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What Happens to the Money When a Nonprofit Closes – Transcript

Jess Birken 00:00:02 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 Birkin, owner of Birkin 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 and welcome to this episode of Charity therapy. It's Megan here, and I've got a great episode for you today from our backlist. Today we're talking about what happens when a nonprofit closes, but more specifically, what happens with any money that's left over at the end of the day. And while dissolving a nonprofit can be emotional and difficult. Remember that the opportunity to give a big gift at the end can be a beautiful way to honor the mission.

Jess Birken 00:01:08 So no matter what role you play in the nonprofit world. Remember that understanding dissolution helps you understand nonprofits. Don't miss this episode! Hello and welcome to this episode of Charity therapy. Megan and I are here to answer all your nonprofit questions today. Hey, Jess, maybe only one. Honestly, I am sweating, I am hot, it is hot in this room. Why is there no air conditioning coming through the vent in my floor? I'm upset about it, Meghan. It is upsetting. Honestly, nothing is worse than when like to hot room in the house. That doesn't get good ventilation and I'm just in it with no fans. Door closed. You people listening right now to have good audio? Okay. Literal sweat, not so much blood or tears. Hope you enjoyed this episode. Yeah. Okay. What are we doing. Let's, let's get into this episode. Yeah. Let's start it. Okay Jess we've talked about dissolution before and lots of our other episodes. So if you're not familiar go check it out.

Jess Birken 00:02:17 But one of the big elements about nonprofit dissolutions is that you as the founder or president or CEO or whatever, does not get to keep anything, all any leftover money. Right. Like, yeah, you need to do something else with it. So, Jess, can you talk about what happens with any leftovers when a nonprofit closes? Well, what's supposed to happen? What's supposed to be in your articles of incorporation is a clause from the IRS that says, if you go out of business, all of your things will transfer to another similarly situated nonprofit or government agency. Never actually seen anything go to a government agency, but I guess it could. So basically you have to pick another charity that's alive. That's not going out of business. That is in good standing with the IRS that has a similar mission. You need to cut them a check at the end of the day. And that makes sense, right? Because if you think about it, that your donors were like, I want to give to this cat rescue to save the cats in my area.

Jess Birken 00:03:23 They want their donation to go towards saving the cats. And if you personally are not doing it anymore through this nonprofit, another cat saving organization or something similar should get that donated fund. It's not nailed for you to line your pockets with it. I deem you honorary nonprofit lawyer. Oh yes, I'm sure the bar association really respects that. Okay, well, let's get into the question today. This one's a bit different. I feel like we often hear from people when things have gone, like, really sideways. And this is a I really like this question. So I will stop talking about it and just read it. I was the executive director of a nonprofit that didn't survive Covid. I could have spent everything we had trying to come back to an uncertain future, or I could act as a steward for the remaining funds of this org I loved so dearly. I chose to be the steward. I worked with an attorney to jump through all the hoops to get dissolved, and I'm finally at the point of playing Fairy Godmother with a substantial amount of funds.

Jess Birken 00:04:24 I've come up with a list of charities from only their public face, but now I'm a little bit paralyzed. Do I give a big gift to a few or smaller amounts to a bunch of different organizations? What financials would you ask to see? If there's a couple of orgs that seem worthy but have some mission overlap? What criteria could be the tiebreaker? I may be overthinking it, but I work too damn hard keeping everything together to make as much of an impact as possible. I want to make my last act as Executive Director to honor the sacrifices of all the people that made my org the wonderful thing that it was. What would you do if you were me? Okay, there is a glimmer of self-awareness here, and I just.

Meghan Heitkamp 00:05:05 Want to shine a spotlight on that and be like, you know the answer. You know what the answer is because you said it yourself. You are overthinking it. You're overthinking it. There's something happening for this person psychologically. They're having a hard time saying goodbye.

Meghan Heitkamp 00:05:25 That's my take on this. They shouldn't be laboring this so much. They need to go to the therapist's office and do the grieving and do the crying and emotionally process the fact that this organization went away. Process any internal guilt or shame or whatever. There's something to unpack there about how you should have coulda, woulda, maybe we blah blah blah. Like, you need to let it go because you're making this way more complicated. You don't need to work this hard and make it this complicated. That said, I get that if you have a big chunk of money, be nice to spread it around. However, if I had somebody from my fundraising pals here, they don't say how much money that we're talking about. If it's \$5 million, I think we're not going out of business. So I'm thinking it's probably fairly small. Less than half a million. Maybe it's only 50 K. So when you're talking about like, should I give \$20 or \$2000 or \$10,000, remember when you were the Ed, what would have made a difference to your organization? A bigger gift is a better gift because it allows that organization to take it and run with it.

Meghan Heitkamp 00:06:47 It's not just like, oh, that's nice. That's a little drop in our operating bucket. That's a giant hole that we're constantly trying to fill throughout the year. So without knowing how much money we're talking about, I'm just going to go ahead and assume it's like less than \$100,000 or like somewhere around there. And, you know, we've seen this with clients where they want to like, lit it up in some arcane. 11% here. 11%. They're 13% here. 15%. Why? Why are we doing that? I think it's that it's hard to let go. You're trying to keep control for as long as you possibly can. Do I need to vet these charities? Financials? Tell me without telling me that you're trying to stay in control and stay connected. Right. You don't need to vet their financials. Are they in good standing? Do they look? Would you give to them if you were a donor? That's the. That's enough. This is not a grant application. This is not something you need to go meet their board and see if you feel good about.

