

# Nonprofit Organizations Committee Legal Quick Hit:

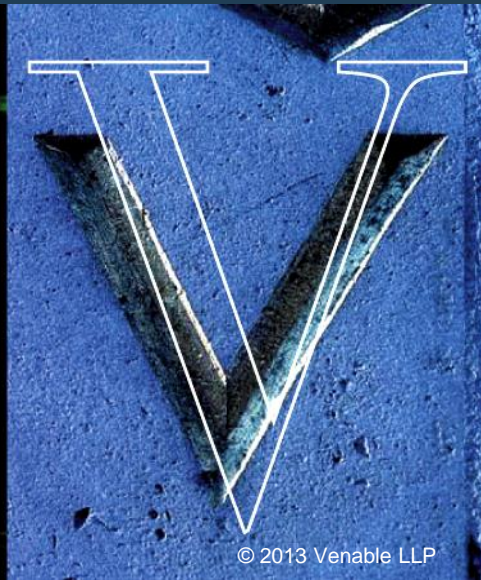
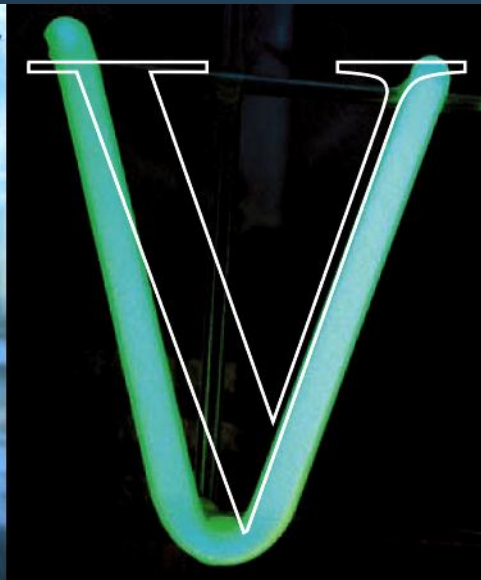
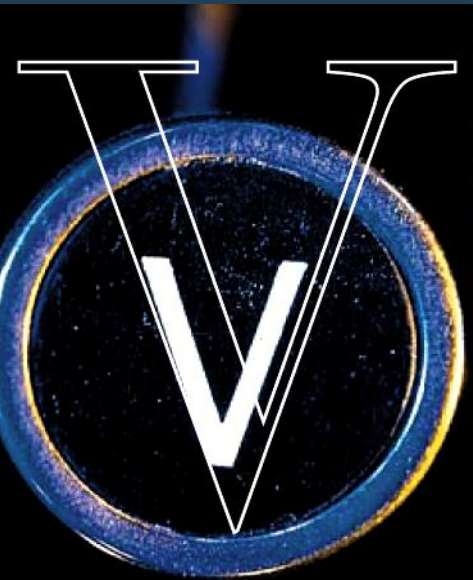
## Complying (or Deviating) from Donor Intent: Recent Developments for Nonprofits

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PRESENTERS: ROBERT L. WALDMAN, ESQ.

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# Common Gift Restrictions

- Restricted purpose of gift
- Investment restrictions
- Holding period: Ability to sell or transfer gift
- Endowment : Invasion of principal
- Naming



## Some Basic Concerns

- Availability of charitable deduction if restrictions are too severe
- Accounting issues
- Impact of restriction on tax-exempt status
- Getting “sideways” with the donor
- Potential embarrassment associated with restriction



## Recent Donor Intent Cases

- Princeton sued for misusing gift to prepare graduate students for careers in foreign service
- JHU dispute over development of farm property
- Ipswich public schools: Sale of property in deviation from terms of a 350 year-old charitable trust that provided “for euer . . . sayd land not to bee sould nor wasted.”
- New Jersey animal shelter case: Deviating from the stated purpose of a gift



# Uniform Prudent Management of Institutional Funds Act (UPMIFA)

- UPMIFA permits deviation (in management, investment or purpose)
  - With Donor consent
  - With court and Attorney General approval
  - UPMIFA permits prudent “appropriation” of an Endowment Fund



## Lessons Learned

- Gift agreements should be clear and specific
- Leave room for flexibility
- Consider the possibility for changed circumstances



# Questions?

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