



# From Lawsuits to Lessons: Risk Management Survival Stories and Strategies

[DIVE INTO](#) REAL-LIFE RISK MANAGEMENT STORIES AND STRATEGIES TO PROTECT YOUR ASSOCIATION FROM LEGAL AND FINANCIAL CHALLENGES.

# Meet Your Panelists

---



**BRIAN HANEY**

Founder and CEO at The Haney Company



**JEFF TENENBAUM**

Managing Partner at Tenenbaum Law Group

# Why Brian Is Awesome!

---

He is the world's most embarrassing dad

He is a dual citizen of the US and Ireland

He still plays competitive lacrosse

When he's not being an embarrassing father, in his spare time he helps Associations have great insurance and financial experiences



# Why Jeff Is Awesome!

---

He is a world champion shuffleboard player

He is the second-most interesting man in the world

He is the author of the award-winning book, *Quarantine Cocktails*

When he's not playing shuffleboard or making cocktails, in his spare time he helps associations stay legally sound



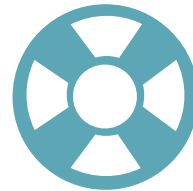
# Why Are You Here?

---



## MANAGING RISK

Learn how to identify, assess, and mitigate risks facing your organization to prevent costly lawsuits and financial disasters.



## INSURANCE BEST PRACTICES

Discover the types of insurance coverage your association needs and how to properly leverage them to protect your organization.




## REAL-LIFE LESSONS

Hear from industry experts about real-life case studies of associations that have faced and overcome legal and financial challenges.

**BY ATTENDING THIS SESSION, YOU'LL GAIN VALUABLE INSIGHTS AND ACTIONABLE STRATEGIES TO SAFEGUARD YOUR ASSOCIATION AGAINST THE EVOLVING RISKS AND LEGAL THREATS IN TODAY'S LANDSCAPE.**

# Storytelling time!



What's your story?

Ladies and gentlemen: the stories you are about to hear are true. Only the names have been changed to protect the innocent.



## Umbrella Example

A group was having a board meeting/gala on a riverboat in Chicago. During the event, one of their board member's spouses fell and broke their ankle.

# How Did the Insurance Work?

---



## GENERAL LIABILITY POLICY EXCLUSION

The General Liability policy had an exclusion for boats longer than 26 feet, as that should be covered under a separate boat liability policy.



## UMBRELLA LIABILITY POLICY COVERAGE

The association's Umbrella Liability policy dropped down and provided coverage above the \$10,000 self-insured retention, since the General Liability policy would have excluded the injury claim.



## IMPORTANCE OF PROPER COVERAGE

The Umbrella Liability policy ensured the association was protected from the liability exposure, despite the limitations of the General Liability policy.

**THE UMBRELLA LIABILITY POLICY PROVIDED THE NECESSARY COVERAGE TO PROTECT THE ASSOCIATION WHEN THE GENERAL LIABILITY POLICY WOULD HAVE LEFT THEM EXPOSED FOR THE INJURY CLAIM.**



# What Were the Legal Considerations?

---

- **Always consult experienced association legal counsel first before doing anything else.**
- **Consider legal advice in the context of other considerations, such as insurance coverage, financial, PR, member relations, and the like.**
- **Make maximum use of the attorney client privilege, including in connection with the retention of other consultants.**
- **Keep your Executive Committee in the loop with privileged communications.**
- **Be sure to take away lessons learned and be proactive moving forward, such as through new or revised policies (e.g., codes of conduct), trainings, internal controls, and the like.**



## Directors & Officers Liability Insurance Example

This case study examines an association that surveyed its membership about the Vietnam War, leading to a lawsuit against the board of directors. The association faced legal action from a dissatisfied member who felt the organization had overstepped its bounds by taking a political stance on the issue.

