

2008 Annual and Final Report to the Community

Y.E.S., Youth Educated in Safety

June 14, 2009

This final report to the community is a compilation of information and activity for the purpose of disclosure of the annual expenditures and organizational status of the Nonprofit Entity Y.E.S. Youth Educated in Safety.

The 2008 Board would like to thank all donors who made possible the partnership with the Suamico Zoological Society Educational Event, Preparation for Speakers in a Teen Conference as well as Website/Logo, the Services Survey and the Financial Audit - investments to better access the organization.

The Board's volunteer policy ensured that all funds were dedicated for the expressed purpose and mission of the organization: education, prevention and support of victims and families of missing persons. The activities of the 2008 organization included the following: website development, logo development, children's educational programs and teen conference planning. It was in the spirit of volunteerism and building a better organization that comprehensive organizational and strategic planning, accounting services, and communications leadership were all provided on a volunteer basis to the organization by board members.

Additionally, thank you to all who helped reorganize and rehabilitate the original mission of the organization from 1999 – that was to support the families and victims of missing and exploited persons. Due to the volunteer services of retired law enforcement and the return of the co-founder of the organization, a trained missing persons' professional, a successful return of children who were abducted from their home in Grand Chute was made possible in August 2008.

Financial and service audits were conducted for the expressed purpose of organizational growth and decision making in 2008. The legal applications used throughout this process were; Federal and State Laws regarding non profits such as Sarbanes Oxley Financial Reporting Guidelines for Nonprofits, IRS non-profit required filings, State Statutes regarding non profits and Dissolution of non profits, as well as the Association of Missing and Exploited Children's Ethics Code and Y.E.S. Board Ethics Code.

The conclusion of these audits, financials, service surveys, and continued media misinformation led the 2008 Board to reach a conclusion similar to the 1999 Board of Directors regarding financial irregularities. That conclusion was to discontinue operations. The Sarbanes Oxley and Federal Laws are clear, acts of financial and services impropriety requires immediate and swift action to include the advice of independent legal and audit council. The 2008 Board took the action required by the law and its required duties to act in the interest of the public and greater community.

2008 Board of Directors Organizational Transition:

The 2007 Board was included and encouraged to attend all transition conversations in meetings held in August, November and December of 2007 as was evidenced through continual emails inviting members to attend. A formal vote on the transition and new board configuration was held on November 26, 2007. The meeting was chaired by then Board President Tim Hawley who introduced the motion for the new Board Configuration, the result of several months of planning and strategy sessions held at the request of Tim Hawley and Jay Breyer. It was decided that the “New 2008 Board” would take effect after the Board Bylaws were rewritten by then Board President and Attorney Tim Hawley of Stellpfulg, Janssen, Hammer, and Kirschling & Bartels, S.C. It was also decided that the accounts and financials needed to be approved by the incoming board treasurer and accountant who would join the board sometime in March of 2008. The new accountant then would need to “certify the books” from the previous board.

Those Board members attending the November 26, 2007 meeting changing the Board Configuration were; Board President Tim Hawley, esq., who introduced the motion for the new Board of Directors, Jay Breyer who seconded the motion, Susan VanderHeiden who had submitted salary requirements with the desire to become the executive director, as well as board leaders; Patty Ulrich, George Wojcik, Donna Wojcik, Chuck Keuhn, and Janine Keuhn.

Meeting Discussion from the November 26, 2007

Board President and Attorney Tim Hawley called the quorum for the board reorganization meeting and shortly after made the motion for the new board configuration, new logo and name, new bylaws and agreed with the decision to bring onto the board a qualified accountant. At that meeting November 2007, Tim Hawley assured the board that his law firm would write the new by laws.

The New Board coming into the organization in 2008 would not take effect until after Tim Hawley, esquire had rewritten the bylaws and a qualified accountant certified the books from the previous boards.

Terri McCormick accepted a volunteer position as Board Chair for the period of one year. She also agreed to consult as a volunteer with the Board to develop scenarios for strategic plans and organizational goals so the organization could proceed and move ahead to better serve families, the missing, and the community.

Patty Ulrich agreed under these circumstances to continue on the board in 2008 with the new board that would be installed with the signing of the new By Laws. The date of the adopted By Laws was April 21, 2008. The new Board officially took office with the signing of the new By Laws. Financials were still not disclosed until May of 2008.

