

The Postal Service's Financial Crisis: What It Means for Nonprofit Mailers

November 1Î , 2012 1:€0 p.m. – 2:H0 p.m. EST

Venable LLP 575 7th Street, NW Washington, DC 20004

Moderator:

Jeffrey S. Tenenbaum, Esq.

Panelists:

Jeffrey Post, Staff Director, House Subcommittee on Federal Workforce, U.S. Postal Service, and Labor Policy

Ann Fisher, Director of Public Affairs and Government Relations, Postal Regulatory Commission

Anthony W. Conway, Executive Director, Alliance of Nonprofit Mailers

David M. Levy, Esq., Partner, Venable LLP

Presentation

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The Postal Service's Financial Crisis: What It Means for Nonprofit Mailers

Friday, November 16, 2012 1:00 p.m. – 2:30 p.m. EST Venable LLP Nonprofit Organizations Practice Washington, DC



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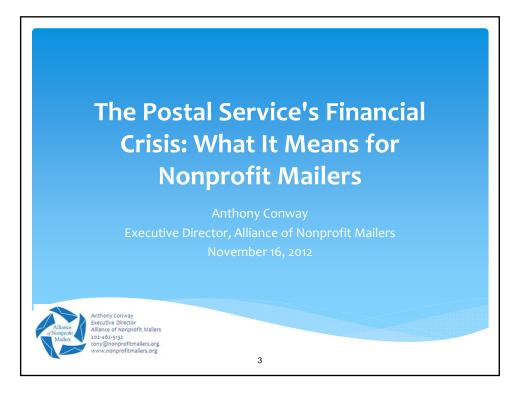
Moderator: Jeffrey S. Tenenbaum, Esq., Venable LLP

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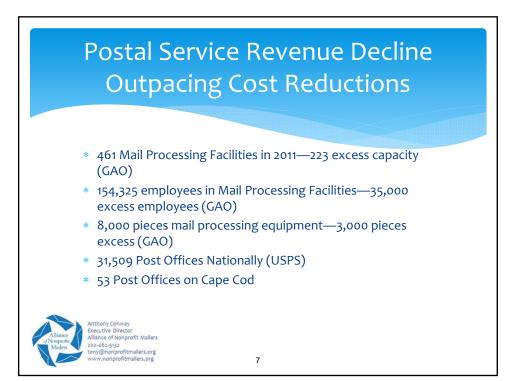
Postal Service Revenue Decline Outpacing Cost Reductions

* 80% of Postal Service Costs labor related

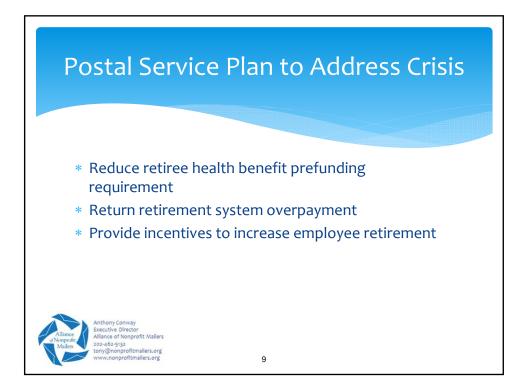
* Costs have increased despite revenue declines

