Nonprofit Ethical Case:

Paying for the Crime Without Any Time:
Lithuanian Assistance Foundation Reaches $7M Settlement for Self-Dealing

Trish Andrews, Emma Jarvis
The Lithuanian Assistance Foundation was formed in Santa Monica, CA in 1991-soon after Lithuania gained their independence from the USSR.

In recent years, an investigation by the Office of the Attorney General of California found that members of the LAF Board used their positions to improperly transfer donated real estate, thereby enriching themselves and depriving the nonprofit of its proper assets.

Last summer, the AG announced a settlement that was reached which included:

- $7M paid by LAF, its directors, and its officers
- dissolution of LAF
- some individuals banned from serving on nonprofit boards in the future
- some individuals required to complete board training

The settlement avoided a long, costly litigation and ensured the intended beneficiaries of the funds would receive them, but the ethical question remains: is that enough?
LAF co-founded by Albinas Markevicius and Joseph Praske

1991

Albinas Markevicius awarded Medal of Diplomacy
& CA AG begins investigation

2013

AG's office alleges this is when defendants began filing false registration renewal forms

2005

Settlement Reached
CA AG announces settlement

2020

PR Campaign
LAF releases Youtube video and press statements

LAF Dissolved
Certificate of Dissolution filed by Joseph Praske
B. The specific purpose of this corporation is to engage in the solicitation, receipt and administration of property and from time to time to disburse such property and income therefrom (1) for the benefit of those people living in Lithuania or of Lithuanian descent who are orphaned, handicapped, aged, or sickly; (2) for the provision of medical equipment, supplies or training for the Lithuanian people; and (3) for the provision of collegiate scholarships and student aid for the people of Lithuania, or other charitable purposes, in accordance with Section 501(c)(3) and Subchapter A of Chapter 42 of Subtitle D of the Internal Revenue Code of 1986 (or any corresponding provision of any future United States Internal Revenue Law), as the board of directors of this corporation shall from time to time determine.
AG Announces Settlement

Settlement filed against LAF, its directors and officers: Albinas Markevicius, Joseph Praske, Zina Markevicius, and Arunas Sodonis, and associated companies RME LLC and Washington Shores LLC

Officers and directors engaged in/authorized illegal self-dealing transactions, unjust enrichment, and breach of fiduciary duty

Damages to LAF exceeded $6M
LAF’s Zelva Village Rehabilitation Program

https://www.google.com/maps/place/Zelva,+Lithuania/@52.7559697,24.5476658,5.35z/data=!4m5!3m4!1s0x46e78f673fd55d67:0x2600d1846c444cd118m73d55.318636914d25.1004961

Uploaded to LAF’s YouTube channel July 02, 2020
Different Perspective

● LAF and its president are ‘pleased to announce’ that nearly $7 million will be distributed to Lithuanians in need

● Amicable agreement reached with California regulators ending a burdensome eight-year-long inquiry

● Review of co-founders philanthropic efforts

● Link to video of Zelva Village program

● The foundation and the state ‘mutually agreed’ to resolve the matter to avoid expense, uncertainty, and inconvenience of litigation

● Settlement funds distributed through the California Community Foundation for education of disadvantaged Lithuanian orphans and children
I am the attorney, and one of the directors, for Lithuanian Assistance Foundation. By this letter, we request a dissolution waiver from the Attorney General's office before disposing of any remaining assets.

The remaining funds of the charity consist only of cash in a credit union account, and the total amount is less than $1000. We intend to distribute those funds to California Community Foundation, 221 S. Figueroa St. No. 400, Los Angeles, CA 90012, (213)413-4130, FEIN 95-4774698, IRS # 2205284. The funds will be distributed upon receipt of your approval.

Attached are our IRS filings for the last 3 accounting periods. Forms 990- N, because we filed 990 N, also attached are financial statements showing exempt, -reversal elements and balance sheets for those accounting periods, as well as the current complete accounting period.

Please feel free to contact me if you have any questions.

Sincerely,

- Signature

July 17, 2020

California Attorney General's Office
Registry of Charitable Trusts
PO Box 930447
Sacramento, CA 94203-4170

Dissolution of LAF

Secretary of State
Nonprofit Certificate of Dissolution
California Nonprofit Corporation (ONLY)

1. Principal Name (the name of the nonprofit corporation as it is recorded with the California Secretary of State)
Lithuanian Assistance Foundation

2. 7-Digit Secretary of State File Number
1810554

3. Election
The dissolution was made by the vote of ALL of the members, or if there are no members, by a vote of ALL of the directors of the California nonprofit corporation.

4. Debits and Liabilities
(Please check applicable statement. Only one may be checked. If second box is checked, you must provide the required information in an attachment.)

a. The known debts and liabilities have been actually paid or settled as of the date of the petition.

b. The known debts and liabilities have been provisionally settled in full or as nearly as can be ascertained.

c. The nonprofit corporation has filed a Certificate of Dissolution.

5. Signature
(If the above box is not checked, a Nonprofit Certificate of Dissolution from SEC 991 CP must be filed prior to a certificate of Dissolution being issued. California Corporation Code Sections 7111.050, 7111.060, and 7111.090.)

