

# Tom Little's **BIG IDEAS**

for Non-Profits

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*Our lead article is about proposed Ontario legislation to limit non-profit exposure to litigation related to COVID-19. This week's email commentary focuses on a source of help for seniors in using technology. TomBits identifies companies that offer diversity and anti-oppression training, then asks for information about being "on-call". Blast From The Past speaks to issues related to hiring people with a criminal record. Since it was written there have been interesting developments. See the 2020 Update at the end. Thanks once again to BIG Ideas reader Lisa Hirvi who identified the story back in 2016. It holds many lessons for non-profits that we wrote about.*

*Finally, a quick reminder that at CMCS we are operating as before, just remotely. This week, we are again facilitating strategic planning via Zoom. If you want to do planning, get training or hold a retreat, we can help.*

# Whew! Non-Profit Exposure to Possible Lawsuits Reduced

## The Story

The Ontario government recently introduced legislation titled “*Supporting Ontario's Recovery Act, 2020*” to reduce the risk of civil litigation, for both for-profit and non-profit organizations, related to how they have addressed and are addressing COVID-19.

In broad strokes, the province has set a high bar for litigation to be successful. An organization would need to be proven to have “willfully, or with gross negligence, endangered others”. Ontario’s intent is to “provide liability protection for workers, volunteers and organizations that make an honest effort to follow public health guidelines and laws relating to exposure to COVID-19”.

Those protected are said to include:

- Healthcare workers and institutions
- Frontline workers who serve the public everywhere from grocery stores to restaurants and retail stores
- Businesses and their employees
- Charities, non-profit organizations, and
- Coaches, volunteers and minor sports associations.

## The Skinny

For all those working in the non-profit sector, this is probably very good news. Unless they can be shown to have willfully, or with gross negligence, endangered others (e.g. clientele, staff and volunteers, others coming in contact with the organization), they will be safe from litigation. And litigation would be problematic on a number of fronts, including the time and cost needed to defend the organization’s actions and the apparent lack of insurance coverage.

## The BIG Idea

The proposed Ontario legislation, while reassuring, doesn’t let non-profits totally off the hook, so my BIG Idea is to remain vigilant, including by ensuring you continue to make an “honest effort”. Here are thoughts on what that might comprise, adapted from ideas provided by a Canadian law firm:

- Remain up-to-date on and comply with the government’s orders and recommendations, whether public health orders, re-opening plans, operational restrictions, or otherwise
- Comply with recommendations made by industry organizations and with advice or directives made by regulatory bodies
- Stay apprised of adaptations and safeguards implemented by similar organizations both locally and nationally and implement the same adaptations and safeguards, and
- Take steps, including the introduction of new policies and procedures, to ensure employee and staff compliance with all adaptations and safeguards implemented.

# Emails... We Get Emails

## Technology Help for Seniors

Last week in BIG Ideas, I asked whether any readers had thoughts on how to help people lacking the technology to participate in on-line meetings. Long-time reader Roz Werner-Arce responded with the following suggestion: *“If the board members you are referring to are seniors, there is an organization that can help: Connected Canadians”.*



According to its website, Connected Canadians is “a nonprofit organization that promotes digital literacy skills amongst older adults by providing free technology training and support. It believes that all people should be empowered to use technology safely and effectively to help them engage with loved ones and enhance their quality of life”.

In addition to pairing a senior with a volunteer for training in email, video chat, phone, Facebook and YouTube, Connected Canadians indicates it also provides:

- Support for families of people in hospital so they can connect
- Workshops for retirement home residents, community groups, churches or caregivers that cover issues such as staying safe on the Internet and troubleshooting common computer problems.

Connected Canadians can be found at: <https://www.connectedcanadians.ca>

## Pay for Being On-Call?

Since you, our BIG Ideas readers, were good enough to offer input on that question, here is another reader’s question: *“Are there organizations out there that require employees to be ‘on-call’? If so, are the employees compensated for their on-call time and how does that compensation work?”* If you can shed light on how to deal with on-call situations, please email me at [info@cmcsconsulting.ca](mailto:info@cmcsconsulting.ca)

## This Week's TomBit

### Sources of Diversity and Anti-Oppression Training

Recently, a BIG Ideas reader asked CMCS whether we provide assistance with anti-oppression policy development and training. The answer unfortunately is no – not one of our areas of expertise.