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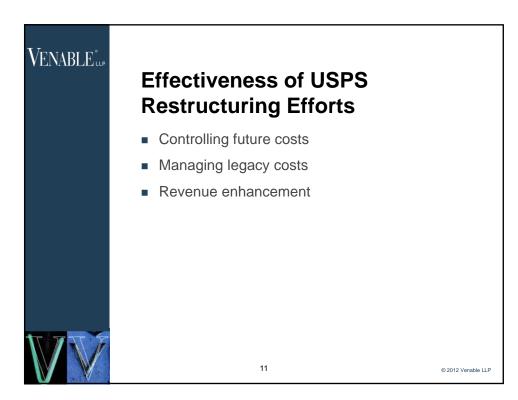
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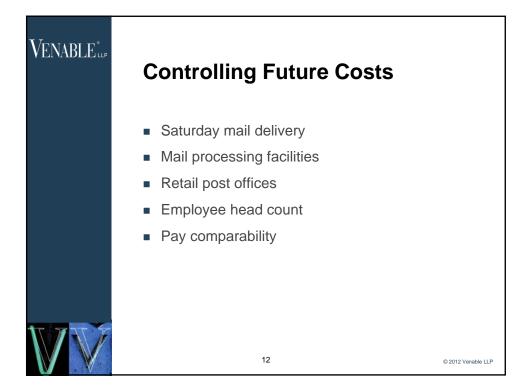


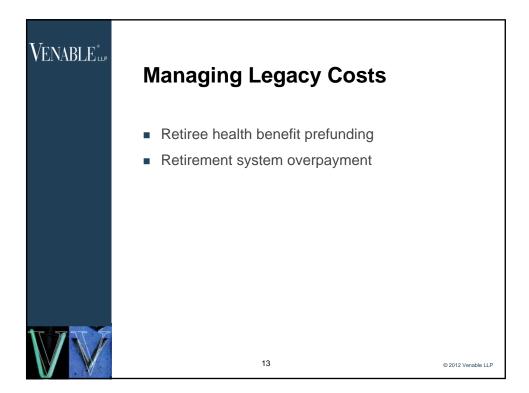
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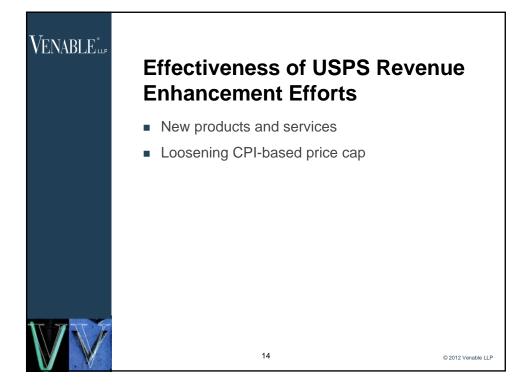
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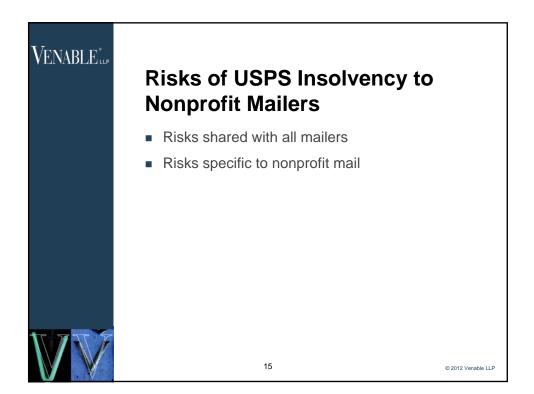












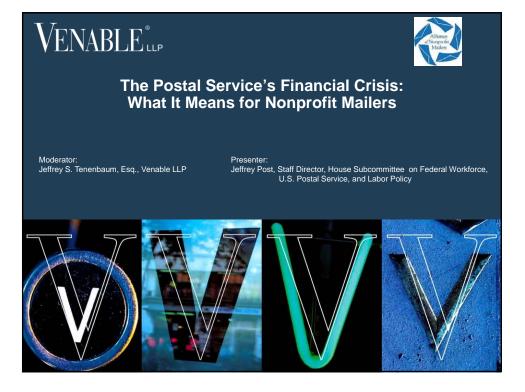




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Moderator: Jeffrey S. Tenenbaum, Esq., Venable LLP Presenter: Ann Fisher, Director, Public Affairs and Government Relations, Postal Regulatory Commission

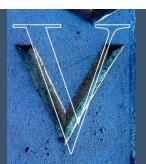






Speaker Biographies

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AREAS OF PRACTICE

Tax and Wealth Planning Antitrust Political Law Business Transactions Tax Tax Controversies Tax Policy Tax-Exempt Organizations Wealth Planning Regulatory

