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True Crime Muckbangs - 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.

Hey, hey, hey, welcome to Charity Therapy. It's me, Jess, with Meghan. We're here again to talk about nonprofits, which you love.

So let's do it. Hi, Meghan.

[Speaker 2]

Or you hate. I don't know. We don't know how you feel about nonprofits.

[Speaker 1]

Okay, that's true.

[Speaker 2]

Would you listen to this whole podcast if you really hated nonprofits? Maybe there's like a spite element to it, you know, like, because the questions are sometimes kind of juicy, you know, maybe it's like some schadenfreude.

[Speaker 1]

I do love me a dramatic question.

[Speaker 2]

I think we need some juice.

[Speaker 1]

Keep nonprofit true crime should be another podcast we do. There you go.

[Speaker 2]

We're just gonna try to nonprofit scandals, bring nonprofits into like every like genre of podcasts. You know, it's like suddenly we're topping the true crime podcast charts with the nonprofit stuff. I feel like it would be so boring.

It would be so boring.

[Speaker 1]

We need to find a way to make it exciting.

[Speaker 2]

We don't have like an Anna Delvey type like real drama, like scam story.

[Speaker 1]

You'd have to combine the nonprofit true crime with like mukbang eating. Like, I don't even know.

[Speaker 2]

It doesn't sound like the most well attuned to audio content. But like, maybe I don't know.

[Speaker 1]

I mean, I'm just saying I'm just going off what my kid watches. There's crime mukbang stuff out there. And if you don't know what that is, it's like people eating.

Go talk to a 15 year old.

[Speaker 2]

They can tell you. I don't know.

[Speaker 1]

Yeah, ask your local teenager about mukbang content.

[Speaker 2]

Anyway, that's not what we're here for. I promise. I don't have to listen to us eating or anything.

[Speaker 1]

There will not be any intentional chewing sounds. No fast food reviews. What's up?

What are we doing?

[Speaker 2]

Meghan?

[Speaker 1]

Yeah, what's actually happening?

[Speaker 2]

Let's talk about it. So we talk with lots of people who are involved with like both a nonprofit and a for profit that have like some overlap like that happens all the time. And I know that like when I am talking to someone who's calling us to potentially become a client.

That's always something that I will like flag internally and bring up to you about a potential client because I know that's often something that you want to like talk to them about. For sure. Just like why is that?

Like, what is the potential gray area messiness of the like nonprofit and why does that make your Spidey sense go off on a call?

[Speaker 1]

You're like hairs on your arms. Yeah, I mean, okay, so how to best sum up. There are a lot of rules around nonprofits.

And there are a lot of rules around insider dealing, and like scams and fraud. And that's one of the like hot things the IRS is concerned about is people using nonprofits as a tax dodge. And so like, anytime there's a for profit lined up with a nonprofit, that's just like a, like, Oh, gotta be on red alert for is this a scam?

Are we doing anything that's like wrong? It would take too long to get into all of the various rules and regulations around it. But there's a lot because human beings have tried to defraud the government out of tax money since it was invented.

[Speaker 2]

So yeah, yeah, it's one of those areas, you see it and you're like, Hmm, noted, like, let's make sure that we're doing things right here.

[Speaker 1]

And that there is no intentional or accidental like questionable behavior example, for profit, benefiting from the nonprofit funneling its money to the for profits to the tune of \$250 million.

[Speaker 2]

Yeah, there you go. There you go. The classic example of everything that has to do with nonprofit fraud lately.

So anyways, this is not about feeding our future. So let's get into our listener question today. Person writes in and says, I work for a business that sells trainings and products to its customers.

The owner of the business recently started a nonprofit whose mission is to buy the business's trainings and products and provide them to the government and local police organizations. The business owner keeps promoting the company by saying that a quote organization has chosen to pay for our services and donate them. But she keeps leaving out the part about it being her organization that is doing that.

If someone's nonprofit buys services from their own for profit company, is that allowed? It feels unethical to me, but I just don't really know much about nonprofits.

[Speaker 1]

Red flag, red flag, immediate red flag, penalty flag on the field. What is a football reference I can make that is? Yeah, red card, you're kicked out of the game.

That's more of a soccer. I don't know. It's different.

Yes, different football. I can pretend like I was intentional there. You're good.

You're good. So my first question is, where's the nonprofit getting the money to buy all of her company's stuff and turn around and give it away? That's to me, the fascinating part of this is like, who's making the donation?