However, we recognize the importance of this issue, so did some checking to see if we could find organizations that do have anti-oppression and diversity expertise. Here are two located in the GTA that were recommended: 2Sisters Consulting and ATZ Equity Consulting.

2Sisters is headed by Shieh-Chi Chen (pronounced Shee-Tzu). Shieh-Chi advises she has 25 years of work experience in the U.S. and Canada, including designing and facilitating the 2019-2020 workshops for the Council of Inclusive Work Environments at the Conference Board of Canada.

Shieh-Chi also offers a workshop titled: *“Women Own Your Badassery: Design your Path to Success and Fulfillment”*. Its purpose is *“to uncover your authentic and unapologetic self, to uncover what Stops your Creativity and to create new strategies for getting ‘unstuck’*. *The time is now to uncover your blind spots and align your personal aspirations with your values and life purpose.”* Love the title! I didn’t even know Badassery was a word, let alone that you could train in it. Wouldn’t it be great to be a Certified Badass or hold a Bachelor of Badassery degree?

The other company, ATZ Equity Consulting, advises: *“We know that figuring out where to begin when striving for a more diverse, equitable, and inclusive organization can seem overwhelming. We have the know-how and expertise you need to get started, evaluate your processes, expand your learning, and make a plan to see your vision through”*.

Transparency alert from CMCS on ATZ: My colleague Nancy Collins and I have worked extensively with Jaspreet Gill of York Region Centre for Community Safety, who recently also affiliated herself with ATZ. YRCCS is one of many organizations in York Region and across Ontario that do vital work with limited resources on behalf of women in abusive relationships.

# Blast from the Past

*Blast from the Past is a selection of previous BIG Ideas articles that you may not have read, or if you did, may have forgotten how helpful and insightful (i.e. brilliantly written) they were. This article is from 2016. There have been interesting twists since then – see the 2020 update.*



## Let The Past Be The Past - Is This Our Best Strategy?

### The Story

In what is not quite the final installment of in our story about the unhealthy public health unit and lessons learned, we come to the fascinating saga of the Interim Chief Financial Officer.

You will remember that the incumbent finance person diverted almost half a million dollars of the PHU's funds for his own purposes. You will remember too that a new Medical Officer of Health (Executive Director) had just started in the position as the revelation of fraud was unfolding. This convergence resulted in the hiring of an Interim Chief Financial Officer to work alongside the incoming MOH.

The ICFO had to immediately deal with a number of challenges, including replacing the lost money and meeting the increased costs of a new building. Adding to the burden was the fact that salaries were higher and the number of executives was greater than other health units in the area. But he rose to the occasion, and over the course of his tenure, which lasted six months: "He approached his work with energy and vigour, and moved quickly to address many of the serious issues facing the health unit" as noted in the Assessor Report subsequently commissioned by the Ministry of Health.

What's unusual about this, you may be asking? A finance person is hired on a short term contract and gets right into dealing with pressing financial issues. Well, just this, according to media reports:

- A number of years earlier, the ICFO had been convicted of fraud. His crime involved running a PONZI investment scheme and is reported to have amounted to at least two million dollars. He served time for his misdeeds.
- In the interim he had changed his last name.
- The head hunter who put him forward as a candidate knew of his past but didn't share it.
- No one else connected to the organization says they were aware of his history.

When these facts came to light, sometime after the ICFO had left the PHU, it was faced with a situation where it had hired a person who had been convicted of fraud, to clean up the financial mess created by a person who had been convicted of fraud. This of course resulted in an uproar, and was the cause of the review commissioned by the Ministry of Health and Long-term Care cited earlier. The public health unit also asked its auditor to conduct a separate financial review.