INDUSTRIES

Nonprofit Organizations and Associations

Credit Counseling and Debt Services

Financial Services

Consumer Financial Protection Bureau Task Force

GOVERNMENT EXPERIENCE

Legislative Assistant, United States House of Representatives

BAR ADMISSIONS

District of Columbia

Jeffrey S. Tenenbaum

Partner

Washington, DC Office

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Jeffrey Tenenbaum chairs Venable's Nonprofit Organizations Practice Group. He is one of the nation's leading nonprofit attorneys, and also is an accomplished author, lecturer, and commentator on nonprofit legal matters. Based in the firm's Washington, DC office, Mr. Tenenbaum counsels his clients on the broad array of legal issues affecting charities, foundations, trade and professional associations, think tanks, credit and housing counseling agencies, advocacy groups, and other nonprofit organizations, and regularly represents clients before Congress, federal and state regulatory agencies, and in connection with governmental investigations, enforcement actions, litigation, and in dealing with the media.

Mr. Tenenbaum was the 2006 recipient of the American Bar Association's Outstanding Nonprofit Lawyer of the Year Award, and was the inaugural (2004) recipient of the *Washington Business Journal*'s Top Washington Lawyers Award. He was one of only seven "Leading Lawyers" in the Not-for-Profit category in the 2012 *Legal 500* rankings, and was the 2004 recipient of The Center for Association Leadership's Chairman's Award, and the 1997 recipient of the Greater Washington Society of Association Executives' Chairman's Award. Mr. Tenenbaum was listed in *The Best Lawyers in America 2012* and *2013* for Non-Profit/Charities Law, and was named as one of Washington, DC's "Legal Elite" in 2011 by *SmartCEO Magazine*. He was a 2008-09 Fellow of the Bar Association of the District of Columbia and is AV Peer-Review Rated by *Martindale-Hubbell*. Mr. Tenenbaum started his career in the nonprofit community by serving as Legal Section manager at the American Society of Association Executives, following several years working on Capitol Hill as a legislative assistant.

REPRESENTATIVE CLIENTS

AARP

American Academy of Physician Assistants American Alliance of Museums American Association for the Advancement of Science American Association for Marriage and Family Therapy American College of Radiology American Institute of Architects Air Conditioning Contractors of America American Society for Microbiology American Society for Training and Development American Society of Anesthesiologists American Society of Association Executives American Society of Civil Engineers American Society of Clinical Oncology American Staffing Association Associated General Contractors of America Association for Healthcare Philanthropy Association of Corporate Counsel

EDUCATION

J.D., Catholic University of America, Columbus School of Law, 1996

B.A., Political Science, University of Pennsylvania, 1990

MEMBERSHIPS

American Society of Association Executives

California Society of Association Executives

New York Society of Association Executives

Association of Private Sector Colleges and Universities Automotive Aftermarket Industry Association **Brookings Institution** The College Board Council on Foundations **Cruise Lines International Association** Foundation for the Malcolm Baldrige National Quality Award Goodwill Industries International Homeownership Preservation Foundation Independent Insurance Agents and Brokers of America Institute of International Education Jazz at Lincoln Center The Joint Commission LeadingAge Lincoln Center for the Performing Arts Lions Club International Money Management International National Association of Chain Drug Stores National Athletic Trainers' Association National Coalition for Cancer Survivorship National Defense Industrial Association National Fallen Firefighters Foundation National Hot Rod Association National Propane Gas Association National Quality Forum National Retail Federation National Student Clearinghouse National Telecommunications Cooperative Association The Nature Conservancy NeighborWorks America Peterson Institute for International Economics Professional Liability Underwriting Society Project Management Institute Public Health Accreditation Board Public Relations Society of America Recording Industry Association of America Romance Writers of America Texas Association of School Boards Trust for Architectural Easements United Nations High Commissioner for Refugees Volunteers of America

HONORS

Recognized as "Leading Lawyer" in the 2012 edition of Legal 500, Not-For-Profit

Listed in *The Best Lawyers in America 2012* and *2013* for Non-Profit/Charities Law, Washington, DC (Woodward/White, Inc.)

