

Enhancing the Nonprofit Governance Model: Legal Pitfalls and Best Practices

Wednesday, November 19, 2014, 12:30 p.m. – 2:00 p.m. ET

Venable LLP, Washington, DC

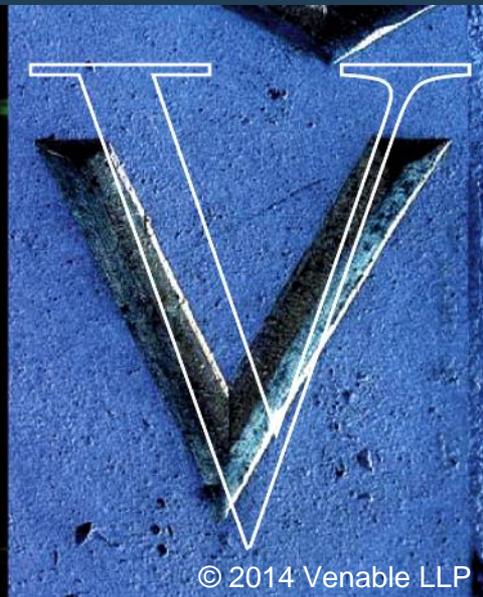
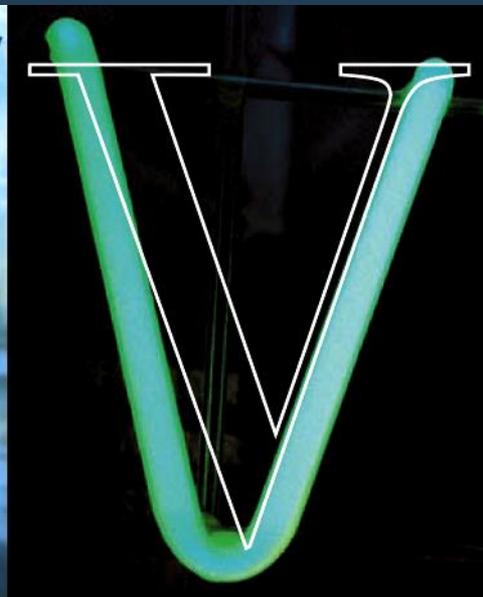
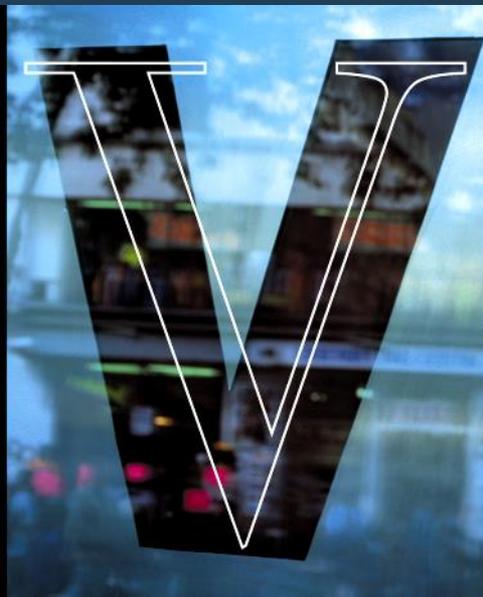
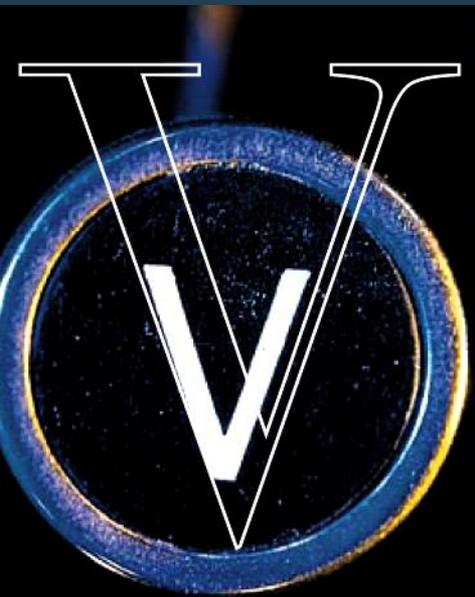
Moderator

