



Closing Down the Right Way



In the last Board Cafe column, we discussed how to think about the possibility of closing down a nonprofit, including alternatives to closure. But sometimes closure is the best choice of the possible options. In recent weeks we've had a chance to see some Wall Street firms demonstrate the wrong way to close: suddenly leaving customers, investors, and employees in the lurch. Here we discuss how to close down in a way that protects constituents as much as possible, and honors the organization's achievements.

When nonprofit boards have to shut down ("dissolve") the organization, they often find themselves swimming in a sea of unpaid bills, demanding creditors, frustrated and anxious staff, and desperate clients. Going broke -- like other things in life -- can be done poorly or well. Managing insolvency well can mean that client or patron services are not disrupted, that staff are given assistance in their job transitions, or that creditors can receive some satisfaction. Here are some steps for boards considering dissolution:

- Identify your legal and contractual obligations. Consult a lawyer to help you plan and implement the dissolution (there may be one willing to help on a free -- pro bono -- basis). Are there government contracts that must be fulfilled? Are there building or equipment leases in place? Do you have any restricted money or assets which must be returned to a funder rather than liquidated to pay creditors? Are there any pending lawsuits? In particular, are there any unpaid taxes, such as payroll or sales taxes, which may pose personal liability for board members or staff? Notify and negotiate any outstanding contracts, payment or restricted fund obligations. You may not leave everyone happy, but at least you will leave with a reputation for doing the best you can to meet obligations.
- Be frank and direct with the staff about the organization's future and enlist their help in the closure. If you have planned ahead, you should be able to pay staff through the close-down.
- Identify clients who will be hurt by the closure and explore ways to minimize the

disruption to them. For example, there may be nearby childcare centers that can take a few additional children, or a local cancer society may be able to help families living with cancer. There may also be a community foundation or other donor who could donate funds to ensure that client transitions, if necessary, are as smooth as possible.

- Review the organization's own rules for dissolution as stated in the Bylaws and Articles of Incorporation. For example, some Bylaws may require a 2/3 vote of the board, or a vote of the membership, for dissolution. Take care to hold the appropriate meetings and votes, and to record the actions taken. Choose one person who will store the documents for a few years in case there are questions. Certain nonprofits, such as those in the health or counseling fields, may have a legal obligation to maintain client records; if you are in this situation, determine another organization to take on this responsibility for you.
- State laws vary on the steps required for nonprofit dissolution. In some cases a petition must be filed with a court which then appoints a trustee to oversee the distribution of any remaining assets. Ask an attorney for help, or contact your state Attorney General for information. If the nonprofit has significant assets (such as real estate) it may be necessary to go through a formal bankruptcy process.
- If you are able to pay off all debts, make a list of any remaining assets and decide on other nonprofits to receive them: government regulations require that nonprofit assets be given to another nonprofit, not, for example, distributed among board or staff. In addition to cash or receivables, assets may include copyrights, historical photos, and the organization's name and internet domain name. As examples, a nonprofit may donate its equipment to a nonprofit halfway house, give its publications inventory to a nonprofit bookstore, and its domain name to a sister organization.
- Be proactive about publicity. If an established charity has failed, journalists may be looking for a scandal story. Write up some key points about the organization's successes, its reasons for closing, and the steps taken on behalf of clients. Choose one or two people who will speak for the organization to the press.

If you can, find a way to celebrate the organization's successes and legacy. Staff and board might invite former staff, board, and volunteers to a closing dinner at someone's home. An open letter to the public might be sent to a local newspaper. A community has been created around the nonprofit, and it is appropriate and fitting for that community to draw together to mark its transition.

Thanks very much to attorney and Board Cafe Editorial Committee member Michael Schley of Santa Barbara, California, for his pro bono assistance on this article.

See also previous Board Cafe and Blue Avocado articles:

- [Thinking the Unthinkable: Maybe We Should Shut Down](#)
- [Mergers: What Does a Typical Process Look Like?](#)
- [Should Your Nonprofit Be Considering a Merger?](#)
- [Loans from Board Members](#)

- Just Tell Me: What's the Best Way to Raise Money?

Comments
