

Mitigating Financial Risks when the Economy is Tanking

Program Description: As your Bar's revenues drop and budgets get tighter, how can you help your Bar prepare for the worst but stay focused on the now? Learn how to provide the right information to your board members so they can meet their financial duty of care; learn how to discuss, recognize and manage the risk factors of a poor economy: Do you have a flexible (contingency) budget; are you prepared for potential layoffs; are you prepared to guard against increased embezzlement and fraud attempts? Is your Bar prepared?

NABE
Wednesday July 29, 2009
3:15 – 4:15

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Providing the right information to your Board members so they can meet their financial duty of care

1) Duties of Board Members

a) Duty of Care

- i) Be informed
- ii) Participate in decisions
- iii) Ask questions
- iv) Review and understand financial matters

b) Duty of Obedience

- i) Comply with federal and state law
- ii) Comply with organization articles, bylaws and policies

c) Duty of Loyalty

- i) Conflicts of interest

2) Meeting the Financial Fiduciary Duty of Care

a) Best practices

- i) Conflict of interest policy
- ii) Investment policy
- iii) Whistle blower policy
- iv) Document retention policy
- v) Reserve Policy
- vi) Audit Committee
 - (1) Review/change auditors every 5 years
 - (2) Members have appropriate skills and experience
 - (3) Review both audit report and management letter
- vii) Director/Officer Insurance
- viii) Internal controls
- ix) Internal accounting policies and procedures

- b) Understanding financial statements
 - i) Orientation for board and finance committee members
 - ii) Focus on strategic and long-term
 - iii) Comparative information provides context
 - iv) Statement of Financial Position (Balance Sheet)
 - (1) Assets
 - (2) Liabilities
 - (3) Fund Balances (net worth)
 - v) Statement of Activities (Income Statement)
 - (1) Revenues
 - (2) Expenses
 - vi) Cash Flow Statement
 - (1) Sources and uses of cash
 - vii) Explanatory Memorandum
 - viii) Live presentation to the Board
- c) Financial Ratios
 - i) Quick Ratio
 - ii) Current ratio
 - iii) Debt to Worth
 - iv) Return on Assets
 - v) Return on Investment
 - vi) Accounts Receivable Turnover
- d) Budget Development
 - i) Tie revenues and expenditures to Strategic Plan
 - ii) Project results of all three statements plus the capital budget
 - iii) Understand the process
 - (1) Appropriate volunteers and staff engaged

(2) Negotiation process – who is involved, how is it done

(3) Realistic numbers based on:

(a) History

(b) Market trends

(c) New program plans

How to recognize and anticipate Economic Stressors on the Bar association - Begin with your financial statements.

1) Balance sheet

a) Cash – FDIC limits, strength of bank

b) Investments – advisors and/or committee following investment policy; is the policy current?

c) Accounts receivable – are your receivable ratios declining or staying the same? How quickly are they changing?

d) Fixed assets - what is current market value vs. book, are they pledged against loans? Do you have major replacement or repairs that must be completed to maintain infrastructure of the bar? Do you have cash to fund them?

e) Payables – watch ratios to quickly determine if your payments to vendors are falling behind

f) Loans – check on the stability of your lending institution; LOC rates and amounts are being renegotiated; do pledged assets still have sufficient market value to cover loan?

g) Reserves – are they sufficient to see the Bar through this crisis? Do you have a policy to allow use of those reserves?

