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Child-Abuse Charges Should Prompt Charity Rethinking, Experts Say

By Lisa Chiu

The Second Mile – the charity at the center of the child sex-abuse scandal involving a former Penn State football coach – is considering whether to shut down, amid legal challenges over the alleged actions of its founder, chief executive, and board members.

The charity's troubles began after a grand jury indicted its founder, Jerry Sandusky, on charges of sexual abuse with eight young boys.

Now it faces at least one lawsuit from an accuser of Mr. Sandusky, another court challenge to block it from transferring assets, and a possible investigation by Pennsylvania regulators over allegations that Mr. Sandusky used the organization to find boys to sexually abuse. Mr. Sandusky denies any wrongdoing.

As legal troubles mount, some board members say the charity can't survive the legal actions and loss of donations caused by the scandal.

"This will be very tough, if not impossible, to come back from," said Steve Seltzer, a Second Mile board member and business man in Altoona, Pa. "It is my hope that the good stuff we have already set up can be absorbed by other organizations that work with kids."

Opposition to Dissolving

But closing may not be an option. Lawyers who represent one of Mr. Sandusky's accusers asked a Pennsylvania court last month to order the charity to keep operating and block it from taking any steps to transfer its \$9.5-million in assets to other groups. They said the accuser planned to sue the charity for its role and seek financial compensation to make up for the pain he endured.

The accuser said in court filings that he was "repeatedly sexually assaulted" by Mr. Sandusky and that the Second Mile was "negligent and reckless" because it allowed Mr. Sandusky access to him and other children.

David Woodle, the Second Mile's interim chief executive, said the organization would comply with whatever action the court takes. But the charity also objected in court papers to the accuser's request, saying he did not provide information that shows that the Second Mile was at fault, such as dates or locations of alleged sexual abuse. What's more, the charity said no court action was needed because the charity has taken no formal action to dissolve.

The Second Mile received another blow last week when another accuser sued it along with Pennsylvania State University and Mr. Sandusky for negligence. That man is asking for \$50,000 in damages.

Advice to Other Groups

As the Second Mile grapples with its future, experts say the trouble it has faced offer lessons to other nonprofits about how to avoid trouble.

In particular, they say, the case highlights why charities and their boards need to take action when they are confronted with any accusation of bad behavior.

Matthew Downey, program director for nonprofit services at the Johnson Center for Philanthropy, in Grand Rapids, Mich. , says all charities – especially those that serve vulnerable people – need to lay out policies so employees, board members, and others know where and how to report accusations and what kinds of activities should prompt an internal investigation or an immediate report to the police.

Among other problems that appear to have caused difficulties at Second Mile, say governance experts:

Giving a founder too much power. Deborah Davidson, a vice president at BoardSource, a Washington nonprofit group that works to improve nonprofit governance, says charities like the Second Mile often struggle with founder’s syndrome, in which the person who created the charity wields inordinate influence.

“There’s a danger when an organization is founded around a charismatic leader who assembles a board, and that board may be over-awed by that individual,” Ms. Davidson says.

Suzanne McDowell, a Washington lawyer who advises nonprofits, says the clearest indication that the Second Mile may have suffered from founder’s syndrome was that it listed Mr. Sandusky as an officer of the charity in its bylaws.

“I’ve never seen that before,” she says. “It shows the institutional position of the founder and that he had significant authority.”

As a result, she says, “people may not want to take him on.”

One way to avoid letting any one person take too much control is to set term limits for all officers, Ms. McDowell adds.

While the Second Mile bylaws do set term limits for board members, they also say trustees can serve additional terms if the board’s personnel committee renominates them.

Lack of a whistle-blower policy. The Second Mile’s filings with the state and federal government show that it had no whistle-blower policy to protect employees from retaliation if they reported illegal or unethical behavior to authorities. The Internal Revenue Service in 2008 started requiring nonprofits to state on their informational tax returns whether they had such a policy. Whistle-blower policies are mandatory for nonprofits under the Sarbanes-Oxley Act of 2002, which was designed mostly to curb corporate wrongdoing.

“It’s so easy to create a whistle-blower policy,” says Mr. Downey. “Even if the policy never gets used, it sets a culture in the organization that you can speak up and your job won’t come into jeopardy.”

Appointing too many board members. The Second Mile's Board of Directors has 35 members, according to its regulatory filings, and that size could be a liability, governance experts say. The Second Mile also has four other boards with limited powers—including regional and chapter boards, boards for honorary members, and a Founder's Council—each allowing for dozens of members.

Many nonprofits have big boards, especially organizations that rely heavily on trustees as donors or fund raisers. However, large boards often have trouble keeping staff members accountable and providing close oversight, says Ms. Davidson.

On large boards, members don't attend as often or feel compelled to speak up or get involved because so many other people can take action, she says.