If it wasn't before, the public health unit was now the butt of substantial criticism. "It's unthinkable that a man convicted for financial fraud would be the chief financial officer of a public agency", stated one

newspaper article. “Someone who scammed friends and relatives out of their savings should seek a different career path than managing huge amounts of public money. Period.”

Now comes the irony. The Assessors Report, one of the two reviews undertaken in the wake of this revelation, comments on the ICFO’s work as follows: “It is important to note that as CFO, through the combination of successes and mistakes, there is no suggestion of any action that resulted in personal benefit. It should be noted that he reported regularly to the Board on his work and was praised and complimented by them.” The KPMG report has not been released to the public, but suggestions reported in the media indicate that it reaches the same conclusion. So in spite of his past misdeeds, the ICFO fulfilled the duties of the position in an acceptable fashion and did nothing illegal.

## **The Skinny**

There are many aspects of this situation we could spend time discussing.

Should you hire a person for a senior financial role without obtaining, or being provided with, a criminal reference check? Prudence would say no.

If you use a head hunter, should the head hunter be expected to do the legwork and advise you if the candidate being put forward for a senior financial role has a criminal record of any kind but especially related to money? Prudence would say yes. And this applies to other senior positions too.

Should you hire a person to a senior financial role after being provided with a criminal reference check that included a fraud conviction? Again, prudence would say no, but the experience of the public health unit, as time-limited as it was, would say yes.

In support of this latter position, consider the observations of the head hunter as reported in a newspaper article: “He pled guilty, went to jail and served his time and made amends with those he offended....He’s a very committed guy to living a positive, reformed life. I feel for him. I’m crushed by it. It pisses me off that people can’t let the past be the past.”

So, on the one side we have the opinion that it’s unthinkable to hire someone with a fraud conviction, and on the other that people should let the past be the past. When it comes to charities and non-profits, which should hold sway?

## **The BIG Idea**

Our current lesson is that when hiring for key positions, including finance, you should ensure your due diligence is exercised, either by the organization or the head hunter if using one. Obtain a criminal reference check. If the person has a significant conviction, you are on the horns of a dilemma. Say no, and you are being prudent. Say yes and you are being a humanitarian.

Because charities and non-profits should be prudent by nature, the easiest answer is to take a pass, unless your organization has a specific commitment to rehabilitation. While this might fly in the face of the humanitarian ethic that many non-profits and charities espouse, doing otherwise exposes those served by the organization and those doing the serving to the kind of risk that is difficult for them to

bear. In the event of a problem, they will be tarred by the same brush as the public health unit, accused in the media of doing something “unthinkable”.

## 2020 Update

Fast forward from 2016 to 2020 and this story has taken further fascinating turns. The former Interim CFO has been in the news again for two reasons. First, he was recently convicted of defrauding a woman with whom he had a personal relationship. No, it was not the MOH, although it has been reported that police wanted to charge him for that too, but that she declined to co-operate.

Second, his name surfaced in connection with Barry Sherman, who was murdered in late 2017. At the time of his death, Sherman was reported to be suing the former Interim CEO in connection with a Trivia-style Internet game the ICFO had launched and in which Sherman invested. Apparently Sherman believed the game to be a fraud and he had been tricked into investing. Interestingly too, the headhunter who recommended the ICFO for the position at the public health unit was also involved in the company that developed the Trivia-style game. Thanks once again to BIG Ideas reader Lisa Hirvi who identified the public health unit story back in 2016. It had many lessons for non-profits.

## Current CMCS Clients

We are pleased to be working with York Region Centre for Community Safety, Community Living Thunder Bay, Canopy Support Services (formerly Tri-County Community Support Services), Literacy Network Northeast, Community Living Port Colborne-Wainfleet, Community Visions and Networking (Quinte) and Chatham-Kent Family Health Team.

Recent clientele includes Durham Youth Services, Community Living Trent Highlands and Mill Creek Care Centre.