The Wisconsin Department of Justice, State Clearinghouse presented a federal OJJDP grant to the board secretary Patty Ulrich in May of 2008 which required case histories of individuals helped by the organization, as well as full financial disclosure.

- The 2008 Board of Directors through the services of a private consultant Kimberly Graff could find no records on missing person's cases or financial statements on past years fundraising.
- The lack of financial records and case records made the YES organization ineligible for this grant application.
- The Department of Justice and State Clearinghouse was contacted to provide case histories for the organization and other documents showing that the YES organization had in fact assisted in the search of missing persons or assisted the State Clearinghouse in any way. Three department heads clearly stated and then replied in an email that at No Time did Mr. Breyer or the YES organization assist law enforcement in the search of missing persons. (Justice, 2008)

Financial Irregularities Reported to the Outagamie DA and Sheriff's Office

The financial irregularities uncovered by Kimberly Graff, communications and fundraising consultant and Merry Wagner, treasurer and accountant of the board, were reported to Lt. Proretti of the Outagamie Sheriff's Dept. It was reported to the Board that Lt. Proretti then shared the incident with Carrie Schneider the Outagamie County DA who determined there was enough cause to investigate. DA Carrie Schneider informed Lt. Proretti that she herself had a conflict of interest in the case and would withdraw.

Despite concerns with the Outagamie Sheriff's office having a possible conflict of interest, Lt. Proretti and the Sheriff's department informed the board that the "investigative side of the case - did not have a conflict in the case." It was determined some time later, however, that Sheriff Gehring had a conflict of interest with the alleged political campaign contributions, taken from the principal in the investigation, Jay Breyer.

The Attorney General's office then, took over the alleged - possible theft investigation from the Outagamie Sheriff's office and called in the "Integrity Bureau." The "Integrity Bureau" according to the Wisconsin Blue Book, was created for the sole purpose of investigating ethical misconduct of legislators. To the Board's knowledge, the "integrity bureau" did not ask questions pertaining to a possible theft. It was disclosed however, to the board by one of the investigators that; Guardian Insurance, JJ Keller, and the Community Foundation chose not to press charges against the principal in the investigation.

The Attorney General's office and Division of "Integrity" agents did not ask questions of the Board Secretary and Board Treasurer in regard to the discoveries and findings of impropriety and possible misappropriation of funds by Mr. Breyer. Rather the agents appeared to be focused on

attempting to find fault with the board of directors decision to follow the law as fiscal agents of the organization. Continual questions were posed as to “motive of the board” for asking to see its financial documents, its case history and actual families served. The agents were referred to the Sarbanes Oxley Guidelines for Nonprofits, State Statutes regulating Nonprofits, and the AMECO Ethics requirements for associated members. The statement by officer Debra Strauss of the “integrity bureau” was that they were not interested in anything except for the theft.

Emails were found between Mr. Breyer’s attorney Vince Biskupbic and an investigator with the “Integrity Bureau.” (Biskupbic was a former DA who himself had distributed funds to Mr. Breyer from a DA Fund Account) The board had previously been informed by the Outagamie Sheriff’s office that Graham Rattray was Mr. Breyer’s attorney. At that time the board’s representative informed Rattray in a letter that Biskupbic’s involvement in the case would pose a significant conflict of interest.

Former DA Vince Biskupbic appeared in the Post Crescent, as Jay Breyer’s attorney after the investigation ceased ‘due to insufficient evidence to prosecute.’ Biskupbic was quoted liberally in the Post Crescent with statements that were both unfactual and misleading to the actual decisions of the board of directors and the status and role of Mr. Breyer with the organization.

The story and accounts written in the Appleton Post Crescent did not include Board Statements that were provided to the Post Crescent on several occasions by the Y.E.S. Board of Directors.

As a result of the mounting unreported discrepancies in financial information provided to the board from previous boards and board president – the dissolution decision was the only decision left to the board. ***The dissolution of Youth Educated in Safety (Y.E.S.) was authorized on October 2, 2008.*** Accordingly all provisions provided in the state statutes for dissolution of nonprofit corporations were followed. All items remaining with the organization were donated to nonprofits 501 C 3’s with similar missions and purpose. (see 990 filing from 2008) The State Statutes for Dissolution can be found in Subchapter XIV 181.1401—181—1422 of the Wisconsin State Statutes.

