

Helping Nonprofits to See a Better Way to Do Business

With increased IRS scrutiny of charitable organizations, good financial and legal advice is essential.



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NONPROFITS ARE OFTEN COMPLICATED ENTITIES that require highly-regulated business practices. With the advice of accounting firms and law firms, much pain can be avoided, and the mission of the nonprofit can be supported without losing time and money to poor planning or misinformed business decisions. Here are some New Jersey success stories.



Bederson & Company LLP

By Charles N. Persing, CPA/CFE, CIRA, CVA, CFE, Partner

A charity was in need of assistance due to changes in accounting regulations governing nonprofits. Among the challenges facing the organization were: lack of internal controls and an inability to provide predictive forecasting and financial statements. The organization had also received consistent deficiencies from its outside auditor. In order to address the lack of sophistication in the preparation of their year-end financial statements and forecasting, we worked closely with the finance committee and the outside auditor, tackling one area at a time. Our first objective was to make sure all efforts helped the auditor reduce costs and complete the annual audit on time and without interruption. Second, we developed procedures that would enable us to secure a sufficient level of internal control and maintain a segregation of duties for handling cash. We set guidelines for the handling of deferred revenue and built a financial recording system which showed when grants were issued and indicated when they should be moved from unrestricted funds to restricted funds. We also devised a method of predicting future cash flows. As a result of our work, the charity's accounting now allows for predictive cash forecasting and the organization no longer receives deficiencies from the auditor.



Brach Eichler L.L.C.

By Todd C. Brouer, Member

Brach Eichler represented two nonprofit healthcare providers and a disaster rescue corporation addressing numerous trustee conflicts of interest which potentially jeopardized the non-

profit status of each entity. Although the corporations each had a conflict policy; the policies were deficient and never enforced. We conducted board education sessions to help trustees understand and identify conflicts of interest. We also developed a Conflict of Interest Policy that provided for disclosure of all actual or potential conflicts of interest and a process whereby conflicts were addressed. The process involved disclosure of potential conflicts, a vote by all disinterested trustees to determine whether a conflict existed and, if so, a process for determining whether a more advantageous transaction could be obtained elsewhere, thus avoiding the conflict. The process also provided for: a vote by only disinterested trustees to approve the transaction; thorough documentation of the process to be maintained in the corporate records for no less than 10 years; and a disciplinary process for trustees who violated the policy. This process provides a rebuttable presumption in the event of an IRS challenge to the nonprofit status of the corporation.



Harwood Lloyd

*By David T. Robertson, Esq.,
Co-Managing Member*

There were two existing New Jersey nonprofit corporations. One corporation had been created as a benefit fund for members who became chronically ill. The second corporation had been created to educate the public about the activities of the organization and to raise money for that purpose. Although the corporations had been established to perform different functions, they were related and, over time, the separation between them became blurred to the point where the members treated them as virtually interchangeable. The benefit fund corporation had not been used for years. So, we prepared the paperwork necessary to dissolve that corporation and attended meetings of the membership to explain the need for that and the process involved. As to the educational corporation, we amended its certificate of incorporation as necessary, drafted a new set of bylaws to conform to the requirements of the New Jersey Nonprofit Corporation Act, and generally updated the corporation's records. We also attended meetings of the membership to explain the need to bring the corpo-

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