6. Required Statements (See also the Required Statements - All must be true to Form 583 CP)

a. The nonprofit corporation has been completely wound up and is dissolved.

b. All final returns required under the California Revenue and Taxation Code have been or will be filed with the California Franchise Tax Board.

c. All nonprofit corporations are listed as dissolved in Cooperative Corporations ONLY. The known assets have been distributed to the persons entitled thereto or the nonprofit corporation acquired no known assets.

7. Reels, Name, and Date and Sign Below (See instructions for signature requirements. Do not use a computer generated signature)

Affidavit Makers

Date

Signature

Joel Praske

Type or Print Name

Annas Budris

Type or Print Name

July 27, 2020
Compliance

• Breached fiduciary obligation
• Four real estate properties donated to the Foundation for the benefit of the Lithuanian community
  – LAF did not disclose the donations of the four properties
  – Properties improperly transferred to members of the board, their relatives, and employees at prices below fair market value
  – LAF did not disclose the transfer of the four properties
• LAF also allegedly filed false registration renewal forms from 2005-2013
Individual Responsibility

- **Albinas Markevicius** and **Joseph Praske**, the co-founders of LAF, are high profile businessmen in Santa Monica - Markevicius is a relator with his own firm who also started a credit union, while Praske is a tax and estate planning attorney. Both have the knowledge and experience to know they had a conflict of interest.

- Board member **Zina Markevicius** should have declared a conflict, as she is the daughter of a person who stood to gain from the real estate sale.

- Which leaves one Board member, **Arunus Sodonis**, who is also an attorney and should have foreseen that these transitions were ill-advised at best.
Organizational Responsibility

• Board Education: ensure awareness of legal and ethical responsibilities

• Policies and Procedures
  – ensure conflicts of interest, or the appearance of, is appropriately managed through disclosure or recusal
  – empower individuals to come forward with information about violations of policy/illegal activities
Systemic Responsibility

There are federal and state agencies and laws that govern nonprofits. These should not be ‘toothless bulldogs’ - when they catch bad actors, there should be serious consequences.

• **It undermines faith in the system** - cases like this may make individuals more hesitant to donate to nonprofits in the future, and it may have an especially outsized impact on the likelihood of people choosing to leave real estate as a legacy gift.

• **It might be worth the gamble (if you’re that kind of person)** - it is unclear how the Attorney General caught wind of this particular transaction, but the consequences were not that severe. No one went to prison, no one had their professional license revoked, and the IRS took little interest. It is conceivable that this had been going on for years - after all, who takes a chance on a multi-million dollar property for their first act of self-dealing?

• **Who’s not getting caught?** - Staff and funding for the IRS Charities Bureau has not kept pace with the growth of 501 (c)3 organizations and many high-profile cases of unethical nonprofit leadership have emerged in the last few years. We are increasingly seeing how wealthier members of society are able to use nonprofit tax benefits to their own advantage.

• As the United States continues to grapple with judicial and economic inequalities, it might be time for a reckoning on how the nonprofit sector is contributing to systemic injustice and the widening wealth gap.
Stakeholder Analysis

- Stories related to the dissolution of their foundation are easy to find online - Albinas Markevicius and Joseph Praske may suffer from tarnished reputations.
- However, Albinas and Zina Markevicius continue to run their Real Estate firm where they highlight their involvement in the community and how they are helping seniors during the pandemic.
- Overall, they escaped lightly:
  - Settled out of court
  - Avoided prison time
  - Mounted a PR campaign to recover reputations
Stakeholder Analysis

- **Lithuanian Community**: though misappropriated funds will ultimately find their way to the intended beneficiaries through the settlement, the dissolution of the organization is a loss. If they continued to exist, it is likely they would have continued raising funds and contributing to their chosen cause for years to come.

- **Nonprofit Sector**: Press around unethical dealings among board members and directors furthers distrust among the public - donors and supporters will worry where their assets are going - forces other organizations to increase transparency
Remedies

For nonprofits:
- Create Policies and Procedures to Safeguard Against Wrongdoing:
  - Should be reviewed and updated regularly.
  - Safeguard assets from being improperly diverted by those in positions of power.
  - Whistleblower Policy, Audit Policy, Conflict of Interest Policy.
- Foster a Culture of Ethical Compliance:
  - Along with these important safeguards, create an organizational culture that encourages everyone to speak out against wrongdoing.
  - Lead by example and talk openly about ethical decision-making.

For regulators:
- Ensure that wrongdoers receive more than a slap on the wrist.
- Ensure that government agencies that oversee the nonprofit sector have the resources to do their work.
Questions

1. Board members have a fiduciary duty to act in the best interests of the nonprofit they serve. How did the Board members of LAF fail in this duty?

2. Board members serve as volunteers, donating their time and talent to the nonprofit. Why should they not be able to benefit from transactions with the organization?

3. How did this case affect the Lithuanian Assistance Foundation?

4. What were the consequences for the intended beneficiaries of the foundation?

5. How might this case affect trust in the nonprofit sector?

6. The settlement was not an admission of guilt, and the Board members involved will not serve time in prison or have a criminal record. How does this reflect on the criminal justice system as a whole?

7. The settlement ensured that lengthy litigation was avoided and the beneficiaries of LAF’s funds were provided for. Would a utilitarian think that this resolves the ethical issue?