Finances Entrusted to the Board:

One grant was provided to the organization in 2008 from the JJ Keller Foundation for the amount of \$35,000 to be distributed over the course of the first year in the following manner; Jay Breyer Salaried Position, Website Development, Logo Design. Subsequently, after the mid year organizational change The Keller Foundation requested that the balance of funds not already disbursed to Jay Breyer as salary be returned to the Keller Foundation in that they were not funding the position of Executive Director – they intended to fund Mr. Breyer.

Services Survey and Audit:

- Service Data for referred cases to YES was provided by the Wisconsin Department of Justice (Justice, 2008).
- The 2008 Board of Directors Could Not Certify the Books of the previous boards; financial records were destroyed or nonexistent in the office. Corporate filings were '*four years in arrears*'. Taxes appeared to be *filed 18 months after their deadline*. And an outstanding IRS income payroll tax debt was reported in *excess of \$20,000* (Merry Wagner, Treasurer).
- An outside "Agreed Upon Procedure Audit" was conducted by an outside accounting firm as a result of a lack of forthcoming financial records and information. Despite repeated requests over a three month period for financial information and records, Mr. Breyer failed to surrender financial documents of the organization as was witnessed by Board President Terri McCormick, Secretary of the Board Patty Ulrich, Board Treasurer Merry Wagner and then Board Attorney Tim Hawley.
- It was never disclosed to the board that Molly Breyer was paid to do the bookkeeping and payroll of the organization. It was never disclosed to the board that Spurloch & Runyan was the organization's hired accounting firm since 2001. Prior to the Financial Agreed upon Procedure Audit conducted in 2008 by an independent accounting firm Kerber, Rose and Associates, S.C., the board was led to believe that Jay Breyer himself had filed the taxes of the organization as a 'one man band.' (Filings 2006, 2007, 2008)
- Joe Mathews of America's Most Wanted revealed on a survey form that he had given DNA Life Kits to the organization years prior and had expected to be paid for those kits. The Audit showed that several thousand dollars were raised from schools, churches, chambers and others for kits to be distributed. (Kerber & Rose, 2000-2008)
- \$15,000 had been donated for computers by Guardian Insurance between the years of 2004, 2005, 2006; however no computers existed from that time frame. The computer inventory taken by former Police Officer and Computer Expert on the Board showed the following (Constine, 2008) See inventory listing.
- The independent Auditor report from Kerber and Rose showed that former DA Vince Biskupbic had issued checks from his DA Account to Mr. Breyer and Y.E.S. (See auditor letter)

Financial Summary:

Attachment of IRS Submission, Salary Spread Sheet 2006 -2007- 2008, as well as the Keller Grant Disbursement is attached. The \$10,000 check from JJ Keller never deposited in an account traceable to our independent auditor can be found in the audit report. (Wagner, 2008)

The Community Foundation Grant/ authorizing agents were Tim Hawley Board President and Jay Breyer and are posted for review. This conference was cancelled and monies distributed without the knowledge of the 2008 Board of Directors that took office on April 21, 2008. *The 2008 Board made an attempt to honor this conference without funding, however the Community Foundation letter stated that it was not interested in seeing “a conference go forward” unless Mr. Breyer was involved. (Community Foundation Grant to Jay Breyer & Tim Hawley, Winter 2008)

Financial Obligations not disclosed to the 2008 Board by Previous Boards – E.D. Breyer

1. Conference Cancelled without Notice under past board President Tim Hawley, esq \$3,000 obligation due to an undisclosed cancellation despite several requests for info.
2. IRS Debts from Fines on Payroll Taxes in excess of \$20,000 (see attached) This amount of money and debt for failure to pay income taxes was hidden from the board.
3. Eviction notice from Pfefferle Management eviction notice for past rent in excess of \$3,400 (attached) Failure to disclose this to board despite repeated requests for info.
4. Debt to the Green Packers in 2007 fundraising event \$1,500 (attached) Failure to disclose this to the board. .
5. Debt to the Paper Valley in 2007 in excess of \$1,500 (attached) Failure to disclose this to the Board of Directors. (Wagner, Community Foundation Letter correspondence, Audit Findings & Account Payables , 2006-2007)