Jeffrey S. Tenenbaum, Esq., Venable LLP

Panelists

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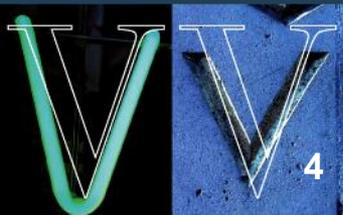
January 7, 2015 – [Cross-Border Money Transfers: Key Requirements Every U.S.-Based Nonprofit Needs to Know](#)

February 18, 2015 – [One Year Later: Time for Nonprofits to Implement the Super Circular](#)



Agenda

- Introductions
- Legal and Practical Considerations
 - The Basics—Governance Legal Issues
 - Roles and Responsibilities of Directors and Other Leaders
- Ten Tips on Effective Governance and Board Relationships
- Conclusion

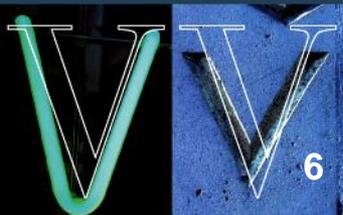


Legal and Practical Considerations

Governance Legal Issues

- Governance basics
 - Nonprofit vs. tax-exempt
 - Corporate protection

- Nonprofit corporate hierarchy of authority
 - Nonprofit corporate law (statute and common law)
 - Articles of incorporation
 - Bylaws
 - Policies



Governance Legal Issues

- Board rules of the road
 - Board is generally only permitted to act in a meeting (but UWC, telephone meetings)
 - State of incorporation governs, regardless of location of headquarters (but note foreign corporation filings)



Governance Legal Issues

- Governance Hierarchy
 - Board of directors
 - Executive committee
 - Other committees of the board
 - Advisory committees, task forces, etc.
 - What about staff?
 - What about officers?
 - What about individual directors?



Governance Legal Issues

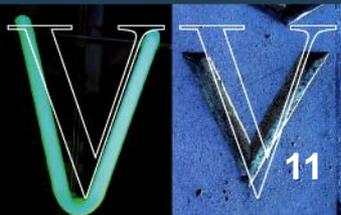
- Governance legal duties
 - Duty of care
 - Duty of loyalty
 - Duty of obedience



Ten Tips on Effective Governance and Board Relationships

1. Manage Expectations at the Outset

- Board member roles and responsibilities
- Training and orientation



2. Establish Partnership with Board Chair

- Ideal relationship is one of mutual respect and support
- Open communications—game plan for each meeting



3. Governing Documents Should Be Flexible, Understandable

- Bylaws cannot address every possible eventuality
- Keep bylaws clear and easy to read
- Use policies to help cover gaps



4. Choose Your Battles

- Line between “strategy and mission” and “implementation” is not always clear
- Recognize different approaches and be patient



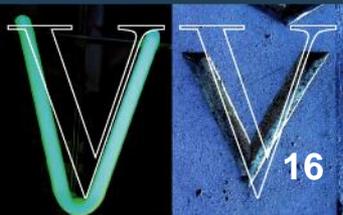
5. Don't Tolerate Abuses

- Actions in conflict of interest, contrary to the best interests of the corporation
- Speaking/signing on behalf of the organization when not permitted
- Splinter groups and whispers



6. Put Directors in the Best Position to Do Their Jobs

- Materials should be clear, provided well in advance, and tailored to the audience.
- Dashboards, graphs, etc.
- Regular strategic planning and “big picture” exercises
- Time for discussion



7. Attend to the “Farm System”

- Committees, task forces, and other volunteer opportunities
- Note attendance, contributions, willingness to roll up sleeves
- Establish policies to reward contributors with favorable consideration for board openings



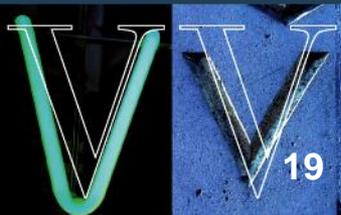
8. Make It Worth Their While

- No compensation, but plenty other intangible benefits are possible
- Recognition and visibility



9. Seek Full Participation

- Work with board chair to manage discussion at board meetings
- Encourage committee, task team leadership and participation
- (Gently) manage/regulate the extroverts



10. No Surprises, Please

- “This is the first I’m hearing of this...”
- Give board the chance to make mid-course corrections
- Have a well-thought-out plan for resolution



Questions?

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