



When Raising Money, 10 Legal Matters to Avoid

Presented by:
Marty Martin, JD MPA

July 13, 2011

1:00 – 2:30 p.m. Eastern
Noon – 1:30 p.m. Central
11:00 a.m. – 12:30 p.m. Mountain
10:00 – 11:30 a.m. Pacific
9:00 – 10:30 a.m. Alaska



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Marty Martin, JD MPA

Marty Martin, JD MPA, Martin Law Firm, Raleigh, North Carolina, focuses his practice on providing legal services and training related to nonprofit and tax exempt organizations. Working with a board of directors and senior management, he helps these groups achieve their mission by combining his unique combination of a lawyer's skills, a nonprofit practitioner's experience, and advanced training in nonprofit organizations. He is a frequent speaker and trainer for nonprofit organizations, community groups, attorneys, and accountants on related governance, legal, management, and tax issues.

Martin received a Master in Public Administration (MPA) degree with a concentration in managing nonprofit and public sector organization from the Harvard Kennedy School and a Juris Doctorate (JD) degree from Western New England College School of Law. He has completed advanced training in nonprofit organizations from: Harvard Business School's Initiative on Social Enterprise; Harvard Kennedy School's Hauser Center for Nonprofit Organizations; Duke University's Nonprofit Management Program; Center for Creative Leadership; and BoardSource. For additional information, see his website at: www.martinlegalhelp.com. He may also be reached at (919) 272-2106.

AFP Web/Audioconference July 13, 2011

WHEN RAISING MONEY, 10 LEGAL MATTERS TO AVOID

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MARTY MARTIN, JD MPA, serves as an attorney, educator, and trainer for nonprofit and tax exempt organization boards and staff throughout North Carolina and elsewhere. His consulting and legal practice focuses on all aspects of a nonprofit and tax exempt organization's lifecycle to include: start up; operations and management; board governance; mergers; and closing.

Martin currently serves on the IRS Advisory Committee for Tax Exempt and Government Entities ("ACT"). He is an instructor for the Duke University Nonprofit Management Certificate, Intensive, and Executive Certificate in Nonprofit Leadership programs and is affiliated with North Carolina State University's Institute for Nonprofits. He authors the recently established blog "*The Nonprofit Mentor*". Martin received his law degree (JD) from Western New England University's School of Law and completed a Master in Public Administration (MPA) degree with a concentration in managing nonprofit and public sector organizations from the Harvard Kennedy School.



WELCOME

- Background
- Goals
- Disclaimer



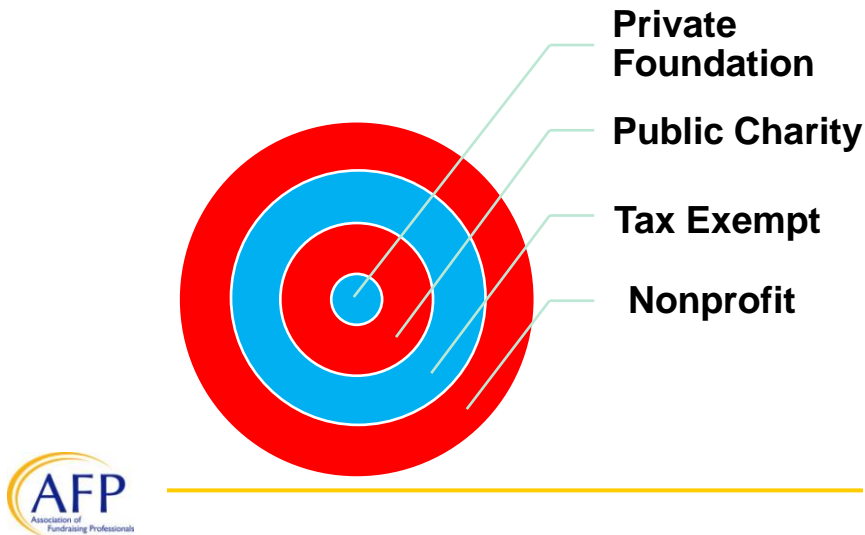
WHY?

“Performance is the ultimate test of any institution. Every nonprofit institution exists for the sake of performance in changing people and society.”