# How Did the Insurance Work?

---



## DIRECTORS & OFFICERS LIABILITY POLICY

The D&O policy would have provided coverage for the lawsuit brought against the association's board of directors for publishing the survey results, as it protects the organization and its leaders from claims alleging wrongful acts in their management of the association.



## COVERAGE FOR DEFENSE COSTS

The D&O policy would have covered the association's legal defense costs in responding to the lawsuit, helping to mitigate the financial impact of the claim.



## SETTLEMENT OR JUDGMENT COVERAGE

If the lawsuit resulted in a settlement or judgment against the association, the D&O policy would have provided coverage for those financial obligations, further protecting the organization's assets.

**THE ASSOCIATION'S DIRECTORS & OFFICERS LIABILITY INSURANCE WOULD HAVE PLAYED A CRITICAL ROLE IN DEFENDING AGAINST THE LAWSUIT AND COVERING ANY RESULTING FINANCIAL OBLIGATIONS, HELPING TO MINIMIZE THE OVERALL IMPACT ON THE ORGANIZATION.**

# What Were the Legal Considerations?

---

- **Always consult experienced association legal counsel first before doing anything else.**
- **Consider legal advice in the context of other considerations, such as insurance coverage, financial, PR, member relations, and the like.**
- **Make maximum use of the attorney client privilege, including in connection with the retention of other consultants.**
- **Keep your Executive Committee in the loop with privileged communications.**
- **Be sure to take away lessons learned and be proactive moving forward, such as through new or revised policies (e.g., codes of conduct), trainings, internal controls, and the like.**



## Employee Dishonesty

In planning a downsizing of overhead expenses that had been a part of their strategic plan for many years, an Association sold the building that they had owned for decades on a Friday (after long negotiations, of course). Unfortunately, on that same Friday the CFO left the country with the proceeds of the sale instead of depositing it into the association's account. More than \$50,000,000 was stolen.

# How Did the Insurance Work?

---



## CRIME BOND COVERAGE

The association's Crime Bond policy would have provided coverage for the theft of \$50,000,000 by the CFO.



## INDEMNIFICATION LIMIT

The Crime Bond policy would have indemnified the association up to the policy limit for the stolen funds.



## EMPLOYEE DISHONESTY PROTECTION

The Crime Bond's Employee Dishonesty coverage would have protected the association from losses caused by the fraudulent actions of an employee.

**THE ASSOCIATION'S CRIME BOND POLICY WAS DESIGNED TO PROVIDE COMPREHENSIVE PROTECTION AGAINST FINANCIAL LOSSES RESULTING FROM EMPLOYEE THEFT AND EMBEZZLEMENT, ALLOWING THE ORGANIZATION TO RECOVER THE \$50,000,000 STOLEN BY THE CFO.**

# What Were the Legal Considerations?

---

- **Always consult experienced association legal counsel first before doing anything else.**
- **Consider legal advice in the context of other considerations, such as insurance coverage, financial, PR, member relations, and the like.**
- **Make maximum use of the attorney client privilege, including in connection with the retention of other consultants.**
- **Keep your Executive Committee in the loop with privileged communications.**
- **Be sure to take away lessons learned and be proactive moving forward, such as through new or revised policies (e.g., codes of conduct), trainings, internal controls, and the like.**

# A Two-for-One Scenario

Imagine the following:

A board meeting is scheduled for the day before a conference, and one of the older board members shows up and becomes disruptive/argumentative. Some people suspect that they smell alcohol on his breath, but no one has seen him drinking and he is not slurring his words. Eventually, he is asked to leave the meeting because it becomes impossible to continue in a productive manner with him, something that makes this board member blow his top. He storms out screaming about how he has been treated by an organization that he has given so much to over the years.





# How Did the Insurance Work?

---



## GENERAL LIABILITY (WRONGFUL EVICTION)

The Wrongful Eviction protection of the General Liability policy would have provided coverage for the board member's claim of being professionally embarrassed and having his standing in the community harmed by being asked to leave the meeting.



