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

September 15th, 2009

By in-house counsel, for in-house counsel.SM

Panel

- Jeffrey Tenenbaum, Esq., Partner, Venable LLP
- Larry Katz, Esq., Partner, Venable LLP
- Moxila Upadhyaya, Esq., Attorney, Venable LLP
- Scott Drumheller, General Counsel & Secretary,
Lions Clubs International

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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

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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

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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

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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

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IV. Questions

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V. Conclusion

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