

**C o r p o r a t e P r a c t i c e G r o u p**

## **AG Settlement Provides Guidance for MA Public Charities**

The Massachusetts Attorney General's Office ("AGO") recently filed suit against the former treasurer of a figure skating club for misappropriating the public charity's funds for his own personal use. What is most notable about the suit, however, is the disclosure of the AGO's Assurance of Compliance with the skating club requiring the implementation of certain best practices for public charities. Massachusetts public charities can utilize the Assurance of Compliance as a checklist in analyzing their own operations.

The Complaint in *Attorney General v. Eavzan*, alleges that Barry Eavzan, the former treasurer of New England Figure Skating Club, Inc. ("NEFSC"), misappropriated approximately \$120,000 of the club's funds and assets for uses unrelated to legitimate costs incurred for skating instruction, rental of ice time and travel expenses related to skating competitions. It is alleged that Eavzan used club funds for personal expenses including airline tickets, limo rides, and the purchase of shoes, flowers, and rugs. Eavzan was NEFSC's volunteer treasurer between 1996 and 2007.

As part of the filings in *Attorney General v. Eavzan*, it has been disclosed that in May of 2008, the AGO entered into a separate settlement agreement with NEFSC relating to its financial practices. In the settlement, NEFSC acknowledged that its record-keeping practices were inadequate and that it had failed to maintain accurate documentation of income and expenses. The settlement also required NEFSC to enter into an Assurance of Compliance with the AGO providing for the adoption and implementation of new financial policies and procedures. The Assurance of Compliance provides insight into what the AGO views as best practices for financial policies and procedures for public charities in Massachusetts. Although many of the provisions of the Assurance of Compliance are specific to NEFSC, there are several which have general applicability to all public charities, including:

- Ensure accurate and complete minutes of each board or board committee meeting are taken and kept at the public charity's main office;
- Institute conflict of interest, private inurement, excess benefit transaction, whistleblower protection and expense reimbursement policies;
- Require regular inventories of the public charity's property;
- Institute an annual budget that is regularly reviewed at board meetings;
- Make publicly available the organization's Form PC, Form 990, vision and mission statements, and Articles of Organization; and
- Permit all board members to have access to the public charity's financial books and records.

The above provisions can serve as an effective checklist for Massachusetts public charities in analyzing their own operations.

The Rogers Law Firm offers a Non-Profit Corporate Governance Audit Program to identify areas where non-profit organizations can improve their corporate governance. The Program assesses such issues as board structure, board operations and board composition and recruitment. As part of this assessment, we review such documents as the organization's bylaws, conflict of interest policy, and board minutes from the last three years. We also conduct interviews with the Executive Director/President and CEO and the Chair of the Board. Once our assessment is complete, we prepare a written audit report and present the written audit report to the organization's board of directors. The audit will allow non-profit organizations to understand how they compare, from a corporate governance perspective, with other non-profit organizations. The Program is offered on a fixed-fee basis.

If you are interested in The Rogers Law Firm's Non-Profit Corporate Governance Audit Program, please contact Mark Rogers at [mrogers@therogerslawfirm.com](mailto:mrogers@therogerslawfirm.com) or 781-794-1600.



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