

PERFORMANCE APPRAISAL FORM

NAME OF EMPLOYEE	Mr. John Martin
JURISDICTION (City, County, State, or Federal)	County
FUNCTION, JOB or ROLE	Treasurer, Public Charity
ORGANIZATION	Hickory Tavern Recreational Association
LOCATION	Laurens County
PERIOD OF PERFORMANCE	Date of first hire through Sept 30, 2012
DATE OF APPRAISAL	October 1, 2012
INTERIM OR FINAL	Final. Employee's stated refusal to comply with job standards makes further reviews irrelevant.
APPRAISER	Katrina Fay, Laurens resident
OVERALL RATING E = Exceeds standards; M = meets; B = Below; F = Fails to perform	F
<p><u>Write a brief summary.</u></p> <p>Mr. Martin would be a great asset in a marketing or sales position. He is successful in garnering support of his stated position on the force of personal interaction. These skills are unsuitable and irrelevant to financial management of public monies. His current job duties require basic accountability, basic bookkeeping, reading and adhering to contracts and other standards and basic business skills. He stated he can't follow these business standards and practices. HTYRA's lack of records evidences his lack of compliance. He is managing the finances of a public company but denies his responsibility as financial officer, to comply with State laws of public companies. He denies the company is a public charity. It isn't reasonable that his proffered lack of basic skills, misunderstanding of what type of company he's handling money for, and his apparent defensiveness, is simple good faith error. Rather, this pattern appears one of intentional concealment that destroys, rather than builds, public trust. Mr. Martin hasn't demonstrated any performance suitable for a position of public trust.</p>	

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INSTRUCTIONS

Section I. Please indicate your assessment of the performance of the named employee based on the criteria identified in Section II.

1. All input should be based on your interaction with the employee and documented records. Hearsay, rumor, and speculative opinion have no place in performance input.
2. Your feedback must be objective, i.e., it should meet the following:
 - your personal likes, dislikes and biases should be set aside.
 - your input should be verifiable and specific.
 - input should be based on a pattern of performance, not a specific incident.

Section II. List any plans developed with employee to improve performance.

Section III. Please list supporting authority and documentation for your assessment.

1. List the standards and metrics according to the requirements of the job. These standards and metrics must be objective and specific.
2. Attach documented employee performance data Include Freedom of Information Act requests and related correspondence; documents released in response to requests; and any other documented evidence of employee job performance.

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SECTION I – Performance review

Business Competencies

E = Exceeds expectations; M = meets; B = Below; N/A = not applicable to job position or not observed by reviewer

	E	M	B	N/A
Job Knowledge			X	
Adherence to Standards			X	
Quality			X	
Customer Focused			X	
Process Improvement			X	
Fiscal effectiveness			X	
Meets commitments				X
Problem solving				X
Manages multiple tasks effectively				X
Makes sound business decisions				X

Write a description of your observations. Attach additional sheets if required.

During the FOIA meeting with this appraiser, Mr. Martin asserted a lack of knowledge that could be considered coy. It doesn't appear Mr. Martin suffers impairment preventing him from understanding basic record keeping like how to keep an accurate balance. After the meeting, Mr. Martin was repeatedly requested to review the meeting report of his refusal to disclose bank records to correct any misunderstanding of the meeting. He consented with the report's record. However, during a public County Council meeting, he misrepresented the bank records were disclosed. He changed his position again with a claim the records didn't have to be disclosed because HTYRA doesn't receive public funding and FOIA doesn't apply. It seems likely Officers know this is false. HTYRA's registration as a public charity is in plain English on the website of SCSOS. Mr. Martin operates a concession stand built with public dollars, for revenue using publicly paid electricity. Additional revenue controlled by Mr. Martin is from fees the public pays to use HTYRA facilities built, and are operated, with public funding.

Mr. Martin relies on County support of his non-compliance to job standards. Mr. Martin explained his failure to expend monies required in term xy of the County lease by pointing to the County's unrecorded decision to suspend this term. Council Chairman Coleman readily admits Mr. Martin can keep HTYRA's revenue for private use.

