

Ohio Attorney General's Charitable Advisory Council
10 a.m., July 8, 2013
Minutes

Participants: Mary Gallagher, Joyce Garver Keller, Suzanne Allen, David Ball, Jason Dominguez, Jennifer Eschbach, Monica Moloney, Kip Morse, Stephanie Moulton and Tom Poulson. Others present included Amie Vanover, Andrew Gress, Diane Oates, Pete Thomas and Beth Short.

- I. Meeting was called to order by Ms. Gallagher, chair.
- II. On a motion by Ms. Keller, seconded by Ms. Moloney, minutes of the previous meeting were approved.
- III. At the previous meeting, Council members expressed an interest in learning more about some of the evolving concepts related to investments in charitable enterprises, etc. Council member Stephanie Moulton of the OSU faculty and Amie Vanover, partner at Thompson Hine, teamed up on a presentation to the Council on social enterprise, social entrepreneurship and related concepts. Also included in the presentation were explanations about the various IRS implications involved in establishing various arrangements. The Council also heard about the various challenges in advising charitable clients on the tax implications involved in unrelated business income issues. Other concepts discussed included L3Cs, benefit corporations and B corporations. Some of the concerns about these vehicles include whether there are adequate safeguards in place to monitor some of the investment activities, charitable regulator concerns, and whether permitting private foundation investments in these types of enterprises might reduce funds available for the charitable sector. There is no legislation pending in Ohio addressing these issues and the Council agreed that more study would be needed if the matter came up in the General Assembly.
- IV. Ms. Short thanked Mr. Dominguez for his outreach to leaders in various state departments making them aware that if they contract with charitable organizations for services, they can use the Research Charities function on the AG website to ensure the groups are compliant with registration requirements. Ms. Short said she is following up with the departments and having meetings to describe other training and resources that are available for charitable organizations.
- V. At the previous meeting, the Council adopted a recommendation that the Secretary of State's office collect the EIN and IRS tax exempt classification of nonprofit corporations

when they file continued existence statements. Ms. Short reported that in discussions with the Secretary of State's office, she learned that previous litigation against the Secretary of State's office resulted in an agreement to refrain from collecting Social Security and corporate EIN information. Ms. Short said her contact in the Secretary of State's Office said the General Assembly also adopted statutory language to that effect. Ms. Keller asked if it was worthwhile to ask the General Assembly for action on this issue since the EIN of charities is a common way of identifying and researching charities. Ms. Short said she would continue to investigate the matter.

- VI. Ms. Short reported on the General Assembly's actions on internet cafes since the previous meeting. The Charitable Law Section is compiling a database with the information provided in the most recent affidavits of existence the General Assembly required.
- VII. Ms. Eschbach reviewed the plans for the annual Ohio Association of Nonprofit Organizations that will be held Sept. 26 at the Columbus Athenaeum. The Ohio Attorney General's Charitable Law Section is a co-sponsor of the conference. Council members were encouraged to plan to attend.
- VIII. Diane Oates, an attorney in the Charitable Law Section, explained plans with the Council to propose a rule that would specify that, except for healthcare organizations, 501(c)(4) organizations do not need to register with the Attorney General's office under R.C. 109. Currently, such organizations can request an individual determination from a Section lawyer. Based on documents about the organization, an individualized decision is made as to whether the group falls under the definition of a charitable trust. A new rule eliminating those groups from registering under R.C. 109 would save considerable staff time, she noted. If the organization solicits, however, it would be required under the statute to file under R.C. 1716. On motion of Ms. Keller, seconded by Mr. Morse, the Council voted to support the recommendation. Council members will be apprised of the rule's language as the recommendation moves forward.
- IX. The next meeting is slated for Oct. 21. Several questions were raised about social impact bonds and it was suggested that a speaker from the governor's office be invited to update the Council on how the new program, which was recently announced, will work.
- X. Meeting was adjourned.

Respectfully Submitted,

Beth Short