

## Tainted Donors

In the twenty-first century, nonprofit donations are under heavy scrutiny as a result of societal shifts of what constitutes acceptable morals and ethics. What is the risk of a nonprofit organization in accepting money from potentially harmful donors to their mission? While tainted donors have existed for decades, it was not until 2015 when the opioid epidemic, the Me Too movement, and other incidences rose to power did this unorthodox money pose a liability to the nonprofit industry and cause pledged funds to be returned. For nonprofits, “brands are expected to be pure, and any hint of corruption or moral compromise can easily trigger protests and harsh online backlash”, ethical acceptance can be correlated with this societal pressure (Allyn 2019). The solution seems simple at first glance, just do not accept these types of contributions. The challenge is a majority of the billion dollar nonprofit industry consists of wealthy donors who have complicated personal stories, hide behind anonymity, or play a direct role in the operational activities of the nonprofit. This analysis aims to discuss the core challenges surrounding tainted donors and the future prospect of accepting this tarnished money as communities fight illicit and immoral donations. Complex solutions involve the separation of stakeholders from funders, the creation of conflict of interest policies, and an explicit code of ethics.

“A charitable organization should adopt clear policies, based on its specific exempt purpose, to determine whether accepting a gift would compromise its ethics, financial circumstances, program focus, or others interest”, states Independent Sector Principle Thirty (Independent Sector 2015, 40). In fact, donors may give an illegal gift or request an illegal disbursement, which further taints the organization and questionable donor. Donor consequences for a contribution refund may involve tax implications where they must report the contribution as income and specify why the gift was denied. Different types of tainted donors can exist. If their

activities are criminal, it becomes easier for a nonprofit to refuse their donation, but when behavior is unethical the line of refusal is variable. Chapter 5 of *Nonprofit Fundraising Strategy* discusses this issue further and how it impacts public trust. (Petty 2013, 82) Criminal activity by a donor, such as aggressively drug dealing, marketing opioids, or sex-trafficking is easy for institutions to address, as they can repurpose the donation or use it to help those victimized by the criminal, but are the least common. “A direct assault on the organization’s integrity”, the most common type of tainting can usually be overcome by spreading the positivity of their mission (Ibid). Does taking tainted money have immediate benefits, but long term negative side effects? Does this align with a consequentialist, virtue, or duty analytical framework for ethics? There is an obligation to decide who and what must be prioritized in this dilemma. This deliberative process may unknowingly represent the false character of the organization. While one’s motivation may be to produce the most good, nonprofits have a duty to perform the most integral action, above all else. It seems virtue is the analytical framework often left out when referring to tainted donors and money, questioning moral standards.

Wealthy individuals can amass fortunes, but their philanthropic interests can sometimes be harmful, crossing the lines of morality. In examining case studies of tainted donors, one can discover when and why nonprofits may reject or accept funds. The Sackler family is a case of a moral dilemma. As Sackler family members are majority shareholders of Purdue Pharma, they have been accused of instigating addiction to their OxyContin product. Many universities have wealthy contributors with high level profiles that possess scandalous or corrupt accusations. Accepting money from certain families depends on contractual obligations. The Sackler dynasty are major contributors to Columbia University, the New York Academy of Science, the Guggenheim, and the Smithsonian although some of these donations were made decades prior to

the opioid epidemic rising to fame, these organizations have reevaluated their decision and are no longer accepting their gifts. “It's a real balancing act where there hasn't been an actual conviction of a crime, and it's more that the donors have done something that is optically troubling to the recipient,” is stated of the Sackler family’s various charity entities (Hopkins 2019). In addition, the spark of the Me Too movement, started an investigation into philanthropic gifts from Jeffrey Epstein and Harvey Weinstein, to name a few. In 2017, a Change.org petition came to fruition when the University of Southern California was accused of taking blood money. Harvey Weinstein had evidently donated \$5 million in pledged funds to support females in the film industry (Allyn 2019). While the University quickly returned the funds, many questioned if the money could be allocated to advance film careers. Similarly, Jeffrey Epstein donated millions to fund research and innovation at MIT and Harvard. His largest gift was \$6.5 million to Harvard’s Program for Evolutionary Dynamics. Prior to his conviction, the schools refused to return the gifts, stating that a majority of the funds were spent, although they did redirect the remaining funds to organizations whose mission is to end sexual assault (Marquis 2019). Both Epstein and Weinstein are convicted sex offenders and have faced human trafficking charges, but nonprofits may wonder can their tainted money do more good than harm.

While that may be uncertain, a nonprofit’s response about tainted donors may determine the future of its mission’s long term success. Paul Dunn claims the options vary, but usually encompass: return the donation and acknowledgement, keep the donation while removing the public acknowledgement allowing for anonymous recognition, keep the donation and honor it no matter what circumstances exist (Dunn 2010, 102). These responses, commonly known as acquiescence, compromise, and defiance are utilized under varying conditions to decide if a gift should be returned. The theory of resource dependency refers to external pressures brought by

the donation. These pressures develop internal constraints of economic need and organizational commitment (116-7). These two responses yield “cost-benefit tradeoffs” and a “sense of responsibility to see through courses of action which they previously decided upon” (Wright et al. 2019, 680). The external pressures from the media and donors include incompatibility between stakeholders, addressing this incompatibility by joining to emphasize common concerns, and the ‘tainted’ visibility (Ibid). Tainted money encompasses the way public trust is impacted with the public benefit from gifts, in other words, it’s a battle of integrity versus values over goods and services (Petty 2013, 95). Since nonprofits are required by law to disclose their financial returns, close inspection by the public can easily reveal tainted money. Additionally, the board conducts strong financial oversight reviewing funds to ensure responsible and accountable investments are used to pursue the mission, goals, and ethical standards of the organization to maximize impact..

Solutions in dealing with tainted donors involve operating with a duty of loyalty by implementing ethical policies and procedures that apply to all stakeholders. Independent Sector Principle One states nonprofits must comply with applicable law (Independent Sector 2015, 11). While Principle Two and Four adopt procedures to monitor their governance from illegal activities, a code of ethics and whistleblower policy are ways to ensure good-faith (12-3). One suggestion from Petty is that “the importance of judgment on the issues in the decision-making process” must be taken into account (Petty 2013, 104). Establishing a special committee, communication, a gift-acceptance policy, and guidelines are some of the best methods to deal with tainted donations to provide protection for the nonprofit. Principle Six creates another avenue of protection, mitigating risk and liability insurance (Independent Sector 2015, 16). Tension over ethical conduct will always be present when considering the consequentialist

framework to prioritize achieving ‘the best consequences’ or the duty to do ‘the right thing’. The ability to evaluate gifts from a tainted donor should be closely monitored, as the outcome of that decision could be the salvation or downfall of a nonprofit organization. Perhaps, as David Allyn notes, “the rush to reject funds from tainted donors is often shortsighted”, and depending on a nonprofit’s organizational stage, the public interest may be extremely favorable for these funds to be redirected to create programs that benefit victims of the tainted donors, solving the challenge of fund use and a public relations calamity (Allyn 2019).

## References

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