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AUDIT IN A PHILANTHROPICAL ASSOCIATION AND THE IMPORTANCE OF THE FISCAL AND BOARD OF DIRECTORS IN DOCUMENT ANALYSIS

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Abstract: This article portrays the study of a case in a third sector entity, which assists people with special needs. The problem studied was the deviation of resources found between the accounting statements and those presented by the accounting department and the differences found between the information shown by the personnel department and the financial sector of the entity. The documental study (five years) identified that transferring power (president) to someone else can generate significant losses for society, as well as the Board of Directors and Fiscal Council not being aware of its responsibility towards the entity's assets, maximizing the return to society and your assisted. As a result, there are indications of diversion of financial resources, accounting errors and discrepancies of information in the financial statements presented by the entity.

INTRODUCTION

The Association studied is a non-profit Civil Association, its objective is to create educational programs of adaptation and social integration to people with special needs in education.

The entity has partnerships with City Halls, Education Departments, private companies and society in general.

The socioeconomic profile of those assisted is mostly low, so face-to-face service to those assisted is around three times a week, however, with the COVID-19 pandemic, face-to-face services were suspended.

The Association was founded by family members, who help in the care of those assisted.

Through agreements with City Halls and Education Departments, the entity receives resources that must be applied to assist those assisted; the entity has the following expenses: salaries and charges for employees (doctors, psychologists, occupational therapists, among

other activities in the health area), as well as for the educational area (principal, teachers and their assistants, rent of the headquarters, school supplies, food, furniture and fixtures, computers, information systems, among other items necessary to carry out the proposed activities).

The management of the organization is carried out by someone elected in the Assembly (President), a slate is assembled and presented to the secretary of the entity, this is done for thirty years.

Based on the above, what is the entity's need to hire an administrator? Or an accountant? In the case of rendering of accounts to public authorities or the entity's own management.

It so happens that there is no law in Brazil that determines whether third sector entities must be audited, or inspected by any competent body, or who must be responsible for analyzing whether the entity is actually providing that service it was willing to provide.

There is also no way to control who made a donation in kind to an entity: this donation is made by telephone, which the telemarketer calls, asks, and the messenger goes to collect the money in kind. Who checks whether this money actually entered the entity's account?

Known as the Regulatory Framework for Civil Society Organizations, Law 13.019/14 represents an advance in the new legal regime for partnerships through legal instruments capable of ensuring the continuity of the activities of organizations with public entities, thus directly benefiting the civil society.

XV – The free access of agents of the public administration, internal control and the Court of Auditors corresponding to the processes, documents and information related to terms of collaboration or terms of promotion, as well as to the places of execution of the respective object; (Wording provided by law 13,204 of 2015).

XIX – The sole responsibility of the Civil Society Organization for the administrative and financial management of the funds received, including with regard to current, investment and personnel expenses;

The accounting firm is outsourced and provides services to this entity; is responsible for tax and accounting bookkeeping and has carried out the entity's accounting records for thirty consecutive years, supported only by documents sent by the entity by mail; the person in charge of the office is an Accounting Technician and, at the end of each year, presents the financial statements and his opinion as an accounting technician, attesting to the veracity of the information provided there.

These statements are delivered to City Halls and Education Departments, which never questioned whether the amount available in cash and in cash really existed in the entity.

Based on the above, the financial statements of the last five years were analyzed and it was found that: deviations of resources occurred in the last five consecutive years.

The objective of the present work brings to light the need for the requirement of a third sector organization to be managed by an administrator, by an accountant (graduated in accounting sciences) and to have an internal/external audit of the entity (as a requirement). This fact is due to the diversion of resources and the lack of a process of transparency in the rendering of accounts to society, not only that disclosed on the website, but the effective verification of the facts.

THEORETICAL FOUNDATION

Based on NBC TA 200, "General Objectives of the Independent Auditor and Conducting the Audit in Compliance with Auditing Standards", item 3.

The Entity's Management is responsible for

the preparation and adequate presentation of the financial statements in accordance with the accounting practices adopted in Brazil for non-profit entities (NBCTE), Res.1,409 – 2012 – ITG 2002 (R1) – Non-profit entity, NBC TG 27 - Fixed Assets, ITG 10 - Interpretations on the initial application to fixed assets, NBC TG 07 - Government Grants and Assistance, NBC TG 30 - Revenues, NBC TG 1000 - Small and Medium Enterprises, NBC TG 26 (R4) - Presentation of the Financial Statements, as well as the internal controls that it has determined to be necessary to allow the preparation of these financial statements free from material misstatement, whether caused by fraud or error.