## EMPLOYMENT PRACTICES LIABILITY (THIRD PARTY)

The Third-Party protection of the Employment Practices Liability policy would have provided coverage and defense for the association against the claim filed by the wait staff member who quit after the disruptive board member made an unwanted advance.

**THE ASSOCIATION'S COMPREHENSIVE INSURANCE PROGRAM, INCLUDING GENERAL LIABILITY AND EMPLOYMENT PRACTICES LIABILITY COVERAGES, WOULD HAVE RESPONDED TO PROTECT THE ORGANIZATION FROM THE VARIOUS CLAIMS AND LEGAL RAMIFICATIONS ARISING FROM THIS INCIDENT INVOLVING THE DISRUPTIVE BOARD MEMBER.**

# What Were the Legal Considerations?

---

- **Always consult experienced association legal counsel first before doing anything else.**
- **Consider legal advice in the context of other considerations, such as insurance coverage, financial, PR, member relations, and the like.**
- **Make maximum use of the attorney client privilege, including in connection with the retention of other consultants.**
- **Keep your Executive Committee in the loop with privileged communications.**
- **Be sure to take away lessons learned and be proactive moving forward, such as through new or revised policies (e.g., codes of conduct), trainings, internal controls, and the like.**

# Cyber Blunders Galore



We have all had the fear of clicking the wrong link on an email and accidentally bringing your association to its knees because now your entire membership's data is in the hands of nefarious characters, right?

Isn't that why you selected a technology vendor to store and protect your most sensitive information?

Well, if the vendor that you selected to store your membership's data could also experience a security breach, and the fact that you selected them to protect your member's data could be reason enough to name you in a suit.

# How Does the Insurance Work?

---



## STANDALONE CYBER LIABILITY POLICY

A dedicated Cyber Liability insurance policy tailored to the unique cyber risks and frameworks of your association is critical. This policy should not be bundled with other coverages.



## PROACTIVE RISK MITIGATION

The policy should incentivize the association to implement robust cybersecurity measures, such as employee training, incident response planning, and regular vulnerability assessments.



## COMPREHENSIVE COVERAGE

The policy should provide comprehensive protection against a wide range of cyber threats, including data breaches, ransomware attacks, business interruption, and liability for privacy violations.



## INCIDENT RESPONSE SUPPORT

The policy should provide access to a team of cyber experts who can assist the association in responding to and recovering from a cyber incident, including forensic investigations and legal guidance.

**A WELL-DESIGNED CYBER LIABILITY INSURANCE POLICY, COMBINED WITH PROACTIVE RISK MANAGEMENT, CAN HELP PROTECT YOUR ASSOCIATION FROM THE DEVASTATING FINANCIAL AND REPUTATIONAL IMPACT OF A CYBER ATTACK.**

# Navigating the Digital Landscape

3 PRIMARY AREAS OF RISK



# Security Risks

---



- **THE WIDESPREAD USE OF COLLABORATION AND COMMUNICATION TOOLS HAS RESULTED IN RISKS TO AND WITHIN THE TOOLS.**
- **ZOOM-BOMBING TO MEETING HIJACKINGS ARE EXAMPLES OF SECURITY RISKS TO COMMUNICATION PLATFORMS THEMSELVES.**
- **WHILE EACH PLATFORM OFFERS SECURITY CONTROLS TO MITIGATE THESE RISKS & MANAGE THE MEETING ENVIRONMENT, SECURITY INCIDENTS THAT DO HAPPEN MAY NOT BE NOT READILY VISIBLE TO ORGANIZATIONS UNLESS USERS SELF-REPORT THEM.**
- **IT IS HARD FOR ORGANIZATIONS TO HAVE CENTRALIZED VISIBILITY, ALERTING AND REMEDIATION FOR SECURITY AND PRIVACY SETTINGS ACROSS MULTIPLE UNIQUE COLLABORATION SYSTEMS.**