Managing the Non-Profit Organization
Peter Drucker



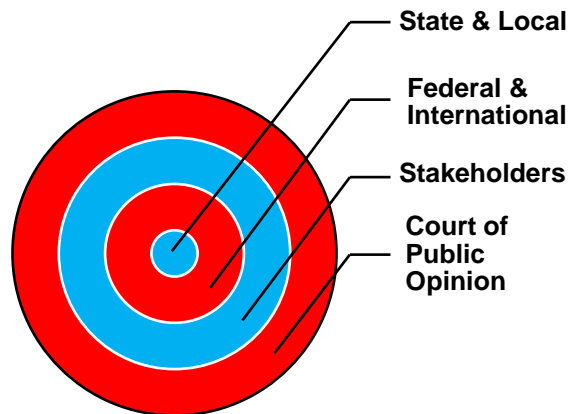
EXEMPT ORGANIZATIONS



501 (C)(3)

- Organized and operated exclusively for
- Religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition or for prevention of cruelty to children or animals
- No inurement or private benefit
- Limited lobbying and no political campaigns

LAW



What Type of Corporation?

- “All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation....”
- “All corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation”



ROLE OF BOARD



BOARD FUNDRAISING

- Learned
- Lagging indicator
- Not board governance



BOARD

- Policies and procedures
- “Do as we say”
- Three hard and fast rules



AT THE END OF THE DAY...

YOU HAVE TO ASK



FOUR PRINCIPLES

- Trust
- Accountability
- Transparency
- Performance



REGISTRATION

- State corporate registration
- Charitable solicitation license
- Fund raising consultants
- Multi state solicitation



EVENTS

- Auctions
- Raffles
- Gambling
- Online
- Special events



LOBBYING

- Insubstantial
- 501 (h) election
- State
- Federal
- Campaign



IRS BASICS

- 1023
- Determination letter
- 990
- Disclosures



IRS SUBSTANTIATION

- Contributions
- Quid Pro Quo
- Charity auction
- Noncash Contributions
- Vehicles



RELATED ORGANIZATIONS

- Charitable
- Control
- Cash
- UBIT



SOCIAL ENTERPRISE

- Business
- L3C
- Benefit corporations
- B Lab



BOARD GOVERNANCE

- Conflict of interest
- Inurement and private benefit
- 990



DONORS

- Representations
- Intent
- Pledges
- Grant terms
- Accounting



IDENTITY THEFT

- Permission
- Disclosure
- Reporting requirements



AFP GUIDELINES

- Donor Bill of Rights
- Member obligations
- Solicitation and Use of Funds
- Presentation of Information
- Compensation and Contracts



FOUR QUESTIONS

- State
- Federal
- Stakeholder
- 60 Minutes



“Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it’s the only thing that ever has.”

Margaret Meade



QUESTIONS?

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As an additional resource on
Tax Issues please see our Hot Topic:

<http://www.afpnet.org/HotTopic/Tax>





CERTIFICATE OF PARTICIPATION

**I was a participant in the AFP Webconference held
July 13, 2011
1:00 – 2:30 PM Eastern**

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**Presented by:
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Full participation in this session is applicable for 1.5 points in Category 1.B – Education of the CFRE International application for initial certification and/or recertification.

Signed _____

This is for your records only.

Association of Fundraising Professionals

July 13, 2011

When Raising Money, 10 Legal Matters to Avoid

You may use this form to capture your immediate impressions.

Please complete the evaluation online by **July 20, 2011** at:

<http://www.surveymonkey.com/s/YXKSJ35>

	EXCELLENT			AVERAGE		POOR	
	(7)	(6)	(5)	(4)	(3)	(2)	(1)
1. OVERALL RATING	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. CONTENT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. HANDOUTS	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. AUDIO QUALITY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. EASE OF REGISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. SIMILARITY OF ACTUAL PROGRAM VERSUS ADVERTISED CONTENT	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. VALUE	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PRESENTER: OVERALL EFFECTIVENESS

8. Marty Martin, JD MPA

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A WEBCONFERENCE AN AUDIOCONFERENCE

WOULD YOU PARTICIPATE IN ANOTHER VIRTUAL SEMINAR? **Yes** **No**

WHAT WAS YOUR OVERALL IMPRESSION OF THE EVENT AND THE VIRTUAL SEMINAR FORMAT? ANY ADDITIONAL COMMENTS?

NAME (OPTIONAL): _____

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YOUR FEEDBACK IS IMPORTANT! YOU MAY COMPLETE AN ELECTRONIC EVALUATION AT

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Association of Fundraising Professionals

