



HIDDEN LEGALITIES: CONSIDERATIONS FOR ASSOCIATION MANAGERS

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About Today's Session

- Informal and Interactive
 - Crossovers from Law into Management
 - No Attorney-Client Relationship
 - Retain an Attorney for Specific Advice
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- California Attorneys, so California specific BUT much is universal

Today's Agenda

- General Legal Principles
- Client Contracts
- Elevated Areas of Risk
- Arising Issues in Nonprofit Management

LEGAL PRINCIPLES

Nonprofit Entities are Highly Regulated

- Attorney General
- Internal Revenue Service
- State Tax Authority
- Federal Trade Commission
- US Department of Justice
- California's Brown Act
- Others (FEC, FPPC, etc.)

Governing Documents and Rules

- Hierarchy of Rules
 - *Constitution, Statutes, Articles, Bylaws, Policies, Parliamentary Rules*
- Rule of Limited Authority
 - *Source of Director Power*



Why Does This Matter?

- AMCs are for-profit companies working for non-profits
- New boss with every Board
- Not all Directors know how to run a Board

- Knowledge is critical to advise Boards and have a successful partnership

CLIENT CONTRACTS

Each Contract Is Different

However...

All should have some sort of:

- Termination,
- Dispute Resolution,
- Indemnification/Risk Mitigation,
- Force Majeure, and
- Choice of Law



Also...

Intellectual Property

- Works for Hire

Insurance Requirements

- AMC and Association

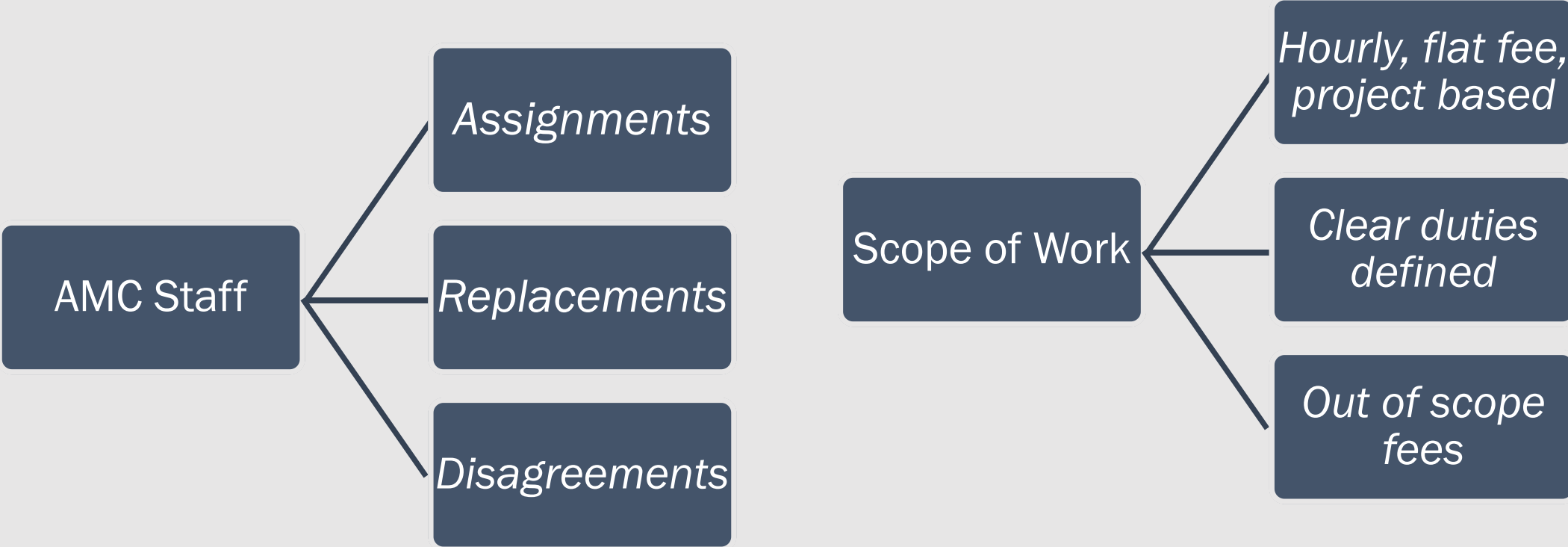
Confidentiality

- Membership data and software

Some Items We Also See

- Non-Solicitation
 - *California is the most strict*
- Onboarding and offboarding fees

