker 2]

Just don't do it.

[Speaker 1]

And I mean, the other thing, if you want to point to a policy, you can also give this person another way to engage with that community, right? Maybe you have educational conferences that you put on that have vendor tables and this board member could table at one of your conferences as their business. Or the other nonprofit they're with, if that's who wants the list, could table at the conference.

Or maybe there's an article that this board member can write for your community and it can be mentioned in their bio that they are from this other business. There are ways that you can provide opportunities for networking, which is fine, right? But we're not going to just give people's contact info out.

That is a no-no.

[Speaker 2]

And just to give a little bit of like empathy, I guess, to this board chair, I do understand, you know, we've talked about this on other podcast episodes too, where when you're in a smaller organization, the lines are a little blurry, can become a little blurry. And even though hopefully you know that you don't own this nonprofit and you don't have like full leadership ability, even as the board chair, like it's not your materials, your assets, your contact information to do with what you want. When it is so small, it's easy to feel that way.

Like we are the few people that are making this work and I like donate all my time and energy. And isn't this just like- And money. Yep.

And isn't this just an appropriate way to pay me back is that I also get to use some of these things for my own personal use. Like I can understand how people get there without thinking they're scamming the system or doing anything unethical. But when you are looking at it from the outside, it's like, oh no, no, that's a no-no.

Like that doesn't work the way that, you know, you are sort of doing the mental gymnastics to make it feel okay.

[Speaker 1]

Yeah. And I love that you bring that up because I feel like that is a really common thing. Like I deserve this.

I have donated thousands of hours, thousands of dollars or, you know, I come to all these meetings and I should be getting something out of this is a very common feeling. And it would be interesting to know if we had this person to talk to. Yeah.

If that is their feeling, it may be that the only staff member for this non-profit is not enough staff. Yep. I wouldn't be surprised to find out that this board is a very heavy-duty working board.

I see that a lot with membership non-profits where they have extreme burnout on their board because they're basically making everybody do a 20-hour a week job on top of their full-time job just to be on the board because they're so resistant to hiring either an association management firm or another staff person or whatever. So this is kind of like a collateral consequence of, you know, potentially burning people out and making them feel entitled to, you know, quid pro quo for something to come back to because they are overextending themselves to the organization.

[Speaker 2]

Absolutely. Absolutely.

[Speaker 1]

Well, what have we learned here today, Meghan?

[Speaker 2]

We had a couple of things. First of all, there's a really great organization out there called the Association of Fundraising Professionals. I almost lost the name.

The Association of Fundraising Professionals, who has a full code of ethics. So if you are unsure about how to behave ethically as a fundraiser, whether your organization's fundraising practices fall in line with what is considered best practices, go check it out. Super easy to find online and we have it linked in the show notes as well.

Another thing is that policies are really important. When things start, you know, shit starts to hit the fan and we need to figure out what the right way to move forward is, you'll want to have a policy to point back to and say, hey, we've already decided how we handle these kinds of problems. So in this situation, things like a solid conflict of interest policy or a donor privacy policy, things that speak directly to the problems at hand.

And lastly, I will say that overwork and burnout and other like potentially shady or questionable practices can kind of erode a person's goodwill in an organization and can lead to some of these more questionable or unethical like decision making. And so it's really important to keep an eye on the culture that you're creating at the nonprofit and making sure that people are well taken care of and that we're living out our values because this stuff is insidious and we'll get into the bones of the nonprofit before you even realize it. And that's all I have.

Jess, did you have anything else?

[Speaker 1]

I think you nailed it.

[Speaker 2]

Awesome. I love it when I nail it.

[Speaker 1]

You're like the classic grade grubber or gold star person, as am I. Takes one to know one.

[Speaker 2]

Give me an A!

[Speaker 1]

Right? Folks, if you enjoyed this episode, listen, we need you to rate, review, share it with a friend. If you got somebody whose board is working too hard and you need them to hear me say that, send this episode to them, okay?

Send us your questions. Send us your story. This was a really good one and I would love to get yours.

So find me online at charitytherapy.show and thanks for listening.

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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