Community Foundations National Standards

http://classic.cof.org/files/Documents/Community_Foundations/National_Standards/%2709%20CF%20National%20Standards.pdf

1. Debts Undisclosed to the April 2008 Board of Dir. From Previous Board Accounts
2. Undisclosed conference agreement/ and debt undisclosed to the new board
3. April 21, 2008 By Laws as drafted by Tim Hawley Board President and Attorney
4. 2008 Board of Directors Ethics Code
5. 2008 AMECO Code of Ethics
6. Sarbanes Oxley Federal Laws pertaining to Nonprofits
7. Association of Fundraising Professionals (AFP) Code of Ethics
8. 2008 Department of Justice (DOJ) Criminal Investigators’ Official Statement
9. State Statutes Governing the Dissolution of Nonprofits can be found in _Subchapter XIV 181.1401—181—1422_of the Wisconsin State Statutes.
10. IRS Code Rev. Rul. 56-3-4, 1956-2 C.B. 306 Foundation Donations to Organizations/ JJ Keller staff request for return of salary for Jay Breyer
11. Kerber, Rose & Associates, S.C. Audit Overview Letter
12. 2006, 2007, 2008 Salary and Consultant Fees Paid
13. Services Surveys conducted by consultant; Consultant Letter of Concern, DOJ Statement

14. Treasurer's Letter of Concern
15. Attorney Letter to Graeme P. Rattray Attorney of Record for Mr. Breyer
16. International Children's Fund Donation of former Y.E.S. Items
17. S.A.C.C. Fund Donation of former Y.E.S. Items
18. Computer Inventory of 1999 Computers Prepared by Retired Law Enforcement/and Board Member
19. Articles of Dissolution—Non Stock Corporation
20. 2006, 2007, 2008 IRS 990 Statements and Corporate Filings Statements and Notes
21. Related Concerns from Past Boards and Community Foundation President
22. Related Documents filed in 2008 related to Events in 2000
23. Board Statement Facts Below - *Provided to the Post Crescent, remains unpublished*

FACT SHEET

June 2009

Youth Educated in Safety (Y.E.S.) has been dissolved as of October 2008. The former Y.E.S. 2008 Board of Directors came to the same conclusion as the Y.E.S. 1999 Board of Directors came to. Due to fiscal mismanagement the existence of Y.E.S. was in jeopardy. In 1999 as in 2008 the board felt they had been misinformed, particularly in the area of financial matters. Attorney Tim Hawley was the President of the former Y.E.S. board until Feb. 2008. Jay Breyer and several other family members were recorded on paper with IRS filings as treasurers of the organization prior to Feb. 2008. The former Y.E.S. board in 2008 was not privy to those documents until a formal audit was conducted by an outside auditor, Kerber and Rose & Associates, S.C.

Jay Breyer was provided numerous opportunities to be forthright with the board of directors as to the financial condition of Y.E.S. When answers were not forthcoming the board sought an independent audit. This decision was made in accordance to Sarbanes Oxley Laws governing nonprofits. The "Agreed Upon Procedure" conducted was a more extensive audit in that it looked at all documents, all receipts and all accounts of the organization available. The consultant found 10 areas that they suggested needed further investigation. The audit results were previously released to the public.

Y.E.S. was operating as a 501.c3 organization under Federal and State laws as well as the guidelines of the Association for Missing and Exploited Children Organizations (AMECO) ethics requirements. In August 2008 the AMECO Board of Directors determined that Y.E.S. had not met their requirements in past years. Therefore they stated that "we have no option other than to terminate YES membership at this time."

The former 2008 Y.E.S. Board of Directors, at no time made personnel matters public. In fact, the expressed concerns of financial and services mismanagement and misrepresentation was quietly discussed with the Outagamie Sheriff's Dept. with a request for advice on how best to proceed. The press was not notified by the Board of directors on any personnel matters of the organization. The breach of confidentiality in the personnel matters of the Y.E.S. organization was made by Mr. Breyer and his associates. The media circus that followed was done so at the expense of those families that suffered with missing and exploited children.

Note: All referenced material and reports can be found listed on the organization web site:
www.mpnwi.com

Patt Ulrich, Secretary MPNWI Steering Committee