The independent auditors must clearly state whether the financial statements prepared by the executive management adequately present the equity and financial position and the results for the period. The opinion defines the scope, the work performed, the opinion issued and, consequently, the responsibility assumed in the information that will be disclosed in the reports and in the audit opinion.

Good governance practices recommend the provision in the Bylaws of a Fiscal Council on a permanent basis, as an important element in the governance system of associations.

To start the audit and verification work, it was necessary to analyze the documents of the last five years, for this reason the research carried out was documentary at this first moment.

It was not possible to identify whether the entity made quotations to make purchases, there were indications that the suppliers in many cases were the same and with values well above those presented by the market (overpricing), as well as the amount of material purchased and spent on the comparison between the number of assisted.

When inquiring the Entity's finance department, it was identified that there are

no formalized procedures, nor to keep the daily cashier's bulletins with the movements of cash inflows and outflows closed daily to send the accounts for reconciliation. Thus, the reconciliation procedure, accounting versus financial (operational area), was not possible to be carried out (due to failure to send the cash report).

The objective of the present audit at first was to analyze the documents (in parts) of the Association, in order to clarify whether it is possible to verify that the amounts in cash collected with the institution's telemarketing were paid into the Banco Conta Movimento account, as well as whether through the Accounts Rendering folder for the years 2015, 2016, 2017, 2018, 2019 and 2020, invoices were paid with the money collected.

For the documentary research, the following were analysed:

1) Balance Sheet, Income Statement for the Year and Explanatory Notes for the years 2015, 2016, 2017, 2018, 2019 and 2020;

2) Account Analytical Ledger 3.3.1.00000 EXTRAORDINARY INCOME OR INCOME - Analyzed account 3.3.1.01.00010 - Donations - (months from January to December) for the years 2015, 2016, 2017, 2018 and 2019, as well as for the months of January to September of the year 2020;

3) Access to the ECD delivery receipt (Accounting and Digital Bookkeeping) for the following years: 2015, 2016, 2017, 2018, 2019, 2020;

4) Access to the ECF delivery receipt (Tax Bookkeeping) for the following years: 2015, 2016, 2017, 2018, 2019, 2020;

5) Explanatory Notes for 2015, 2016, 2017, 2018, 2019, 2020, prepared by outsourced accounting due to the accounting of the facts in accordance with the documents received/sent by the Association's management.

6) Bylaws of the Association as well as its Internal Regulations.

7) With regard to Fixed Assets, the entity never carried out the physical inventory, therefore, it was not possible to ascertain whether the amounts recorded are consistent with those presented in the financial statements.

8) Management Responsibility Letter, article 2 of the Federal Accounting Council (CFC) Resolution Number 987/03, the entity did not provide the Management Responsibility Letter to the accountant responsible.

9) Copies of the emails sent by the telemarketing coordinator for the payment of commissions entitled "Telemarketing Closing Report" monthly, for the years 2015, 2016, 2017, 2018, 2019 and 2020;

ACCOUNTABILITY

Law Number 13,019/2014 brings provisions that redefine the accountability stage. "**Responsibility in the first place**" "emphasis added", it starts from the understanding that the accountability of a partnership is the responsibility of both partners, and must be done to society as a whole.

During the thirty years of existence of the entity, the accountability process is carried out by the City Hall and the Department of Education. There is a document called Collaboration Term n.XXX/2020 and Amendment Term n.XXX, which is entered into between the parties (city and entity).

This accountability process is nothing more than: "paper here, paper there and stamps". "Sign here", "Sign there". Very simple and easy.

The fact is that there is no verification of the facts "in loco", no one checks at the entity if that person actually works there or if that material that was requested for purchase actually reached that entity.

According to the São Paulo State Department of Education (2021), the Government of SP recorded a 4.6% increase

in the transfer of amounts intended for the care of children with disabilities from 2018 to 2019. The budget jump allocated to these students grew from R\$244.7 million to R\$256 million.

Who must inspect whether the resource has arrived at the entity? The parents? The family members? The entity's Council? The accounting professional who has the documents in hand? The city hall? The Education Department? The Federal Court of Auditors? The prosecutor? The Federal Revenue of Brazil?

