

“SEVENTH ANNUAL NONPROFIT INSTITUTE”

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ETHICAL ISSUES FOR NONPROFIT BOARDS OF DIRECTORS©

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1. You have been asked by a charity to serve on its Board of Directors. The member of the nominating committee who called you said the organization needs a lawyer on the Board. Since you support the work of the organization (and feel there are some heavy hitters on the Board who might send you some good legal business), you decide to accept. Do you have an attorney-client relationship with the organization?
2. A 501(c)(3) public charity pays country club dues for its CEO, because entertainment at the club of potential donors and other influential individuals is viewed as very beneficial to the charity. When preparing the Form 990, the accountant gives the controller a questionnaire inquiring whether the charity has paid any club dues and, if so, whether there has been personal use of the club membership. If there was personal use, the questionnaire asks whether such use has been treated as compensation. The charity determines that the CEO and his wife have used the club personally and that no part of the \$5,000 dues has been treated as compensation to the CEO. The accountant tells the charity that it should seek legal advice about question 25a of Part IV of the Form 990, which asks whether there has been an excess benefit transaction. The charity seeks your partner's advice, because your partner represents the charity in an ongoing matter, and he turns to you. You conclude that there has been an automatic excess benefit transaction and that the question should be answered "yes." The charity indicates that it intends to check the "no" box. Should you and/or your firm withdraw from the engagement?
3. A lawyer on a charity's development committee agrees to prepare wills and trust documents pro bono for donors who will make a gift or bequest to the charity. What ethical issues does the pro bono representation raise?
4. You serve with 29 others on the board of a large institution. The new vice president of finance reports that, before her tenure, a charitable gift intended for music education was used for general operations. She has conferred with both the finance committee and the executive committee. Their conclusion is that because, since the time of the gift, the institution has spent much more than the amount of the gift for music education, nothing further needs to be done. Do you agree? If not, what action should you take?

5. You serve on the board of a development organization that received a state grant for the renovation of building A. The organization's report to the state granting agency included a supporting document describing the renovation work in which the information identifying the building, originally showing building B, was whited-out and replaced with information identifying building A. This made it appear that the grant had been used to renovate building A. The state granting agency issued a "close out" letter on the grant. What are you required to do?