Washington DC's Legal Elite, SmartCEO Magazine, 2011

Fellow, Bar Association of the District of Columbia, 2008-09

Recipient, American Bar Association Outstanding Nonprofit Lawyer of the Year Award, 2006

Recipient, Washington Business Journal Top Washington Lawyers Award, 2004

Recipient, The Center for Association Leadership Chairman's Award, 2004

Recipient, Greater Washington Society of Association Executives Chairman's Award, 1997

Legal Section Manager / Government Affairs Issues Analyst, American Society of Association Executives, 1993-95

AV® Peer-Review Rated by Martindale-Hubbell

Listed in Who's Who in American Law and Who's Who in America, 2005-present editions

ACTIVITIES

Mr. Tenenbaum is an active participant in the nonprofit community who currently serves on the Editorial Advisory Board of the American Society of Association Executives' *Association Law & Policy* legal journal, the Advisory Panel of Wiley/Jossey-Bass' *Nonprofit Business Advisor* newsletter, and the ASAE Public Policy Committee. He previously served as Chairman of the *AL&P* Editorial Advisory Board and has served on the ASAE Legal Section Council, the ASAE Association Management Company Accreditation Commission, the GWSAE Foundation Board of Trustees, the GWSAE Government and Public Affairs Advisory Council, the Federal City Club Foundation Board of Directors, and the Editorial Advisory Board of Aspen's *Nonprofit Tax & Financial Strategies* newsletter.

PUBLICATIONS

Mr. Tenenbaum is the author of the book, *Association Tax Compliance Guide*, published by the American Society of Association Executives, and is a contributor to numerous ASAE books, including *Professional Practices in Association Management*, *Association Law Compendium, The Power of Partnership, Essentials of the Profession Learning System, Generating and Managing Nondues Revenue in Associations*, and several Information Background Kits. He also is a contributor to *Exposed: A Legal Field Guide for Nonprofit Executives*, published by the Nonprofit Risk Management Center. In addition, he is a frequent author for ASAE and many of the other principal nonprofit industry organizations and publications, having written more than 400 articles on nonprofit legal topics.

SPEAKING ENGAGEMENTS

Mr. Tenenbaum is a frequent lecturer for ASAE and many of the major nonprofit industry organizations, conducting over 40 speaking presentations each year, including many with top Internal Revenue Service, Federal Trade Commission, U.S. Department of Justice, Federal Communications Commission, and other federal and government officials. He served on the faculty of the ASAE Virtual Law School, and is a regular commentator on nonprofit legal issues for *The New York Times, The Washington Post, Los Angeles Times, The Washington Times, The Baltimore Sun, Washington Business Journal, Legal Times, Association Trends, CEO Update, Forbes Magazine, The Chronicle of Philanthropy, The NonProfit Times* and other periodicals. He also has been interviewed on nonprofit legal issues on Voice of America Business Radio and Nonprofit Spark Radio.

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AREAS OF PRACTICE

Advertising and Marketing Appellate Litigation Litigation Postal Law Regulatory

INDUSTRIES

Advertising Catalog and Internet Retailing Financial Services Nonprofit Organizations and Associations

BAR ADMISSIONS

District of Columbia

COURT ADMISSIONS

U.S. Court of Appeals for the Third Circuit

U.S. Court of Appeals for the Fourth Circuit

U.S. Court of Appeals for the Sixth Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the Tenth Circuit



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David Levy is a postal regulatory and appellate lawyer in Venable's Washington office. He works with mailers – from Fortune 100 companies to small nonprofit organizations – to help them minimize their cost of postage and mailing and navigate the complex postal rate and eligibility rules.