## Testimonials

*Thank you again to you and Nancy for all the work, dedication and effort put into this Operations Review. We made the right choice in hiring you to do this project and on behalf of the board of directors, I express our deep gratitude.*

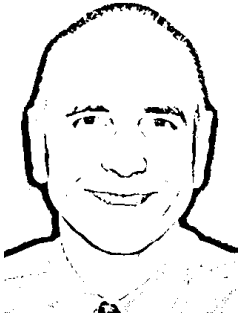
**Roz Werner-Arce, Board Chair, Durham Youth Services**

*Our Strategic Plan is moving along better than I could have imagined. I chair the group of around 20 Board and staff who have been meeting monthly for the past 6 months and plan to continue through the fall. Great enthusiasm from all involved and much is being accomplished already, particularly on renewed focus on our Mission and Vision. Thanks again for getting us off on the right foot!*

**Frank Moore, Board Chair, Community Living Central Huron**

## About Tom Little and Nancy Collins

Tom Little and Nancy Collins are the principals of CMCS.



In addition to consulting for many years, Tom has been Executive Director of a large human service organization, experience he brings to the table when working with his non-profit clients. In his younger days he was lucky enough to be part of three Canadian champion hockey teams while attending the University of Toronto.



Nancy's background includes a degree from Wilfrid Laurier and working at a downtown Toronto law firm. In her spare time, at least when there is no pandemic, she plays goal in women's hockey and catcher in summer slo-pitch. A life-long Leafs fan, she no longer apologizes for her unwavering commitment, given their resurrection in recent years. Now if they could just win a playoff round!

## Free Resources From CMCS

We offer a range of free resources to help non-profits be better. For your copy, contact us at [info@cmcsconsulting.ca](mailto:info@cmcsconsulting.ca)

Board Duties  
Policy Board Model  
Board Meeting Minutes  
Board Decision-Making Checklist  
Board Evaluation Form  
Dealing with Risk  
List of Possible Board Policies  
Board Recruitment (Stop the BIG LIE)  
Management Principles  
Member and Director Qualifications  
The Importance of Planning  
Canada's Great Non-Profit Websites  
Transitioning to the New Not-for-Profit Corporations Act



## Tom's Book For Boards of Directors



One hundred and ninety-pages. Thirty-six *BIG Ideas*. Thirteen of them are *The BIGGEST of the BIG*, ideas Tom's experience says are critical to any non-profit. Then come twenty-three *BIG Ideas*, more ways to enhance the governance of your organization.

You don't just get ideas either. The book contains all kinds of resources for implementing them. For example, *BIG Ideas* includes samples of strategic and Board yearly action plans, and of evaluation formats Boards can use to rate their own work.

*Tom Little's BIG Ideas* is formatted as a work book, so it can be used on a continuous basis by the Directors. It is easy to read and has a fun quality your Board members will appreciate.

Just \$40 plus HST and shipping. For your copy, contact us at [info@cmcsconsulting.ca](mailto:info@cmcsconsulting.ca).

## More About CMCS



At CMCS, our specialty is strategic planning. Since the start of 2018, the following 14 organizations have completed their strategic plans with help from CMCS:

- Kenora Association for Community Living
- Community Living Dryden-Sioux Lookout
- Community Living Trent Highlands
- Elmira District Community Living
- Literacy Northwest
- Durham Region Child Care Forum
- Tollendale Village
- Centennial College School of Transportation
- York Region Violence Against Women Coordinating Committee
- Autism Home Base Durham
- Canoe FM Community Radio

- Toronto Island Residential Community Trust
- York Region Centre for Community Safety
- Literacy Network Northeast

We provide Board training that comes with a bonus: A Board action plan developed by participants based on the discussion.

Tom wrote his book for non-profit Boards, which you can buy and use as an ongoing resource. We are great facilitators and can help develop agendas for Board and management retreats.

Much of our past work has been in the human service sector, especially disability. But we have assisted in other sectors such as community colleges, local workforce authorities, family health teams, Big Brothers Big Sisters, United Ways and violence against women. We have even assisted a community radio station.

We have built our reputation on producing quality products that have great content and are appealing to look at.