The contradictions in different versions of HTYRA's financial statements are too large and unexplained to be simple mistakes. The spreadsheet Mr. Martin released contained manual balance adjustments. The idea that Mr. Martin keeps the company balance manually rather than on an electronic worksheet such as excel isn't reasonable. He has access to computers. He is the web site coordinator of the Woodmen of the World lodge webpage used to post notices of the undocumented activities Mr. Martin organized. The balance adjustments are intentional, but there's no apparent business reason. Along with Mr. Martin's personal use of company assets for political campaign and defensiveness, these financial discrepancies and refusal to disclose appear as subterfuge and intentional concealment.

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SECTION I – Performance review

Behavioral Competencies

E = Exceeds expectations; M = meets; B = Below; N/A = not applicable to job position or not observed by reviewer

	E	M	B	N/A
Accountability			X	
Demonstrates ethical values			X	
Is fully informed and promotes ethical, legal standards and code of conduct			X	
Willing to listen and talk through ethics issues			X	
Demonstrates personal courage to intervene where an ethics issue requires action				X
Adapts to change			X	
Honesty			X	
Transparency			X	
Write a description of your observations. Attach additional sheets if required.				

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Mr. Martin displays a marked lack of concern for ethical behavior necessary to build public trust in the handling of public monies. His use of the company sign to announce his political candidacy is a rather striking disregard of both federal and state laws prohibiting public charities from supporting political candidates. Mr. Martin justified his non-compliance to job standards during the County public meeting with recitation of undocumented activities he organized and funded on HTYRA property. Denying disclosure of company financial records with a claim that FOIA doesn't apply to the company's property he uses for his undocumented activities, in conjunction with the discrepancies in company financial statements and other documentation problems presents an appearance of intentional concealment that is against public policy of a public charity. Perfect compliance is not required. Good faith is. Mr. Martin could have made a good faith effort to dispel appearance of concealment, for instance, by disclosing company bank records – apart from the fact the law requires disclosure. Mr. Martin's reliance on personal testimony of 'good intentions' and 'lack of understanding' as reasons for non-compliance with the job standards, and, as reason justifying his personal use of company property for his political campaign, models an approach that our laws, basic business practices, and fiscal accountability of public resources can be disregarded at personal whim. Tolerating disregard of the law in positions of public trust could reasonably be considered a factor in South Carolina's performance as one of the most corrupt states in the country.

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SECTION II – Employee Performance Improvement Plan

Appraiser Comment: Mr. Martin's defensive posture precluded his participation in any plans to improve his performance. This plan is presented as an example of process improvement for his job as Treasurer handling public monies, as a position of public trust, requires.

GOALS

1. Short range

- a. Establish basic company financial management procedures
- b. Go through box of receipts, correlate receipts to expenditures
- c. Disclose bank records
- d. Establish simple company procedures and record keeping for meetings; scheduling of HTYRA activities; etc.

2. Long range (may not be applicable to all job positions)

Not applicable – Bylaws restrict length of terms

Developmental Objectives, and Activities to meet these objectives
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Objectives – learning; teaching; mentoring; modeling; etc.	Activity – OJT; Self study; seminars; etc.	Source	Start – Finish schedule	Actual completion date
Learn Basic financial management	Self Study			
Build trust, model ethics; learn how to manage non-profits	Join SCANPO; earn SCANPO leadership award	SCANPO		

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SECTION III – Performance Investigation

A. Job Competencies - Standards

Competency: Accountability, Transparency, Basic business practices of the job position

- a. Guidance used by multiple state organizations:
<http://www.councilofnonprofits.org/resources/resources-topic/ethics-accountability/cultivating-culture-accountability-and-transparency>
- b. South Carolina Association of non-profits:
<http://www.scanpo.org/building-the-knowledge-network/>
- c. State Freedom of Information Act
- d. SC Department of Revenue: Annual Reporting Requirements (Charitable Fundraising Act; Nonprofit Corp Act; Applicable State Tax Code)
<http://www.sctax.org/NR/rdonlyres/405CCAA4-3598-4E1B-9EA7-D97C4D15BB50/0/annrepor.pdf>
- e. Solicitation of Public Funds Act
http://www.sos.sc.gov/Public_Charities/Public_Charities_Info

Competency: Fiscal and Financial oversight

- i. Federal: <http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exemption-Requirements---Section-501%28c%29%283%29-Organizations>
- ii. State: see <http://www.sctax.org/NR/rdonlyres/405CCAA4-3598-4E1B-9EA7-D97C4D15BB50/0/annrepor.pdf>
- iii. State code 12-37-220