And like, how's that working? Like, I don't get it.

[Speaker 2]

Like, I don't understand.

[Speaker 1]

Make a lot of sense. It doesn't make a lot of sense. Because if the I love that it's like governments and police organizations are involved in this.

That's a great look. That's a real good look for our municipal and law enforcement agencies. I'm like, are they making a donation to the nonprofit?

And on the nonprofit side, it looks like fee for service, because where's the money coming from? That's my main like, I can't get past it. You were selling things to a customer.

And now you're giving things to the customer. But who's paying for it is the nonprofit doesn't just as we all know, money doesn't just fall out of the sky because you started a nonprofit. So I'm just wondering if there really is anything being given away.

Or if it's truly that the government agencies are doing a fee for service, like paying for services from a nonprofit, and then the nonprofit is turning around and purchasing stuff from the business. And why? I still don't understand.

[Speaker 2]

And I mean, we've talked about this on other episodes, but having multiple entities in the mix is complicated, because especially if you have a nonprofit and a for profit, there are different rules that apply to those. And so it's sort of like, when it literally doesn't make sense in this way. It's also for me brings up the question of just like, do you know what you're doing?

Like, does it make sense? Are we following the rules? Like what's going on?

[Speaker 1]

Okay, wait, let me just get straight to the person's actual question. If a nonprofit because they say someone's nonprofit, but we all know no one owns a nonprofit. So just because this lady started the nonprofit doesn't mean it belongs to her.

If a nonprofit purchases stuff from their own for profit entity, is that allowed? It depends is the lawyer answer. But what they're describing is a no, no.

Right. So like, if I wrote a book, and I think, wouldn't it be great if I started a nonprofit, and the nonprofit buys the book for me, and then gives it away to all of the teachers for the children, that purchase of my business is lining my pockets. So ostensibly, this lady is on the board or working for the nonprofit, she's considered an insider, she is considered someone who has special status at the organization.

And any business deals we do with a company that she owns, is going to be a problem is going to require talking to a lawyer, and stepping through 100 hoops to make it legal. So like, is it allowed? Well, sometimes it could be allowed.

I think it's boring to get into all of those details. So I'm not going to talk about that. Does it seem shady af?

Yes, it does. Because basically, this lady is like, great, the nonprofit is going to buy all of my services, I'm going to get rich, because I own the company that sells the services. And the thing that I don't get, somebody somewhere is taking a deduction.

Like somebody somewhere is donating money to the nonprofit. So the nonprofit should not be purchasing stuff should not be controlled by this lady and then buy stuff from this lady. That is a no go.

That's just a no go without a whole bunch of like special circumstances and loopholes and things being worked exactly the right way. But I still just don't understand what the benefit here is. Because if she was selling the services, anyway, her business is doing well.

She's selling the same amount of stuff to a customer. So the disconnect to me is like, is she selling more of it? Because it's going through the nonprofit?

And if so, what are we doing here? Like we've talked in the past about philanthropists making you start a nonprofit? Is this some sort of goofy thing where like, government and police agencies are like, we will only purchase your services if you're a nonprofit.

So she's trying to like, wash that money through the nonprofit, but not give up her business. I don't get it. It is not ethical.

It is probably not allowed. It's probably private inurement. It's probably private benefit.

There's probably an excess benefit transaction. There's probably excise tax. She's probably going to get in big trouble with the IRS if they were to ever find out about it.

But I just don't understand why we're doing it.

[Speaker 2]

Well, and this is one of those situations where I feel like it's good to remember that, first of all, people don't always intentionally break the rules with the IRS, right? Like oftentimes it is a, you know, I think I'm what I'm doing feels fine to me. And I just don't know that there's a rule against this, you know, but that also not everyone who breaks the rules is doing it in a smart way.

You know, not everyone who's like, even if she is like trying to scam something from these facts, it doesn't sound the most successful. And even if she's not trying to like, this is scammy, you know, like, not everyone doesn't look good. Not everyone's a good scammer.

[Speaker 1]

You know, I'm just like, I don't know why you need the nonprofit in the middle. Yeah, because yes, our foundation's jerks and being like, well, they give to a nonprofit, you have to be 501c3, you should change your entire life to make us happy. Fine, but government and law enforcement agencies buy stuff from taxable entities all the time.

So we don't know what they're selling. We don't know what the trainings are. We don't know what the products are.

But if you could sell to those agencies anyway, why not just do that?

