

# Managing Risk with Counterparties Facing Financial Difficulties: Practical Strategies for Nonprofits

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## Panel

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**I. Introduction**

**II. Representing Nonprofit Organizations**

- a. General aspects of nonprofit practice
- b. Heavy reliance on third-party vendors
- c. Internal restrictions/accountability to board of directors

### **III. Managing Risk with Counterparties**

- a. Scenario 1: Protecting Your Interests at Time of Contract Formation
  - i. Choosing the right vendor or third party
  - ii. Contractual provisions to seek or avoid
  - iii. Attempting to secure your interest
  - iv. Protecting your money
  - v. Contract termination provisions

### **III. Managing Risk with Counterparties (cont'd)**

- b. Scenario 2: Protecting Your Interests When It Appears Your Counterparty Is Facing Financial Difficulties**
  - i. Clues that your counterparty is facing financial difficulty
  - ii. What to do upon a counterparty's breach or potential breach of your contract
  - iii. Seeking a secured position in face of potential bankruptcy
  - iv. Risks associated with accepting payments from counterparty immediately prior to bankruptcy

### **III. Managing Risk with Counterparties (cont'd)**

- c. Scenario 3: Protecting Your Interests  
Once Your Counterparty Has Filed for  
Bankruptcy
  - i. What to expect in bankruptcy
  - ii. Whether to join committee of creditors to reduce legal fees
  - iii. Filing proofs of claim
  - iv. Contract assumptions and assignments

## **IV. Questions**

## **V. Conclusion**



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