

# Welcome!

## Ethical Issues in Charitable Gift Planning

**Presenter: Johni Hays, JD**  
**Executive Vice President**  
**Thompson & Associates**  
**[johni@ceplan.com](mailto:johni@ceplan.com)**  
**515-988-8817**



***“Ethics is knowing the difference between what you have a right to do and what is right to do.”***

***Potter Stewart***

***Associate Justice, U.S. Supreme Court***

**“Model Standards of  
Practice for the  
Charitable Gift Planner”**

# **Donor's Bill of Rights**

**Integrity is doing  
the right thing  
even if  
nobody is watching**

# Scenarios

- **Donor requests**
- **Charitable institution's own actions**
- **Getting too close to a donor**
- **Not in the donor's best interests**
- **Not following donor intent**



# Donor Requests

- **Husband and wife are long-time donors and completing their 3<sup>rd</sup> joint life CGA with stock they own together.**
- **Wife is by herself in the development office; she signs the donor agreement and also signs her husband's name in front of the Development Officer.**
- **The Development Officer processes the gift and says nothing.**



# Donor Requests

- Donor gives a building worth \$350,000 to charity and says, “I hope you hang on to it for 3 years.”
- 2 years later, in dire financial straits, the charity tells the donor they need to sell the building.
- Donor is angry, says you can’t issue IRS Form 8282.....that it was part of the deal to hang on to the building for 3 years.





# Donor Requests

- **Charity is hosting a banquet.**
- **Tables are selling for \$2,000 each.**
- **The charity receives a check in the mail for \$2,000 from a donor's donor advised fund at a local community foundation.**



# Donor Requests

- **Board member of your organization is a realtor and volunteer. She asks for a donation-receipt for 3 hours of volunteer time per month at \$250 per hour = \$9,000 for the year.**
- **Development office gives her the receipt.**
- **Was it unethical for the development office to give her a receipt for \$9,000?**



# Charity's Own Actions

- A rather stern donor completes a CGA using stock.
- A few mishaps happened along the way so now the donor is grouchy.
- The planned giving officer finds that the quarterly CGA payment in the contract is actually \$1 less than the Crescendo illustration shows.
- Since the donor is so grouchy anyway, the planned giving officer decides not to bother correcting the contract. After all, it's only \$1.



# Charity's Own Actions

- **A donor intends to make a gift of a commercial building to a local charity.**
- **The donor asks the charity to pay for the \$3,000 in legal fees he incurred in negotiating such a large gift.**



# Continued....

- **The charity pays the \$3,000 bill.**
- **The PGO's boss says to give the donor a receipt for the building less the amount the charity paid for the legal fees.**
- **However, he says to only declare \$100 as the amount the charity paid for legal fees.**
- **If you are the PGO, what do you do?**



# Charity's Actions

- **A charity implements a professional advisor committee.**
- **The committee has 25 trust and estate attorneys, 15 financial advisors, 5 trust officers and 20 CPAs.**
- **Joe is an advisor and is elated to be involved on the committee. He can't wait to get the names of the big donors because he plans to try to get them as his own clients.**
- **Has Joe done anything unethical?**



# Who Should be Fired?

- **The foundation board chair announces to the professional advisor committee that he expects to see many new planned gift donors now that all these new advisors will be specifically recommending this charity to all their clients.**
- **How do you feel about the board chair's statement?**



# Charity's Actions

- Donor asks a charity for the name of a local estate planning attorney to get her revocable living trust updated to include a charitable bequest.
- The gift planning officer at the charity shares a list of three estate planning attorneys and says, “This is who we know our donors have worked with in the past. Check them out and see if any of them feels right for you.”
- Is that unethical?





# Charity's Actions

- **A charity and a law firm have an agreement.**
- **Any donor to this charity who wants a charitable bequest can have the will prepared by this law firm.**
- **The PGO meets with the donor and gets all the information for the will and emails the information to the lawyer. The lawyer drafts the will and emails it back to the PGO. The lawyer never meets with the donor.**



# Getting Too Close to a Donor

- **A long time donor tells the PGO that he has left the PGO (not the charity) a bequest of \$5,000 in his will.**
- **The PGO politely tells the donor he won't be able to accept it.....that the charity has policies against that sort of thing.....but thanks him for his thoughtfulness.**
- **The next time the PGO has lunch with the donor, the donor says he won't change his will because his lawyer wants \$100 to prepare the codicil.**



# Getting Too Close to a Donor

- **What if the donor never told the PGO that the PGO was in the will for \$30,000 and the charity was in the will as a 5% residual beneficiary?**



# Getting Too Close

- **A charity receives a letter from the daughter of one of its most loyal and generous donors.**
- **The letter wants to force the charity to stop soliciting gifts from her mother.**
- **The mother enjoys being generous and giving to charity. (She has no health or mental issues.)**
- **The charity ignores the letter and contacts the mother's attorney and asks what it should do.**



# Not in the Donor's Best Interests

- **PGO recommends a \$100,000 CGA to an 82 year old woman.**
- **The donor checks with her attorney before signing the CGA agreement.**
- **The attorney recommends a CRAT instead, so he can generate a \$5,000 fee to draft the trust.....he doesn't make much in fees to review a CGA contract.**



# Not in the Donor's Best Interests

- Donor is 85 and owns one piece of real estate. She likes the idea of donating it to a charitable remainder trust. Charity will serve as trustee, but the Development Officer feels the planned gift will fall apart if she has to see a lawyer to draft the trust.
- The Development Officer mails her a sample trust legal document with the donor's name filled in and the income %. The charity's name is also filled in.
- The donor signs the trust document and mails it back to the charity within 24 hours.



# Not Following Donor's Intent

- Donor gives a building to her favorite charity. Building is owned by an S-corp so donor gives S-corp shares instead of taking building out of S-corp first.
- Months later the charity discovers the S-corp also owns a checking account with \$290,000 in it.
- The donor hadn't realized the checking account was owned by the S-Corp and didn't mean to give that, too.



# Who Should be Fired?

- **If you work for the charity, do you happen to mention to the donor about discovering the checking account?**
- **Does the charity keep that fact quiet? Would that be unethical?**
- **Wasn't the gift done legally?**
- **The donor's true intent was to give only the building, not the checking account.**
- **Does the charity have a legal obligation to give the checking account back to the donor?**
- **A moral obligation?**





# Questions?

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