2011 WEB/AUDIOCONFERENCES

Educating Fundraisers in the 21st Century



- **FEBRUARY 16, 2011, WEDNESDAY**
Planning to Keep Your Donors
John Joslin, CFRE
- **FEBRUARY 24, 2011, THURSDAY**
It's Not About You, It's About Them: the New Imperative in Corporate Fundraising
Jason Saul, Author
- **MARCH 2, 2011, WEDNESDAY**
The Secrets of Consultants
Penelope Cagney, CFRE
- **MARCH 24, 2011, THURSDAY**
Seriously Good innovation... in Practice!
Jon Duschinsky
- **APRIL 7, 2011, THURSDAY**
Strengthening Foundation Relationships
John Greenhoe, CFRE
- **APRIL 20, 2011, WEDNESDAY**
Social Networking and Online Fundraising Success
Ted Hart, ACFRE
- **MAY 4, 2011, WEDNESDAY**
Managing Prospect Relationships and Fundraising Activity in a Campaign
Elizabeth Crabtree, Director of Prospect Development at Brown University
Sponsor: *The Association of Prospect Researchers for Advancement (APRA)*
- **MAY 19, 2011, THURSDAY**
Developing a Planned Giving Marketing Plan
Timothy Logan, ACFRE
- **JUNE 1, 2011, WEDNESDAY**
Campaign Reporting
Elizabeth Crabtree, Director of Prospect Development at Brown University
Sponsor: *The Association of Prospect Researchers for Advancement (APRA)*
- **JUNE 21, 2011, TUESDAY *3:00 PM EASTERN***
How to Raise More by Selling your Impact
Jason Saul, Author
- **JULY 13, 2011, WEDNESDAY**
When Raising Money 10 Legal Matters to Avoid
Marty Martin, JD, MPA
- **JULY 26, 2011, TUESDAY**
Building Relationships that Pay Off
John Hicks, CFRE
- **AUGUST 24, 2011, WEDNESDAY**
Raising More Money From Your Business Community
Linda Lysakowski, ACFRE
- **SEPTEMBER 15, 2011, THURSDAY**
Face-to-Face Basics: Integrating Individuals into Your Development Plan
Amy Eisenstein, CFRE
- **SEPTEMBER 28, 2011, WEDNESDAY**
Nonprofit Internet Management Strategies, Tools and Trade Secrets
Ted Hart, ACFRE
- **OCTOBER 4, 2011, TUESDAY**
Structuring Your Development Office for Success
Monique Hanson
- **OCTOBER 27, 2011, THURSDAY**
From Boomers to Echo Boomers: Giving Across the Generations
June Bradham, CFRE, Rachel Hutchisson & Tucker Branham, CFRE
- **NOVEMBER 1, 2011, TUESDAY**
Donor Centered Planned Gift Marketing
Michael J. Rosen, CFRE
- **NOVEMBER 17, 2011, THURSDAY**
Digital Mobilization on Giving
Marcelo Iniarra
- **DECEMBER 6, 2011, TUESDAY**
Secrets of Success in the Small Shop
Sandy Rees, CFRE
- **DECEMBER 14, 2011, WEDNESDAY**
Building a Major Gifts Program through Integrated Solicitations
Adam Burk, CFRE



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FEES: \$159 (U.S.) per member session; \$295 (U.S.) per nonmember session

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AFP 2010/2011 WEB/AUDIOCONFERENCE SERIES

- February 16, 2011 John Joslin, **Planning to Keep Your Donors**
- March 2, 2011 Penelope Cagney, **The Secrets of Consultants**
- March 24, 2011 Jon Duschinsky, **Seriously Good Innovation... In Practice!**
- April 7, 2011 John Greenhoe, **Strengthening Foundation Relationships**
- April 20, 2011 Ted Hart, **Social Networking and Online Fundraising Success**
- May 4, 2011 Elizabeth Crabtree, **Managing Prospect Relationships and Fundraising Activity in a Campaign**
- May 19, 2011 Timothy Logan, **Developing a Planned Giving Marketing Plan**
- June 1, 2011 Elizabeth Crabtree, **Campaign Reporting**
- June 21, 2011* Jason Saul, **How to Raise More by Selling your Impact**
- July 13, 2011 Marty Martin, **When Raising Money 10 Legal Matters to Avoid**
- July 26, 2011 John Hicks, **Building Relationships that Pay Off**
- August 24, 2011 Linda Lysakowski, **Raising More Money From Your Business Community**
- September 15, 2011 Amy Eisenstein, **Face-to-Face Basics: Integrating Individuals into Your Development Plan**
- September 28, 2011 Ted Hart, **Nonprofit Internet Management Strategies, Tools and Trade Secrets**
- October 4, 2011 Monique Hanson, **Structuring Your Development Office for Success**
- October 27, 2011 June Bradham, Rachel Hutchisson & Tucker Branham, **From boomers to Echo boomers: Giving Across the Generations**
- November 1, 2011 Michael J. Rosen, **Donor Centered Planned Gift Marketing**
- November 17, 2011 Marcelo Iniarra, **Digital Mobilization on Giving**
- December 6, 2011 Sandy Rees, **Secrets of Success in the Small Shop**
- December 14, 2011 Adam Burk, **Building a Major Gifts Program through Integrated Solicitations**

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- Fax: 781-723-0433
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