[Speaker 2]

Yeah, this to me feels like the, you know, example of like, oh, this business owner's dad wants to like infuse a bunch of money into this company to help the law enforcement agencies or something, but it would affect the business's taxes to do that. And it's like not a good look. Or it's not going to be beneficial to them down the road.

So it's like, oh, we'll just throw it through the nonprofit or like some sort of like, the money's coming from somewhere. The business is getting the revenue anyway. That's true.

[Speaker 1]

Yeah. That's why I'm like, I don't get it. Because breaching client confidences.

I have definitely seen circumstances where somebody's like, oh, my lovely child, you would like to start a nonprofit and you are a trust baby. And so I would like to support you with all of my millions. And then they like want to start a nonprofit and pay their child a salary by making a tax-deductible donation to the nonprofit so that it can pay young person a salary.

Like that's tax fraud. That's like, I was going to give you 60K anyway, because you're my kid and I'm loaded. But wouldn't it be great if I could just wash it through this tax exempt entity?

But here, I just wish we had more info about like, where is the nonprofit getting the money to purchase stuff from the business? Because either the governments and police agencies are paying for the trainings, and it's like this step transaction thing happening. Or somebody wants to take a deduction and fund free trainings, which feels wrong.

I don't know. It feels like this is like winning the Darwin Awards for dumbest way to get a tax audit problem. Yeah.

I feel like nothing's being accomplished. Like all the rules are being broken. Penalties are about to be issued.

But for what?

[Speaker 2]

She thinks she's playing chess, but she's really playing checkers. Like it is not. Yes.

Yeah. And the thing is, is that, like I said, it's not that hard to break some rules when you don't really know what's going on. It's just usually we hear about these situations where there's some creative like win-win, right?

Where it's like, no, the person gets the training that they weren't willing to pay for, and I still get paid for it. And everything is a win-win. And like those like sort of creative win-wins in the nonprofit world, especially with the nonprofit and for profit are often the signal of like, I don't know about this.

But this one just doesn't really make sense. I'm like, do we have a win-win? I'm not sure.

[Speaker 1]

I'm not sure. I'm not sure we do. I don't know.

I've even seen like, oh, I have like a tree farm and I will get schools to purchase trees for planting for their little kiddos. And then the nonprofit will buy the trees for me. And it's like, why?

Like, yeah, why are you going to administer this nonprofit? The schools will just buy the trees from you. Like, right.

Yeah. I don't know. What even would be the takeaways, Meghan?

[Speaker 2]

I mean, I feel like there's a couple. I feel like there's a couple. First, it's that like, when you do have this sort of like major overlap in the Venn diagram of a nonprofit and a for profit, like it is an area that can be rife with scams, you know, like it doesn't have to be there are ways to do it right.

But it can lead to some unethical transactions between the two entities. And that's the reason why the IRS is like, what's going on with that? You know, so things like private benefit, private endowment, like you mentioned, like, that can be a problem when you are dealing with multiple entities like this.

And then the other thing is that like, this is sort of a dumb one, but nonprofits are hard. Yeah, you're trying to scam. It's not easy.

You know, like this stuff is complicated. And you need to know what you're doing. Before you get into it.

I'm not advocating for scammers to be smarter at their scams. But like, I thought you were Meghan. Right.

That's exactly what this podcast stands for, Jess. But yeah, like it is complicated, no matter which way you slice it. So if someone is talking about starting a nonprofit as a easy way to accomplish a win win, or even just like, a good like new stream of revenue or something for their, you know, business efforts, even if you're trying to do it all right, or even if you don't care about the rules.

It's not easy. Yeah. So the start a nonprofit is not gonna be your easy answer, no matter what.

[Speaker 1]

That's so true. That's so true. Perfectly said, I have nothing.

There we go.

[Speaker 2]

Let's cut it. Let's cut the cord on this episode, Jess. All right, let's cut the cord.

I don't like that metaphor. I'm sorry. I take it back.

[Speaker 1]

Let's just cut these people off from their stupid scam that is pointless and hurting them. Right. If y'all can hear this wherever you are, stop.

Tell your friend. Tell your friend to stop. Get out.

Meanwhile, tell a friend about our podcast, would you? Tell a friend, share this episode, rate, subscribe, push all the buttons, all the things. If you have a story or a friend who's doing something that seems crazy, please send us a note online.

We want to hear about your crazy friend and their crazy scheme, and we will tell them if it's worth doing or not. Find us online at Charitytherapy.show. Peace out, home skilletts. Bye-bye.

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.

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