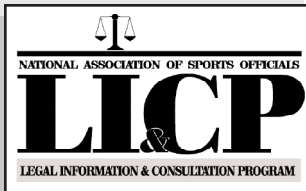


Your Legal Rights and Responsibilities

Does Incorporating Protect Me?

NASO members who have legal questions concerning situations pertaining to their officiating now have access to an attorney free of charge. As a benefit of membership, all individual NASO members can talk with an attorney up to three times a year concerning officiating-related matters. It's the Legal Information and Consultation Program (LICP) and it's working for you!



By Donald C. Collins

Q: I'm the sole proprietor of a sports officiating business that assigns officials in a wide variety of youth and rec leagues. The business is incorporated to protect my personal assets, but

it's also my full-time job and sole livelihood. What else can I do to protect my business in case of a lawsuit?

A: Do not assume that incorporating has fully protected your personal assets or your business. Officials associations and non-officiating businesses occasionally assume that the act of incorporating is an automatic cure-all. It's not.

A corporation generally gives you the advantage of protecting your personal assets. Corporate assets are generally separate from the personal assets of the board of directors and the officers. As a general rule, lawsuits against the corporation don't affect board members and corporate officers personally. Yet, we all know that people buy directors and officers insurance to protect themselves from personal liability for corporate acts. That is because there are occasions in which a court will do something called "piercing the corporate veil." When that occurs, directors and officers can be personally liable for corporate acts.

An officials association that incorporates is generally going to be able to protect its owners' or directors' personal assets. However, there are a few things that could create a problem. First, the corporation needs to have the number of directors required in its state. There are a lot of places that allow one-man corporations. However, if a state requires multiple directors and you don't have them, you could get in trouble. Second, if you're not maintaining corporate records, you could get in trouble. Even if you're a one-man corporation, you have to keep corporate records of your annual meeting and other meetings. Third, follow your bylaws. Some officials associations use boilerplate forms to incorporate, don't read the boilerplate form and

end up operating in a manner that's totally inconsistent with their bylaws. Fourth, don't mingle your corporate funds with your personal funds. They are separate, and should be kept separate. Finally, pay your taxes on time. Tax agencies will always pierce the corporate veil to collect their due.

The key things that will keep you out of court when you're running an incorporated proprietorship are the things that will keep any officials association out of court. You have to make sure your officials are trained. Generally, your state governing body will set the industry standard for training and require all member officials to meet it. If the state governing body doesn't set the standard or if you're assigning officials to youth and adult recreation leagues that have no tie to a state governing body, then make sure the officials are trained up to that standard — especially on safety and sportsmanship rules.

Also, set up clear evaluation standards. Your evaluation system should be linked to assignments, and you should provide some sort of internal due process for members who challenge an evaluation. That will reduce the likelihood of officials suing you because they think you're unfairly denying them the assignments they want. Those suits from unhappy officials can range from sex discrimination suits to racial discrimination suits to less common suits such as American With Disabilities Act suits.

Finally, purchase appropriate insurance. Insurance allows your incorporated association to survive any business losses resulting from a lawsuit. Remember, incorporating can protect your personal assets but you still don't want to suffer a business loss — especially since your living is dependent upon your businesses' success.

Donald C. Collins is the executive director of the San Francisco Section of the California Interscholastic Federation. He is a longtime basketball official and lawyer. This material is intended for informational purposes and is not legal advice. □

Is there a topic you or anyone else in your association would like to share? ONBoard would like to interview you. Send your ideas to editor@NASO-ON.org.



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