Philanthropy Makes Amends?

Bad Boys, Generosity and Absolution (and When to Take Their Name Off the Building)

By Jon Pratt

Mark Zuckerberg, chief executive and a founder of Facebook, announced his $100 million donation to the long-troubled public schools in Newark the day before the Hollywood film The Social Network was released, a biting critique of Zuckerberg's personal and business relationships. For the youngest billionaire in history, Zuckerberg's very public mega-gift carried on a tradition of moral enhancement and reputation management going back to the Middle Ages.

Donating and volunteering are publicized as testimony to the compassion and public spirit of a donor, but public recognition is naturally hedged by opinions of the motivation of the donor or the morality of how the funds were attained. Objections to the use of "charity" for absolution has a long history, going back at least to 1517 when Martin Luther nailed his Ninety-Five Theses on the Power and Efficacy of Indulgences to the door of the Castle Church in Wittenburg. Outraged by the sale of indulgences (forgiveness of temporal sin) by Pope Leo X, Luther rejected the need for intermediaries to speak to God and, in Thesis 28, attacked the dictum attributed to Johann Tetzel that "as soon as the coin in the coffer rings, the soul from purgatory springs."[1]

In the modern era, charitable organizations and public schools are eager partners for major donors, grateful to organize press conferences and name buildings, scholarship funds and virtually any physical or conceptual object after a donor. Donor recognition proportional to the size of the gift is such

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an established part of the fundraising process that donors are not offended by price lists that spell out exactly what they get in return. This appreciation is not a surprise thank you party, but a carefully negotiated guarantee that the donor will "receive appropriate acknowledgement and recognition," in the words of the Donors Bill of Rights adopted by the Association of Fundraising Professionals.

Delivering the levels of recognition warranted by mega-gifts can complicate the workings of major institutions that want to avoid being unwitting tools or used as public foils to cleanse or burnish the reputations of tainted donors. In the case of Mark Zuckerberg's giant donation, the Newark Public Schools, Newark Mayor Cory Booker and New Jersey Governor Chris Christie were all rewarded by the public investment by a celebrity announced alongside Oprah Winfrey, and the publicity bonanza flowed in every direction. Zuckerberg has resolved his legal challenges from the early days of Facebook, came out just fine in "The Social Network" version of his life, and in 2010 signed on to Bill Gates' and Warren Buffet's "Giving Pledge" initiative by agreeing to give most of his wealth to charity.

Other major donor stories have not turned out as well. Tom Petters is now a convicted felon and inmate serving a 50-year sentence at the Leavenworth United States Penitentiary. Before his 2009 conviction for operating a $3.6 billion Ponzi scheme, Petters was the high flying CEO of Minnesota-based Petters Group Worldwide, which owned Sun Country Airlines and the Polaroid brand, and was a gregarious community volunteer and generous donor. For two months in 2008, the Petters' fraud was considered the biggest in U.S. History -- before being overwhelmed by the even more historic $65 billion Bernie Madoff swindle.

Like Madoff, Petters took advantage of trust-building religious networks – in Petters's case evangelical Christians – plus active engagement in evangelical and Catholic-related charities and colleges. Once the Petters Company collapsed, more than 50 nonprofit organizations were revealed as defrauded investors of their own funds, or as embarrassed recipients of contributions from a formerly respected (and now tainted) donor. The embarrassment soon turned to pain, when a receiver appointed by the bankruptcy court issued demand letters and threatened suit to "clawback" the contributions as ill gotten gains of a

New and Renewing Members

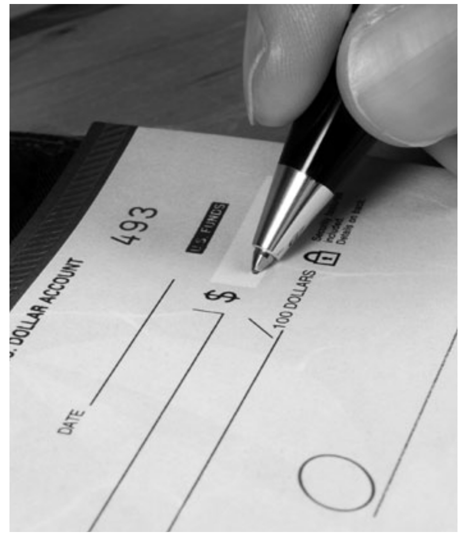
- Alliance for Justice
- Appleseed Network
- Bank of America Charitable Foundation, Inc.
- Blue Shield of California Foundation
- Boston Foundation
- CareOregon, Inc.
- Center for Effective Philanthropy
- Communities Joined in Action
- Discount Foundation
- Dominion Solution Corp
- Emerging Practitioners in Philanthropy (EPIP)
- Forsyth County Public Library
- Foundation for the Mid-South
- Hill-Snowdon Foundation
- Humboldt Area Foundation
- Jessie Smith Noyes Foundation
- John D. and Catherine T. MacArthur Foundation
- Kresge Foundation
- National People's Action
- People Organized for Westside Renewal (POWER)
- Polk Brothers Foundation
- Silicon Valley Community Foundation
- Social Justice Fund Northwest
- Southeast Asia Resource Action Center (SEARAC)
- Warner Foundation
- William Caspar Graustein Memorial Fund