Over the past 25 years, Mr. Levy has represented many of the nation's largest mailers and their trade associations, including the Alliance of Nonprofit Mailers, the Magazine Publishers of America, and the Association for Postal Commerce. He has served as first-chair counsel for one or more association of mailers in every major postal rate case before the Postal Regulatory Commission since 1983. In 2010, he was lead counsel to an industry coalition of nonprofit and business mailers and trade associations that successfully opposed an above-inflation "exigent" rate increase proposed by the USPS.

Mr. Levy also has represented individual mailers, both nonprofit and for-profit, in USPS revenue deficiency proceedings and appeals and False Claims Act investigations involving rates, classifications, mailability, and organizational eligibility. These clients have included nonprofit organizations, credit card issuers, magazine publishers and catalog mailers.

He negotiated and won regulatory approval for three of the five largest rate contracts struck by the Postal Service with individual mailers.

He has testified before Congress and drafted amendments to the postal laws that preserved nonprofit rates.

He has been counsel of record in 26 reported cases in the federal courts, including seven cases that he argued in the U.S. Courts of Appeals.

Mr. Levy also has substantial experience in telecom, railroad and petroleum pipeline regulation.

HONORS

AV® Peer-Review Rated by Martindale-Hubbell

PUBLICATIONS

- November 13, 2012, Nonprofit Postal Rates: How to Get Them, How to Use Them
- 2011, "The United States Postal Service Business Model: Lessons from the American Railroad Industry," in M.A. Crew and P.R. Kleindorfer, eds., *Reinventing the Postal Sector in an Electronic Age*
- July 2010, Neither Rain, Nor Sleet, Nor Gloom of Night Justify Irrational Solutions for Fixing USPS, *Marketing AdVents*
- May 23, 2010, "Closing Some Post Offices Makes Sense," Federal Times

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U.S. Court of Appeals for the D.C. Circuit

U.S. Supreme Court

EDUCATION

J.D., *cum laude*, University of Michigan Law School, 1979 B.A., Cornell University, 1975

MEMBERSHIPS

American Bar Association, Section of Administrative Law and Regulatory Practice, Postal Matters Committee: Chair, 1992-1995; Vice-Chair, 1991-1992

- May 8, 2009, U.S. Postal Service Launches National Enforcement Initiative Against Business Mailers, Client Alerts
- 2006, "Benefit-Cost Regulation of Negotiated Service Agreements," in M.A. Crew and P.R. Kleindorfer, eds., *Progress Toward Liberalization of the Postal and Delivery Sector*, Springer
- 2004, "Selective Discounts to Preserve First-Class Mail Volume" in M.A. Crew and P.R. Kleindorfer, eds., *Regulatory and Economic Challenges in the Postal and Delivery Sector*, Kluwer
- 2000, *Scientific Evidence After Daubert*, American Bar Association, The Litigation Manual (3rd ed.)
- Fall 1995, Scientific Evidence After Daubert, 22 Litigation 48
- December 1993, Living With The Third-Class Eligibility Rules, The NonProfit Times 16
- 1981, *Recent Developments in Railroad Rate Regulation*, 1981 Eastern Transportation Law Seminar 49-61

SPEAKING ENGAGEMENTS

Presenter or discussant, Rutgers University Center for Research in Regulated Industries, Conference on Postal and Delivery Economics: 2003, 2004, 2005, 2006, 2007 and 2008.

Speaker at public educational conferences sponsored by Alliance of Nonprofit Mailers, American Bar Association Section of Taxation, Association for Continuing Legal Education ("ACLEA"), and the National Postal Forum.

- November 16, 2012, The Postal Service's Financial Crisis: What It Means for Nonprofit Mailers
- November 13, 2012, Legal Quick Hit: "Nonprofit Postal Rates: How to Get Them, How to Use Them" for the Association of Corporate Counsel's Nonprofit Organizations Committee