

# Top Ten Legal Checklist: Keys to Strengthening Your Nonprofit Organization

Tuesday, March 17, 2015, 12:30 – 2:00 PM ET  
Venable LLP, Washington, DC

Speakers:

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# Upcoming Venable Nonprofit Events

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**April 14, 2015** – [Structuring Innovative Revenue Models for Nonprofits: For-Profits, Joint Ventures, and Social Enterprises](#)

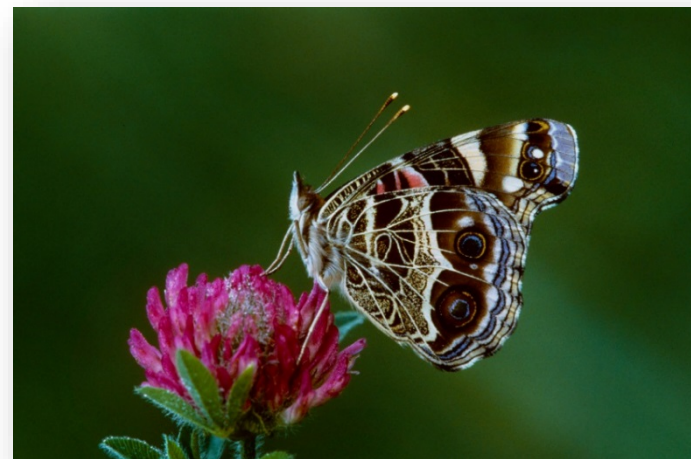
**May 13, 2015** – [Managing Your Nonprofit's FACEBOOK, TWITTER, and LINKEDIN Presence: Avoiding the Legal Pitfalls](#)

**June 4, 2015** – Top Ten Trends and Traps in Nonprofit Executive Compensation (*details and registration available soon*)



# Agenda

- Preserving and protecting key assets (#1 - #3)
- Revenue (#4 - #5)
- Controlling liabilities (#6 - #7)
- Governance (#8 - #9)
- Growth and innovation (#10)



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# Assets

# Preserving and Protecting Key Assets

- #1 People
- #2 Information and intellectual property
- #3 Cash, tangible and real property



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# Scenario



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# #1 People

- Human resource policies
  - Hiring processes
  - Performance management
  - Preventing discrimination and harassment
  - Termination processes
- Training board, management and staff
- Volunteer policies, agreements and training
- Key vendor agreements
  - Payroll
  - Benefits providers



# Scenario



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## #2 Intellectual Property and Data

- Register, manage and protect trademarks and service marks
- Secure content rights for digital media, publications and educational materials
- Data security and operational redundancy in vendor agreements
  - Corporate records and governance documents
  - Key services
  - Donor lists
  - Financial data and management
  - Operational systems



## #3 Money, Real and Tangible Property

- Investment advisors, broker and investment vehicle agreements
- Loans
- Independent auditors, tax preparation, and other finance service agreements
- Core technology systems
- Real property acquisition, selling or leasing





# Revenue

# Revenue

- #4 Sources of Revenue
- #5 Protecting Core Organizational Services



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## #4 Protecting Regular Revenue

- Policies for receipt and control of revenue for revenue from various sources
  - Membership dues
  - Donations – individuals, corporations and foundations
  - Government grants and contracts
  - Royalties, sponsorships, trade shows, educational programs
  - Service fees
  - Taxable income (e.g., advertising)
  - Jurisdiction of revenue source
- Agreements for major income



# Scenario



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## #5 Protecting Core Organizational Services

- Payment processing services
- Trade show contracts
- Publishing contracts for educational materials
- Copyright licenses on key publications
- Lobbying registration and reporting compliance, and lobbying tax compliance
- Accreditation and certification programs
- Agreements with related entities that provide services or products to membership and others
- Agreements related to providing services to members or the public



# Controlling Liabilities



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# Controlling Liabilities

#6 Business basics

#7 Crisis management



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## #6 Business Basics

- Review and maintenance of insurance policies
- Long-term critical contracts for core services and functions (e.g., payroll, data source hosts, etc.)
- Agreements for major income sources
- Liabilities associated with particular core functions
- Corporate records – current, accurate and organized
- Records and information management
- State and local business registration and licensing (and international if operating overseas)



## #7 Crisis Management

- Review with legal counsel possible scenarios
  - Reputational
  - Financial
  - Tax-exempt compliance challenges
  - Other legal liabilities
- Established process for management team, board and legal counsel when crises occur
- Role of public relations and other third-party contractors, and ensuring coverage under the attorney-client and work-product privileges



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# Governance

# Governance

#8 Corporate basics

#9 Tax-exempt organization basics



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## #8 Corporate Basics

- Policies and procedures for basic corporate governance matters
- Orientation on fiduciary duties, policies and procedures for board and senior leaders
- Annual legal update for board and senior leaders
- Bylaws and other governing document review
- Board and committee meeting minutes
- Financial oversight
- Corporate public filings
- Relationship with related entities
- Crisis-management plans
- Whistleblower protection





# #9 Tax-Exempt Organization Basics

- IRS Form 990
- Lobbying implications for a TEO
- Political activities
- Structuring related vs. unrelated activities
- Affiliates and subsidiaries
- Unrelated business income
- Sponsorships, royalties, trade shows, advertising
- Private benefit
- Private Inurement
  - Conflict of interest policy
  - Other inurement safeguards
  - Executive compensation



# Scenario



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# Growth and Innovation

# Scenario



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## #10 Growth and Innovation

- New products and services
- Joint ventures and partnerships
- Vetting business partners
- International activities
- New branding efforts
- New forms of revenue
- Property damage and personal-injury risk
- Industry standards, accreditations and certifications
- Don't let tax, legal and regulatory compliance be the tail that wags the dog – be smart and creative





# Questions

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