Meghan Heitkamp 00:07:51 Like you need to give the money away and the bigger amount that you can give them, the better it's going to be. Because, you know, as an executive director, that makes the biggest difference.

Jess Birken 00:08:01 That becomes the opportunity fund. That's the extra wing on the cat shelter that like, nobody could possibly afford. But now we can't. Oh my God. Angel fund. Like. Let it go. Let it go. So I work too damn hard. You're talking about yourself. And this is a you thing. Go ahead. I respect the general premise here of, like, I want to do right by the funds that I have. Like, that is an important thing to consider, and I respect it. And you know, you are doing right by the funds that you have by donating it to another organization. Like anything past that is something that is internal to you. And there's some things about this that are going to be personal, and it's okay that you're having feelings about it, and it's okay that it's like difficult.

Jess Birken 00:08:46 But drawing this out unnecessarily doesn't actually help anybody. You know, like you are just making it take longer to dissolve this organization. At the end of the day, delaying the grieving. This is what I when you were reading this and it was like I worked with an attorney and we jumped through all the hoops. I was like, yeah, good job, good job. You know, because it's we see that a lot of times they don't do that. So now I'm kind of talked off with the lawyer because what I know we do a ton of solutions and we help clients through this. It is sad. It is sad. People who are dissolving feel like they have failed. They have failed their community. They have. The board feels like it's a failure on their watch. It's sad. There's grieving that needs to be acknowledged. And it feels to me, I obviously there's nothing in here that says this, but it just feels to me like this lawyer was like, great, I will do all of the forms and the paperwork to give me the money, and didn't actually take the few minutes even to process that they are making a good decision.

Jess Birken 00:09:59 This is the right thing to do. I know this is hard. They didn't hold this person's hand emotionally through this difficult transition. And so now they're at the very end. It's like if you had a pet that was like had a long term illness that was eventually going to kill them, like, and you're doing all these things like keep life support going because you haven't really processed that. They're leaving, like you haven't processed it. And your lawyer should have helped you process the grieving piece of dissolving this nonprofit that you were a leader of. And so, like, you know, lawyers do do better. Come

on, man. And I would just say the tone here in this question, the person says that they're a bit paralyzed trying to make this decision. And it almost sounds like they are waiting for like the perfect right answer of like, oh, if I just find the right amount to give to the right number of organizations, I will feel good about this. Like I will feel good about the end of this nonprofit.

Jess Birken 00:11:02 I will have sealed our legacy in the perfect way that there's a right way and a wrong way to do this, for there is no perfect solution. So therefore we never have to process how sad this is and never be done with this. Exactly. It's like you can't wait for the perfect solution. There is no like, you know, 5050 versus 6040. Like at the end of the day, you're not going to have all the data. You're not going to be able to make that decision in a way that feels good. So you have to just do your due diligence enough to be like, yes, this is a non-profit that does something similar in my community and has good standing. I'm going to give them the money. If you have \$300,000, give \$300,000 gifts. Yes. Maybe you just need someone to tell you. I'm going to tell you. I'm going to tell you this is not legal advice. I'm not your attorney, blah blah blah. If you have \$300,000, you give \$300,000 gifts.

Jess Birken 00:11:57 If you have \$100,000, you pick one charity and you give them one \$100,000 gift. If you have less than \$100,000, give it all to one place. Can you imagine being the executive director and opening up the mail and just being like, oh my gosh, all those things I've been planning to do that we can't afford and I don't know how we're going to you're going to blow their minds. Yeah. And it's going to be the absolute best thing. And it's just that's what you do. If you need someone to tell you what the perfect solution is, there you go. Get out of that paralysis state and get back to what you said at the beginning of the question, which is that you get to play fairy godmother. You do get to be like, this is fun. Like, I'm going to drop a huge gift on someone and make them feel really good. Like, get to that part because that is fun. That is exciting. That does feel like a really positive way to go out to say, I'm going to give someone some huge gift.

Jess Birken 00:12:54 So you just got to pick it and do it. All right. Well, okay, I think we talked about that one to death. So let's get some takeaways here. I have a couple. First is that when a nonprofit closes you don't get to keep the funds. You have to give them to another nonprofit that does something similar. That is a law. That is something you have to do. It is a requirement. It's not a suggestion. That being said, you do not need to

agonize over that decision until the end of time. There's a lot of emotions and feelings that come along with dissolution, and choosing the successor organization, or the organization that gets the leftover funds is not the time to process them. You need to make a informed decision to give to a similar nonprofit. But beyond that, that is all you have to do in order to end out on a good note. And I will also just say kudos to this organization for closing while they were a little bit ahead, instead of running it all on the ground without having any funds to disperse, you know, 100%, 100%, I.

Jess Birken 00:14:03 Have seen the opposite of this more times than I can count, and I am so proud of this organization for taking this road and choosing to be a steward and choosing to just pay it forward in this way. Amazing job. It really is like the hardest decision.

Jess Birken 00:14:21 Yeah.

Jess Birken 00:14:22 All right. Well, before I start crying or just sweating worse because it's so freaking hot in this room.

Jess Birken 00:14:30 This one coming out of your eyes.

Jess Birken 00:14:31 If you enjoyed this episode. I need you to go. Leave me five stars on the Apple thing. Rate it wherever you can rate it. Leave a comment. Send us a question. We want to hear from you. We know you have your stories. We will keep it anonymous, I promise. So send us a question at charity therapy. I'm going to go take a cold shower and we're out.

Jess Birken 00:14:55 Catch you next.

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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