Who must check whether the resource was actually used for that purpose?

The discrepancies between the entity's actual information and those presented by outsourced accounting will be discussed below.

INFORMATION PRESENTED IN THE FINANCIAL STATEMENTS

The accountant is one of the most important professionals within a company.

As well as an administrator, lawyer, doctor, engineer, or any other professional duly registered in its class council. If the professional has not registered, we cannot say that he is a qualified professional. Among his responsibilities are: the calculation of taxes, asset and financial control, in addition to the registration and maintenance of employees. With so many important attributions, the legislation began to require joint and several liability, making the professional responsible for malicious acts to third parties.

Regarding the Civil Liability Civil Code, of (2003), it established the joint liability of the accountant. Article 1177 mentions that accountants are liable **for wrongful acts with their clients and malicious acts towards third parties.**

The statute of limitations for these acts, that is, the guarantee for the accountant's work,

is five years. This is due to the prescription of most taxes and what is guaranteed by art. 27 of the Consumer Defense Code, which states that "the right to demand the repair of damages caused by the product or service, as of the knowledge of the fact, is prescribed within 5 (five) years".

The **Civil Liability** established here mainly preserves the client, who can request repairs for technical errors of the hired professionals.

Criminal Liability: the accountant may also have criminal liability and be arrested if illegal conduct is proven. This may occur under the terms of Articles 297 and 298 of the Penal Code. The provision of these articles is a penalty for those who falsify public or private documents, including the company's mercantile books.

The Bankruptcy Law also provides for criminal liability in cases where balance sheets are tampered with or information is rendered useless.

Where did the accounting technician go wrong in this case?

The entity studied sends the documents via pouch to the accounting office. The pouch is opened, the documents are separated and the accounting is carried out, there is no document or invoice that proves the facts, it enters the "Caixa" account, that is how the thirty years of existence of the entity were.

The accounting technician received his fees on time but never stopped to make a reconciliation between the accounts presented in the balance sheet, that is, the "Cash" account presented with book balance on 12/31 was never confronted with the cash balance in the safe of the entity that had "zero reais".

That is, in the balance sheet ended on 12/31/2015 and signed by the accounting technician, the balance of the balance in the Cash account was recorded in the amount of R\$10,838.03 and the existing balance was not inventoried in the entity's safe.

In 2016, in the balance sheet ended on 12/31/2016 and signed by the accounting technician, the balance of the balance in the Cash account was recorded in the amount of R\$74,536.30 and the existing balance was not inventoried in the entity's safe.

In 2017, in the balance sheet ended on 12/31/2017 and signed by the accounting technician, the balance of the balance in the Cash account was recorded in the amount of R\$133,881.37 and the existing balance was not inventoried in the entity's safe.

In 2018, in the balance sheet ended on 12/31/2018 and signed by the accounting technician, the balance of the balance in the Cash account was recorded in the amount of R\$219,015.01 and the existing balance was not inventoried in the entity's safe.

In 2019, in the balance sheet ended on 12/31/2019 and signed by the accounting technician, the balance of the balance in the Cash account was recorded in the amount of R\$336,296.06 and the existing balance was not inventoried in the entity's safe.

After analyzing the existing balances in the open accounts (balance sheet), the audit found accounting errors by the accounting office, in the closed balance sheet, the balance of R\$320,970.23, and in cash "zero reais".

Like the other accounts presented in the balance sheet, they were never checked, reconciled and compared if the values presented on 12/31 correspond to the entity's reality, presented by it on paper.

This professional signs the balance sheet, the income statement for the period and the explanatory notes that are delivered to City Halls and Education Departments with which the entity has an agreement.

REVENUES FROM FUNDRAISING

As for the way of raising pecuniary resources from non-profit organizations, in addition to donations, it is often up to the

managers of these organizations to seek other ways of raising the necessary resources for the maintenance and continuity of the entity's activities. There are actions with the purpose of raising funds, such as: bazaars, sale of goods with the entity's brand or manufactured by the participants of projects that it provides, specific sponsorships for the actions developed and entry of financing projects with the public sector by laws of incentive. Even so, the difficulties in obtaining resources range from lack of money (on the part of entrepreneurs) to competition when competing for some funding, and even management failures. The donations, in a way, present advantages, not only for the entity that receives but also for the company that donates.