# Data Leak Risks

---



- **WE ALL KNOW THERE ARE OUTSIDE FORCES TRYING TO STEAL OUR STUFF!**
- **IT'S WHAT WE SHARE, HOW WE SHARE, WHERE WE SHARE**
- **ASIDE FROM THE THREAT OF WHAT SENSITIVE INFORMATION GETS SHOWN, SHARED, SPOKEN OR TYPED IN A MEETING ITSELF, SOMEONE ELSE GETTING ACCESS TO SOME OR ALL OF THAT MEETING LATER IS AN ONGOING RISK.**
- **AN ENTIRE HOUR-LONG "PRIVATE" MEETING CAN BE WHOLLY OR PARTIALLY CAPTURED BY ANY PARTICIPANT. CLAIMING IGNORANCE OF SENSITIVE DATA LEAKS MAY NO LONGER REDUCE LIABILITY, AS IT IS EASY FOR ANY PARTY TO A MEETING TO PUBLICLY PRODUCE PROOF.**



## LEGAL AND HR RISKS

- **VIRTUAL WORK IS GREAT, BUT CHALLENGING**

Remote work with blurred distinctions between business and personal environments also raises legal and HR risks concerning abusive behavior, misconduct and harassment.

- **WHAT HAPPENS IN VEGAS STAYS ON YOUTUBE!**

Offensive content that's visible on camera or inappropriate behavior in meetings and chats can be easily recorded, saved or shared. The new workplace contained within collaboration tools ironically makes it easier for users to share offensive content, whether inadvertently or maliciously, while making it harder for HR teams to be aware of what is going on.

- **TOXIC CULTURE IS NO LONGER HIDDEN**

It is easy for users to record proof of misconduct while organizations themselves have little visibility into these events.



## PROPERLY WRITTEN INSURANCE COVERAGE

- 1 WORK WITH THE RIGHT INSURANCE PROFESSIONAL TO PROPERLY ASSESS AND THEN ADDRESS YOUR RISKS
- 2 DO NOT ASSUME THINGS ARE HANDLED THROUGH THE COVERAGES OF OTHER PARTIES!
- 3 AVOID BEING DRIVEN BY COST - COST IS AN IMPORTANT FILTER, BUT CANNOT BE THE MOST SIGNIFICANT, AND SHOULD NOT BE FIRST IN LINE!
- 4 INSURANCE GOES HAND IN HAND WITH POLICIES AND PROCEDURES - IT DOES NOT PROTECT YOU FROM STUPIDITY AND GROSS NEGLIGENCE

**You had me at insurance!**



OPERATE IN A LEGALLY SOUND MANNER

“The best of intentions  
don't hold up in court!”



BRIAN HANEY, CAE

# Roadmap to Addressing Risk

---

- **POLICIES AND PROCEDURES**
- **FINANCIAL CONTROLS**
- **TECH STACK/  
EQUIPMENT REQUIREMENTS**
- **REGULAR TRAINING**



- **TAILORED INSURANCE COVERAGE**
- **LEGAL COUNSEL**

# Thoughts? Questions?

**Jeffrey S. Tenenbaum, Esq.**  
**Managing Partner**

**Tenenbaum Law Group PLLC**

**Telephone: 202-221-8002**

**Email:**  
**[jtenenbaum@TenenbaumLegal.com](mailto:jtenenbaum@TenenbaumLegal.com)**

**Web: [www.TenenbaumLegal.com](http://www.TenenbaumLegal.com)**



**Brian Haney CLTC CFS CFBS CIS LACP CAE**  
Speaker, Writer, Podcaster, NAIFA Diversity  
Champion, WBJ 40 under 40 winner, Retire...



Complete  
Your  
Session  
Evaluation



In UNITY,  
We THRIVE



 **asae**<sup>®</sup> | annual meeting  
& exposition

AUGUST 10–13, 2024 | Cleveland, Ohio | #ASAE24 | 29