fraud that need to be returned to the victims of the fraud. Minnesota's fraud statute allowed the receiver to look back six years for contributions, regardless of whether the organization had any reason to know of the fraud, or whether the funds were already spent (such as Cathedral High School having used the funds for an elevator).

So back came the Petters contributions from 15 organizations in response to the demand letters, including Miami University in Ohio ($5 million, ironically designated for the Petters Center for Leadership, Ethics and Skills Development), and St. John's Abbey in Collegeville, Minn. ($2 million). Petters' case receiver Doug Kelly also has filed 16 clawback suits against nonprofits, including the Breast Cancer Foundation and the College of St. Benedict. Quietly the Petters name was removed from college and school buildings and web sites.

Charities and universities commonly seek to protect their liability and their reputation through the use of gift acceptance policies: that is, internal rules designed to ensure that the source and conditions of contributions are in the best interests of the institution. Yet, charitable institutions generally lack detailed knowledge of the thousands of businesses operating in their region, which puts them at a disadvantage in vetting contributions for potential future clawback claims, let alone awkward revelations. Universities discreetly check credit and scan legal filings to confirm the likelihood of payment before they announce major gifts, especially at campaign launch. From hard experience capital campaigns have learned to include "bad boy" clauses in naming agreements as part of their gift acceptance policy, so that all sides know the name will be removed in the event it becomes a public relations liability for the receiving organization.

Less clear for fundraisers are relationships with noncontroversial donors whose previous business practices later become questionable. Bob Cole and Ed Gotschall, founders of New Century Financial, the now-bankrupt and formerly second largest U.S. pioneer of the subprime mortgage market, left 7,000 employees jobless and facilitated the movement of hundreds of thousands of low-income homeowners into mortgages they couldn't afford and sometimes lost to foreclosure.[2] Cole and Gotschall left the firm and sold most of their stock six months before its collapse in 2007.



Where are they now? When the Orange County Register asked Cole and Gotschall, "What are you doing these days?" they responded that they "are very involved in philanthropy and are focused on giving back to the community," publicly promoting their contributions to the Christopher Reeve Paralysis Foundation, the Children's Hospital of Orange County, the Ocean Institute, the Boys & Girls Club of Laguna Beach, the Orange County Council of the Boy Scouts of America, the Outdoor Education Center in Irvine, South Coast Repertory, and Santa Margarita Catholic High School.[3]

The same story has been repeated throughout the financial crisis – and before – from Michael Milkin to Fannie Mae, where charitable activity is one part of the equation to offset in the public mind the aggressive business practices that lead to enormous private gains. Clearly, no charitable organization would intentionally whitewash the image of those who have made fortunes from predatory business practices, but organizations tend to accept contributions from virtually any source. The top 1 percent targeted by Occupy Wall Street are major underwriters of everything from Newark Public Schools to the Harlem Children's Zone ($20 million from Goldman Sachs) and Teach for America ($50 million from the Walton Family, majority owners of WalMart).

An uncomfortable reality for school districts and any nonprofit is that large sums of money bring conditions and suggestions. Like college presidents, urban school superintendents are spending increasing amounts of time with major donors, who bring their own ideas about what the schools should be doing. In Newark and Washington D.C., that has led to very public squabbles about who is really running the schools and what role is left for elected school board boards.

In the end, not all donations should be sought or accepted. When those who gain great wealth leave destruction and misery in their wake, it seems premature to elevate them to the status of philanthropist. In the spirit of the eighth step in Alcoholics Anonymous's 12-Step Program, they should be urged to seek help first by "Making a list of all persons we have harmed, and be willing to make amends to them all." ■

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Notes

1. Roland Bainton, *Here I Stand: A Life of Martin Luther* (New York: Penguin, 1995).
2. John Gittelsohn and Matthew Padilla, "New Century Lets 2,000 Go," the *Orange County Register*, May 4, 2007 (www.ocregister.com/ocregister/money/homepage/article_1680765.php).
3. John Gittelsohn and Matthew Padilla, "New Century Founders Speak Out," the *Orange County Register*, April 30, 2007 (www.ocregister.com/ocregister/money/subprime/newcentury/article_1651909.php).