



The Nonprofit Ethicist

by Woods Bowman

Dear Nonprofit Ethicist, I hope you can shed some light on a situation that is very disturbing to me. My former church hired a member to act as project manager on some construction work. He has tax liens outstanding and has worked under the table for years at various jobs. The church made the checks out to the man's wife, at her request and with the full knowledge of the senior pastor, administrative pastor, assistant treasurer and others, although she had nothing to do with managing the project. She uses her maiden name because of the husband's tax problems and has their home titled in her name alone.

When confronted about this, church leadership claimed that the senior pastor was not aware that this was being done, although he initialed the forms authorizing the checks to be made payable to the wife. The administrative pastor who obtained the pastor's approval, and the assistant treasurer who signed the checks, were also well aware of the tax liens and the fact that the checks were being made out this way. Church leadership gave the rationale that since other pastors' spouses participated in ministry but the checks were made out to the pastor alone, this was the same thing. However, the other checks are made payable to the husbands, not the wives. Also, this was not a "ministry" but compensation for a specific job exe-

cuted by the husband. The wife has a full-time job (as town clerk!) and was not part of the construction project in any meaningful way. I don't know how the church was handling tax reporting on the salary (W-2 or 1099). Between 2006 and 2007 the total amount paid for this job was over \$25,000.

This situation was reported to the denomination's district office, which allowed church insiders to conduct a very cursory, one-sided investigation which cleared the senior pastor of any "intent"

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or "malice." No mention was made of the two other paid pastors who also saw the authorization forms, or the volunteer assistant treasurer/elder who signed the checks. Not one of these individuals, all of whom are very close friends, objected to the practice. I became aware of all this when I started helping out with some bookkeeping tasks, and I immediately left the church.

What is your opinion about this? Are there special situations for churches where making checks payable to one spouse for work done by another is legal? Given the man's history with the IRS, it looks like the church was complicit in helping this couple hide income from the government. Am I crazy to think they

were doing something wrong? Other members who criticized the pastors for allowing this situation to go on have been ostracized by the senior pastor and his buddies.

Enlightened

Dear Enlightened,

I never cease to be amazed by the shenanigans that some churches and their leadership instigate. Some of it, like this situation, is even illegal.

You are quite right on both counts: (1) making out checks to a person other than one who actually did the work is wrong and, given the man's history with the IRS, I agree that the church was complicit in helping this couple hide income from the government. The role of the senior minister is not entirely clear to me, but he is responsible for authorizing payment.

This reminds me of a study of students who were caught cheating on an examination. All students had access to the correct answers. After the cheating was discovered, the professors tested all students in the class on their moral awareness. Surprisingly, the most morally aware students were the cheaters. The reasons are open to debate, but my theory is that the most morally aware are also more adept at rationalizing their actions (e.g., this illegal act is a "ministry").

Hiring church members is touchy. It invites trouble because their "brothers

and sisters" are inclined to be tolerant of aberrant aspects of the transactions requested by a payee. Based on my casual observation, nearly all churches hire their members; in some cases people start out as employees and become members later. There is nothing wrong per se with hiring employees, but keep them off the boards that oversee them. Having a conflict-of-interest policy is not good enough.

Dear Nonprofit Ethicist,

Is it legal (in Illinois) for a husband and wife to sit on the same nonprofit board of directors? Is it wise? Why or why not?

Conflicted

Dear Conflicted,

Only New Hampshire has a law forbidding it, but the prohibition appears to apply only to boards with the required minimum of five members, and not at all to family foundations.

It is not unethical for spouses to serve together on the same board, but it is unwise. The best boards study issues from many different points of view and have robust discussions (see "Loyal Opposition" in the Summer 2007 issue of NPQ).

Certainly, spouses often have different points of view, even pressing them to the point of argument, but the smart ones try to minimize areas of disagreement. A common marriage survival strategy is to defer to one's partner on most matters while taking a firm stand on a few matters. In the board room this usually results in one spouse staking out a position with the other spouse playing a supporting role or at least not openly opposing. Instead of getting two for the price of one, an organization with spouses on its board gets one for the price of two. This deal can be especially bad when the marital unit decides it wants something to turn out in a particular way and begins to scheme against the rest of the group. Why sign up for such stuff at work when we can get it at any family holiday dinner?

Dear Nonprofit Ethicist,

A national nonprofit organization recently recruited for a management-level director of programs. The position was posted internally first, per the organization's policy, and then, after no suitable internal candidate surfaced, the position was advertised nationally. Several candidates applied, including one who was a good friend of the organization's chief operating officer (COO). But none seemed quite right for the position. Meanwhile, a long-term employee of the organization was experiencing difficulty in her position as director of development, to which she had been promoted only nine months before. Because the director of development had a good deal of experience with the training programs offered by the organization, the COO

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decided to offer her the position of director of programs. This, of course, created a vacancy in her former position as director of development. Ordinarily, a vacant position would be posted internally prior to an external search, but that did not happen in this instance. Instead, the COO offered the director of development position to her good friend, the one who had applied to be director of programs. Question: Was it ethical for the organization to bypass its standard procedure for the posting of vacant positions in this situation and offer the position of director of development to the COO's good friend?

Wondering

Dear Wondering,

I suspect you already know the answer to this is negative. There are two reasons. First, a national organization should have a search committee to make sure it gets the best person in the country

for a leadership job. Second, it's not a good idea to have relatives or good friends in a reporting relationship in the chain of command. Will the COO set comfortable goals or stretch goals for her new director of development? Will the COO mete out discipline even-handedly if her friend messes up? Will pay scales become distorted through favored treatment? Even if none of this happens, how much time and energy will other people spend watching for such potential inequities and feeling slightly resentful to have been put in the position? It's just an all-around unadvisable situation.

What was the CEO doing throughout all of this, by the way? Because he or she will have to clean up the mess if things implode in some way.

Dear Nonprofit Ethicist,

I sit on two boards (at the moment). At one of them, people insist that the treasurer's report be approved by a formal motion and vote of the board. At the other, people are equally adamant that you should never do this. Instead, in the minutes, receipt of the report should be noted, the balance recorded, and then it is filed for audit. Who is right?

Seeing Double

Dear Seeing Double,

On parliamentary questions, the go-to guy is General Henry M. Robert. "No action of acceptance by the assembly is required—or proper—on a financial report of the treasurer unless it is of sufficient importance, as an annual report to be sent to the auditors." (Robert's Rules of Order, Newly Revised 10th edition, page 461.)

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