Sticky Points

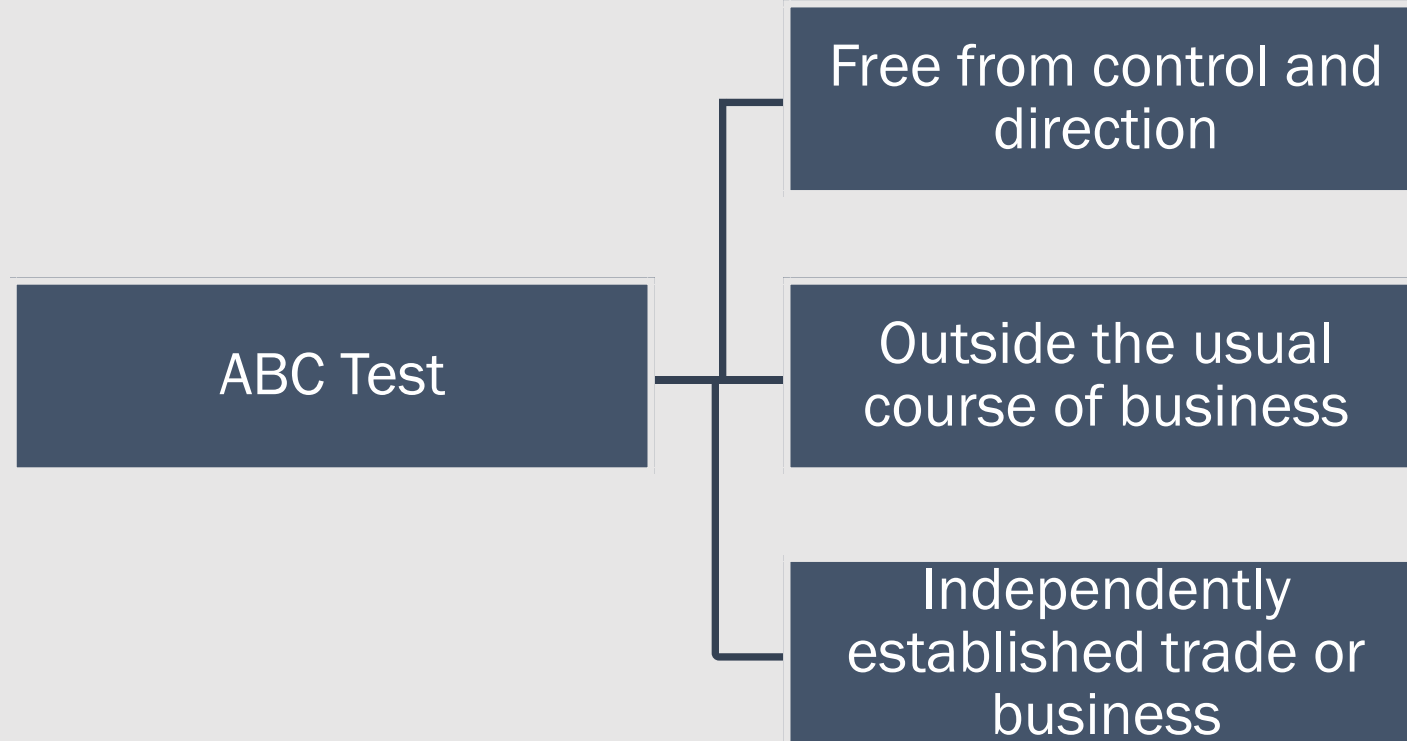


Hypothetical – Bad for Business

- You have heard from an Association's Board about concerns and complaints raised about a staff member. Allegedly, this staff member is rude, never answers their phone, and once even yelled at a past member of the Board. What do you do?

AREAS OF ELEVATED RISK

Independent Contractors



Out of Status Organizations



ARTICLES



TAX EXEMPTION



CHARITY STATUS

Board Turnover and OnBOARDing

New Directors are often not familiar with:

- Governance structure,
- Legal obligations, and
- Internal practices.

This can lead to:

- Confusion,
- Inefficiencies, or
- Inadvertent missteps in fulfilling fiduciary duties.

Insurance (Minimum Recommended)

- Association
 - *Errors and Omissions*
 - *Directors and Officers*

- AMC
 - *Employment Practices Liability*
 - *Premises (if physical office)*
 - *Professional Liability*

NEW ISSUES WITHIN ASSOCIATIONS

Post-Covid Bylaws

- Day to Day practices have changed
- Changes in Corporations Codes
- Way too much procedure
 - *Restricts Board and AMC's ability to function*



Event Contracts

- More and more skewed in favor of the Venue
- No mitigation requirements
- High penalties

- No Force Majeure
- Unreasonable termination requirements

And Of Course... A.I.



MEETING NOTES



MEMBER
COMMUNICATIONS



GRANT
APPLICATIONS



POLICIES AND
BYLAWS



Questions?