

Grinding Out Social Change With a “Non-Profit” LLC

Happy Cup Coffee Company brings a new flavor to an old drink. Long known as one of premier coffee markets in the country, Portland boasts upwards of 30 specialty coffee roasters.¹ But unlike the better known Stumptown, Heart, or Coava roast houses inhabiting Portland, Happy Cup decided to distinguish itself on more than just taste. Happy Cup differentiates itself by employing “people with potential.”²

Founded in December 2011, Happy Cup has grown rapidly in the crowded Portland roasting market, roasting approximately 2,000 lbs. of coffee per month and selling in 27 Portland-area stores, including Whole Foods and New Seasons.³ But in addition to producing fantastic coffee, Happy Cup decided to differentiate itself from the existing roasters otherwise: Happy Cup employs developmentally disabled adults to roast, pack, and ship the coffee beans they sell.⁴

To accommodate such a work force, Happy Cup made some slight changes to the typical coffee roasting process. The company tailored its job tasks to its employees’ capabilities and works to accommodate other special needs as they arise, such as hours limitations.⁵ By employing people with special needs, Happy Cup teaches job skills to developmentally disabled adults and contributes to the community by employing willing individuals to perform meaningful

¹ Oliver Strand, *In Portland, Ore., a D.I.Y Coffee Culture*, N.Y. Times, Feb. 10, 2012, www.nytimes.com/2012/02/12/travel/portlands-purist-coffee-scene.html.

² <http://happycup.com/about/>.

³ Hannah Neuschwander, *Roaster Roundup: Happy Cup*, Left Coast Roast Blog, Oct. 5, 2012 <http://www.leftcoastroast.com/roast-profile-happy-cup/>; Larry Bingham, *Happy Cup Coffee Co. in Northeast Portland employs, empowers disabled adults while roasting artisan beans*, The Oregonian, May 31, 2012, http://www.oregonlive.com/portland/index.ssf/2012/05/happy_cup_coffee_co_aims_to_em.html.

⁴ <http://www.leftcoastroast.com/roast-profile-happy-cup/>.

⁵ http://www.oregonlive.com/portland/index.ssf/2012/05/happy_cup_coffee_co_aims_to_em.html.

tasks.⁶ Once profitable, the company plans to distribute 100% of its profits to the Full Life Foundation, a non-profit organization that provides recreational opportunities to disabled adults.⁷

Happy Cup has all the necessary requirements of a public benefit tax-exempt 501(c)(3) organization. It educates the disabled public, of which 78% are currently unemployed, by teaching them vocational skills.⁸ The company also contributes to general community welfare by employing a population that has traditionally been underrepresented in the workforce, and enables those disabled adults to integrate and give back to society. However, Happy Cup is a for-profit LLC.⁹

Oregon does not have a statute enabling organizations to file as a low-profit LLC, otherwise known as an L3C.¹⁰ Such statutes typically require the organization to include language in their operating agreement that mandates that the LLC be organized for a socially beneficial purpose and that there not be too much commercial gain, and also allows some post-tax profit distribution.¹¹ But Oregon's LLC statute does not require that an LLC be carried on only for business purposes.¹² Thus, an Oregon LLC organized for charitable purposes could apply for 501(c)(3) status, even as an LLC, so long as the requisite provisions were included in the LLC's operating agreement, the entity pursued its charitable purposes, and was managed by exempt organizations.¹³

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *See generally* ORS 63.

¹¹ Evangeline Gomez, *The Rise of the Charitable For-Profit Entity*, Forbes, Jan. 13, 2012, <http://www.forbes.com/sites/evangelinagomez/2012/01/13/the-rise-of-the-charitable-for-profit-entity/>.

¹² ORS 63.074 (2012).

¹³ <http://www.irs.gov/pub/irs-tege/eotopicb01.pdf>, p.30.; *See* <http://www.insightcced.org/uploads/publications/legal/LLCs-as-exempt-orgs.pdf>.

Happy Cup decided not to apply as for 501(c)(3) status because operating as a for-profit gives the company greater flexibility, gives the members more control over the organization, and alleviates concern of too much commercial activity. Just because tax-exempt status is available for a business does not mean it is the best option. For reasons of control, flexibility, or even simplicity, an organization's charitable purposes might be better served by organizing for profit. Happy Cup's "people with potential" are living proof.

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