



What should you do if you suspect unethical fundraising tactics?

**T**here's enormous pressure on the CEO to steer the charitable organization through turbulent waters. The board's mantra is: contain costs, increase revenues, find great staff, and raise huge amounts of money. In this demanding and stressful environment, it's no surprise that the CEO often demands quick fundraising results and easy short-cuts to increase philanthropic income. Unfortunately, these short-cuts can lead to violations of ethical fundraising practices.

What should you, as a development professional, do if you think the CEO or board are involved in unethical fundraising activities? Will confronting them jeopardize your job? If you choose to find a new development position, how should you explain the unethical activities at your previous job?

# Confronting the Unethical Boss: Advice for the Fundraising Professional

By Bill J. Harrison, CFRE

## The Unethical Request

Several years ago Diana Hoyt, CFRE, president of Heritage Designs in Phoenix, was confronted with an ethical dilemma that resulted in her leaving the charitable organization. "I was asked by the CEO and the CFO to report a gift as if it had come in the previous fiscal year. I knew it was wrong and I just couldn't do it. To make the situation worse, both of these individuals came into my office yelling at me and calling me names. I explained that it was unethical to report a gift in the wrong fiscal year. I know a lot of people would have said just walk away from this, don't worry about it, change the gift, who cares, it's not that much money, it's not like it's a million dollars. If you account for it incorrectly, and you account for it in any other way than the proper manner, it's wrong. It just didn't matter what the amount was, I couldn't change it. I said I was very sorry that this had occurred but it was unethical."

A short time later, Diana left the organization to start her own fund development software company. "When anybody asks you to do something that you know is wrong, you have to decide if you can continue to work with those people, especially since they had also been verbally abusive. I don't believe any of us, in any relationship, should be abused. That was why I had to leave."

The charitable organization is the ultimate loser from a situation like this. Not only did it lose a dedicated development professional who was upholding the ethical standards of her profession, the organization also tarnished its reputation as an ethical and honest member of the nonprofit community.

"If you're a good development officer and you have worth and value to your organization, and you point out unethical things to the CEO or board, they ought to take your advice," says Irwin Brod, CFRE, managing director of Brakeley, John Price Jones, Inc., of Stamford, Connecticut, and former chair of the Association of Fundraising Professionals' Ethics Committee. "If they're not going to take your advice on something that's in your domain, then you need to think twice about whether that's the place you want to spend your career."

## The Value of a Fundraising Code of Ethics

All the national membership organizations that represent development officers have a code of professional ethics. The Association of Fundraising Professionals has a substantial code with 19 sections that pertain to a myriad of ethical behaviors including percentage-based compensation, confidentiality, and honesty. The Association for Healthcare Philanthropy (AHP) and the Council for Advancement and Support of Education (CASE) also have published ethical codes that govern the actions of development professionals.

"The real value of an ethics code is the credibility it gives the fundraising profession," says Paulette Maehara, CFRE, president and CEO of the Association of Fundraising Professionals. "Clearly the underpinnings of a profession, whether it be medicine, law, or fundraising, is a code of conduct that professionals must follow. This not only provides credibility, but it enhances the quality of the practicing professional. Additionally, it's good, sound, practical advice for fundraisers to follow."

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### Educating the Organization about Ethics

Understanding the ethics code and articulating it is part of your responsibility as a development professional, according to Irwin Brod. "It's your job to educate the CEO about how philanthropy can help the organization," he says. "Teaching people in your organization about the code of ethics, to me, is the same as teaching them about how to raise money successfully. It goes hand and hand."

Christopher P. Bryant, president

of the Bryant Group, an executive search company in Marina del Rey, California, also feels that education and understanding of ethical practices will benefit the organization. "If someone is misappropriating donor funds because they just don't know better, or aren't sensitive to the moral requirements of using the gift for the purpose the donor intended, you probably need to do a little in-service. If the individual is just ignorant of the ways to handle donor funds, then it's imperative for the chief development officer to sit down with the individual and discuss the situation."

Bryant has three suggestions for the development professional regarding ethics:

1. The development professional must know about ethical practices and procedures.
2. Those ethical practices and procedures must be communicated to the administration and board.
3. If the organization isn't interested in learning about ethical fundraising practices and procedures, then it's perhaps time for the individual to move on.

### Unethical Behavior vs. Criminal Misconduct

At what point can unethical behavior be interpreted as an illegal activity? Take for example a substantial direct mail program that heralds an anonymous matching donor. The CEO has assured the development staff that a generous individual will match every gift dollar for dollar. All the appeal materials, including the letter copy and the acknowledgment letters, proclaim this outstanding generosity. However, when the appeal is complete and the matching funds are requested, the CEO confides that there really wasn't a matching donor.

This is a situation that could be interpreted as illegal first and unethical second. To send out a mailing that makes patently false claims (in this case a fictitious matching donor), could be construed as mail fraud.

"There are many, many things that violate the fundraising code of

ethics that have nothing to do with the law," Irwin Brod explains. "But if that person is doing something illegal, then I wouldn't worry about the fact that it's unethical, because the legality comes first. If we get a violation of the code at the Ethics Committee that has legal implications, we report it to the proper legal authorities. We don't deal with it as a violation of the code until the legal question is answered. If the development director suspects that something is being done illegally, then that person should explain to the CEO that the action is illegal."