Competency: Ethics Modeling

- a. Core practices: See best practices and policies of State and National non-profit organizations referenced above.
- b. State Law: Title 8, Chapter 13, Article 7: 8-13-700(A); 8-13-700(B); 8-13-705(B); 8-13-720
- c. Various state and federal prohibition against using a charity for political campaign

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SECTION III – Performance Investigation

B. Job Competencies - Metrics of minimum compliance

Metric: Demonstrated understanding of basic concepts needed to perform job duties

- a. Compliance to certain state laws is mandatory.
- b. Difference between a public and private company; public and private use of company finances.
- c. HTYRA is a public company.
- d. Compliance to the Freedom of Information Act is mandatory for public companies.
- e. Financial management of public monies is subject to public review.
- f. Basic bookkeeping concepts: tracking of receipts to expenditures; accurate balance keeping; and simple tracking of monies.

Metric: Demonstrate minimum compliance with keeping of simple basic financial and business records with one or more, as applicable, documents in each of these areas:

- a. Financial records sufficient to meet State Charities Act 33-66-100.
- b. Per Non-Profit Corp Act requirements to meet bylaws, records of director meetings and votes.
- c. Per State Non-Profit Corporations Act, 33-31-210, 701, 720, 804 requirement to met bylaws, records of director meetings and votes, especially approval of expenditures over \$50; record of mandatory annual meetings
- d. Record of HTYRA business approval and record, such as announcements, policies, procedures, memos, of activities Mr. Martin admitted organizing and funding with HTYRA monies.
- e. Any basic financial tracking – receipts, ledgers, list of assets
- f. Good faith attempt to follow the bylaws, per non-profit corporations act, such as changing voting procedure and the like, when company doesn't meet minimum director requirements

Metric: Demonstrate minimum good faith expenditure of HTYRA funds for public purpose by one or more of these records

- a. Bank statements.
- b. Financial Records indicating the business purpose of the expenditure.
- c. Record of charitable beneficiary.
- d. Some kind of record denoting business operation.
- e. Per 33-31-1620, balance sheet and statement of operations.
- f. Tracking of cash revenue.

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SECTION III – Performance Investigation

C. Documents of employee performance

Documents available at:

[www.laurenscountycitizenwatch.com/Boss_Investigations/Hickory Tavern Park Investigations](http://www.laurenscountycitizenwatch.com/Boss_Investigations/Hickory_Tavern_Park_Investigations)

Business Competencies

- a. IITYRA bylaws
- b. Freedom of Information Act request to HITYRA Officers Mr. Martin and HITYRA Mr. Mchone, for business and financial records.
- c. After action meeting report and repeated requests for correction sent to Mr. Martin confirming failure to disclose records. Mr. Martin allowed report to stand as accurate record of meeting.
- d. HITYRA statement by President asserting refusal to disclose records and refusal to comply with FOIA.
- e. Correspondence requesting disclosure of list of assets.
- f. Other correspondence.
- g. Calendar of Mr. Martin's announcement of sponsored events on IITYRA property. HITYRA has no record of these events.
- h. News reports of appraiser's presentation during September 9, 2012 County Council meeting, and record of Mr. Martin's statements affirming HITYRA doesn't comply with State law such as recording and meeting requirements of the Non-Profit Corporation Act. Clinton Chronicle; Laurens County Advertiser; Gol.aurens.com

Record keeping and financial accountability

- i. Spreadsheet generated by Mr. Martin.
 - i. Analysis of spreadsheet. Reported expenditures were loaded into an excel worksheet to verify balance. Spreadsheet balance reflects manual 'adjustments' of balance for no apparent reason.
 - ii. Spreadsheet can't have any relation to undisclosed bank records. Banks don't manually adjust balance for no apparent reason.

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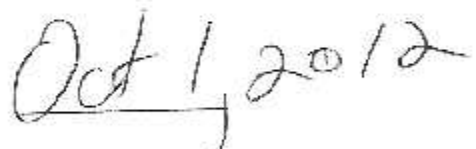
- j. County insurance policy of HTYRA's asset valuation
- k. HTYRA registration and financial statement filed with SC Secretary of State.

Ethics Modeling

- l. Picture of Mr. Martin's use of HTYRA company sign to announce his candidacy for office.
- m. Record of Mr. Martin's personal announcements of activities he personally sponsored on HTYRA property with HTRYA funding.



Signature of Appraiser



Date