Cruz (2010, p. 22) shows that in a certain sense, donating is also a "business". Not in the capitalist sense that we know of always seeking a financial advantage for the capitalist, but in the sense of maximizing results and/or impacts of benefits for the common good. This implies understanding that any and all donated resources must address basic questions such as: where to invest; how to invest; how to monitor and evaluate; how to seek the highest return per unit of investment, or how to make use of planning, management and evaluation instruments on a regular basis. Donating is an act that must be strategic, efficient and effective.

When analyzing the emails delivered to telemarketing for the personnel department, the following differences were found between the amounts collected and those recorded:

– In 2016, the amount of R\$522,571.84 (five hundred and twenty-two thousand, five hundred and seventy-one reais and eighty-four cents) was no longer recorded in Income from donations and from entering the bank current account of the entity.

– In 2017, the amount of BRL 571,355.63 (five hundred and seventy-one thousand,

three hundred and fifty-five reais and sixty-three cents) was no longer recorded in Income from donations and from entering the entity's bank account.

- In 2018, the amount of BRL 512,099.68 (five hundred and twelve thousand, ninety-nine reais and sixty-eight cents) was no longer recorded in Income from donations, and from entering the entity's bank account.

- In 2019, the amount of R\$406,376.00 (four hundred and six thousand, three hundred and seventy-six reais) was no longer recorded in Income from donations and entered the entity's bank account.

- In 2020, the amount of R\$285,368.54 (Two hundred and eighty-five thousand, three hundred and sixty-eight reais and fifty-four cents) was no longer recorded in Income from donations and from entering the entity's bank account.

Based on the e-mails delivered to the human resources sector, it was possible to compare the revenues not accounted for by accounting, the accounting ledger was confronted with the telemarketing e-mails.

When questioned about the outsourced accounting, the accountant claimed to be unaware of the entity's operational process and believed that the amounts received by telemarketing were deposited in the current account, and he was one of the monthly donors. And that he could never believe that the amounts collected were divided between people (financial and his assistant). The fraud was only possible to be proven after placing a hidden camera very close to the entity's safe, instead of putting the money in the safe, the values were placed in the purses (of the mothers of the assisted), which resulted in a lawsuit criminal.

In addition to the telemarketing amounts, checks were also withdrawn from the cashier, without proof of use of the money at the entity (one check per week).

FINAL CONSIDERATIONS

At this moment, we will reflect on the needs of the people assisted, an entity of the third sector that was made up of families who need special care for one of their loved ones.

Management must be professionalized, since the President-elect in the Assembly, after being elected, signs a power of attorney giving powers to a third party to exercise power.

The Directive and Fiscal Council, which must also have the knowledge to manage the entity, is composed of parents and family members without knowledge in management, administration, accounting and related areas.

In view of the above and based on documentary research (five years), it was possible to diagnose indications of bad faith in the people who assumed such leaderships, taking advantage of the ease of cash and free access to a bank current account, without due payment. of accounts to the company.

Another factor that draws attention is the outsourced accounting and the lack of control and administrative procedures, which facilitated the withdrawals made and the lack of transparency in the provision of services by accounting (entries in the cash account) and by rendering accounts to society (non-existent transparency portal).

Based on the documents analyzed, the diversion of funds exceeded three million reais in amounts collected by telemarketing, for withdrawals made at the cash register (copies of checks).

There are also indications of purchases of invoices, that is, invoices that were paid without knowing for what purpose the material was purchased or used, or purchases such as: a printer cartridge in one week and the following week again the same cartridge.

There are indications of employees who are theoretically hired to work in short periods (4 hours) and are paid for 40 hours; or who

must provide care services to those assisted (ghosts): the name only appears on papers.

In view of the facts found in the documents presented in the accountability folders, it is necessary to think about the implementation of legislation that contemplates the obligation for a third sector entity to have in its staff (volunteers) or professionals (a kind of inspectors) committed and responsible for the cause to which the entity proposes.

This is due to the donation request process

(telemarketing); many people who believe they donate to a serious entity that really needs it, helping people in need, for a “just” cause, are being deceived by false promises in the point of view that advocates accountability to society. The action of demanding accounts must be proposed by those who had the assets managed by someone else, that is, the amounts collected must be used with those assisted who need the services proposed by the Statute of the entity.

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