### How to Avoid Internal Unethical Problems

"It you don't want to see it printed in the *Wall Street Journal*, then you probably shouldn't do it!"

— Christopher Bryant

Unethical activities, even insinuations of unethical activities, can be devastating to a charitable organization. Erosion of philanthropic revenue, tarnished reputations, loss of staff, and desertion of key volunteers can all be the aftermath of an unethical scandal. What precautions can an organization take to avoid unethical actions?

"My experience of 20-plus years of doing practical ethics has shown me that most people are trying to do good things but become confused about the right thing to do," says Dr. Deni Elliott, director of the Practical Ethics Center at the University of Montana and author of *The Ethics of Asking: Dilemmas in Higher Education Fundraising*. "Sometimes the problem is that there's no process in the organization that facilitates discussion of concerns. If there seems to be no way to convince the CEO or board to develop a procedure for dealing with ethical concerns, you might point out that the Federal Sentencing Guidelines of 1991 provide a carrot-stick approach to organizations and how they deal with ethics. If there's some problematic behavior, and there's no ethics programming in place or evidence that the organization ignored

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ethical concerns, then the organization may be found criminally liable for the sins of the employee. However, if ethics programming is in place, or evidence can be shown that the organization has a process for dealing with ethical concerns, the organization isn't liable for the sins of an employee."

### Discussing the Unethical Problem with the CEO

If no process exists in the organization, as Dr. Elliott describes, then the development professional will have to take the lead in identifying and articulating potential ethical problems. Confronting the CEO can be daunting. It takes courage and conviction to present unethical activities when your position with the organization could be on the line. Remember, however, that working for an unethical organization could very well be career suicide.

"If you run into an unethical problem with the CEO, then you should discuss the problem with the CEO," says Irwin Brod. Take care to address the problem in a way that will elicit change and not provoke hard feelings, misunderstandings, or accusations of legal misconduct. "If you tell someone they're unethical, all their sensory points shut down and they say, 'What are you talking about?' We prefer to say that the activity violates the fundraising code of ethics rather than saying it's unethical. What you're interested in is having them correct their behavior so that they're doing something consistent with the code of ethics. So by pointing out that it violates the code, and avoiding words like unethical, you allow yourself a more receptive audience.

"You should explain to the CEO why the activity is unethical and suggest ways in which you could accomplish the same thing by doing it in an ethical manner. It could be that the CEO isn't aware that the activity is unethical. If the CEO wants to continue doing what's unethical, then you have two choices. The first choice is to speak to the board chair. That could backfire, however, and put your

job in jeopardy. The second choice is to look for another job."

### Looking for a New Job

What if a job change is imperative because of ethical problems with your organization's senior management? First, you need to decide how you'll address the situation with future employers.

"I think somebody who leaves an organization because they can't tolerate the way the organization is doing business is like the whistle-blower who has great principles but stands a chance of being severely misunderstood," notes Dr. Elliott. "I would suggest to that person to put your values up front.

**Working for an unethical organization could very well be career suicide.**

Explain why you think ethical fundraising is so important. It won't do you any good to get hired into an organization that is going to be repeating the same kinds of problems. If the organization is scared by your commitment to principles, then it's not a place you should be working."

Irwin Brod also feels honesty is the best way to approach a new organization. "The development director can say they didn't like the style or the culture or how the former organization went about its business. However, I would be careful about pointing fingers. Generally when you go to a new employment situation, one of the things they're concerned about is how you're going to treat them if you leave, based on how you treat others. So I think it's perfectly acceptable to say, 'I have a personal code and a professional code of how fundraising should be done. I felt that my previous organization wasn't following the code of my profession. I pointed it out to them, they didn't wish to do anything about it, so I decided that wasn't the proper environment for me to spend my professional life.'"

### Lasting Scars and Memories

Any discussion of ethics can be boiled down to the basics of doing the right thing. Lost in many of these discussions, however, are the feelings of the development professional who has been emotionally scarred from a difficult battle. Ethical arguments may often be shrouded in a gray area of confusion, but the ill-feelings and deep hurts caused by an unethical situation are real and can linger for years.

Diana Hoyt left her organization feeling extremely abused. "You don't tell the whole world about a problem like this because if you really believe in the organization you have to decide how big of an impact it's going to have on the organization. On this particular organization the impact would have been huge. The night I realized the problem I asked myself, 'What am I going to do about it?' And I answered, 'I'm going to do my job in the most honest, forthright fashion I know and I will take whatever comes along.' "■

### Resources

Allen, Michael, "The Ethics Audit: A Tool Whose Time Has Come," *Nonprofit World*, Vol. 13, No. 6.

Mason, David, "Values for Ethical Choices: Rate Yourself," *Nonprofit World*, Vol. 10, No. 3.

Rudolph, Lewis, "Framework for Ethical Decision Making in Philanthropy," *Nonprofit World*, Vol. 12, No. 6.

These resources are available at [www.snpo.org/members](http://www.snpo.org/members). Also see Learning Institute programs online: Resource Development ([www.snpo.org/li](http://www.snpo.org/li)).

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