2) Statement of Revenues & expenses

a) Dues

- i) Membership retention (voluntary bars and to a lesser extent, mandatory bars)
 - ii) Dues freeze
 - iii) Loss of Attorneys from the profession
- b) Non-dues income – Investment earnings; advertising; mailing lists; CLE – know industry trends
- c) Maintain core programs/services
- d) Personnel & Benefits – in most Bars this is the largest expenditure
- e) Bad Debt – is it increasing, why?
- f) Vendors – any concentration of risk
 - i) Meeting space for convention
 - ii) Insurance coverage
 - iii) Consultants that are responsible for critical business systems i.e. computer networks, accounting services, etc. Anything outsourced has two concerns: financial strength of vendor and your Bar's obligation to pay them over the long-term. Can the expenses be trimmed without violating your contract?
- 3) Cash flow Statement – essential during these times because it tells you how the Bar is paying for operations.
- 4) Notes to the financial statements (if you have them) will disclose:
 - a) Concentrations of risk
 - b) Long-term contract obligations
 - c) Availability of credit
 - d) Related party transactions
- 5) Other factors that might impact your services/business
 - a) Higher demands for pro bono services due to foreclosures, bankruptcies, benefit needs (SSI, Medicaid)

Responding to the current special circumstances

- 1) Rapid response to economic forces
 - a) Contingency budget – prepare for the worst
 - i) Plan where you will cut expenses
 - (1) Cut individual programs
 - (2) Cut within an expense category
 - ii) Know what events or results will trigger cuts
 - (1) Budget projection by month or quarter
 - (2) Project current results into the future
- 2) Special and core programs
 - a) Establish criteria for most important programming
 - b) Members want more for less
 - c) Manage current and future member expectations
- 3) Killing the sacred cow
 - a) Does it meet criteria of like programs that are saved or cut?
 - b) Managing possible backlash
- 4) New (less expensive) delivery methods
 - a) Thorough projection of costs
- 5) Reducing staff costs
 - a) Layoffs and furloughs
 - i) Impact on morale
 - ii) Impact on delivery of programs & service
 - iii) Notification to local and state agencies
 - b) Benefit reductions
 - c) Training

Preventing Fraud and Embezzlement

- 1) Signals of down economy often the same as clues for fraud and embezzlement. Watch for:
 - a) Increase in sales returns
 - b) Unusual bad debt write-offs
 - c) Decline in sales – cash or credit
 - d) Inventory shortages
 - e) Slow collection of accounts receivable
- 2) Improve accounting procedures
 - a) Segregate cash related functions (receipt/disbursement of funds; check signing; reconciliation of accounts)
 - b) Multiple/separate signatures on checks
 - c) Only pay against invoice/attach invoice to check stubs
 - d) Verify payroll accounts
 - e) Have sealed monthly bank statements delivered to a separate person
 - f) Periodic review of cash accounts/bank statements
 - g) Provide for reporting mechanisms by employees (whistleblower policy)
 - h) Observe changes (employee living beyond means; change in bidding procedures; payments to company in which employee has interest)
 - i) Outside audits
 - j) Encourage vacations and have someone perform duties during the absence

Resources

- 1) American Bar Association
 - a) www.abanet.org
- 2) National Association of Bar Executives
 - a) <http://www.abanet.org/nabe/>
- 3) American Society of Association Executives
 - a) www.asaenet.org
 - b) “The volunteer Leadership Issue”. Association Now Supplement (ASAE & The Center for Association Leadership, January 2009)
- 4) Board Source
 - a) www.boardsource.org
- 5) Small Business Administration
 - a) www.sba.gov

Handout break

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The **duty of care** describes the level of competence that is expected of a board member . . . to exercise reasonable care when he or she makes a decision as a steward of the organization.

-Boardsource.com

The **duty of obedience** requires board members to be faithful to the organization's mission. They are not permitted to act in a way that is inconsistent with the central goals of the organization.

-Boardsource.com

The ***duty of loyalty*** is a standard of faithfulness; a board member must give undivided allegiance when making decisions affecting the organization.

-Boardsource.com

Meeting the Financial
Fiduciary Duty

Recommended Policies

- Conflict of Interest
- Investment
- Whistleblower
- Document Retention
- Reserve

Other Best Practices

- Audit Committee
 - Review/change auditors every 5 years
 - Members have appropriate skills and experience
 - Review both audit report and management letter
- Director/Officer Insurance
- Internal Controls
- Accounting Policies & Procedures

Financial Reports – what does your Board need?

The Board is responsible for planning for the long-term financial health of the organization.

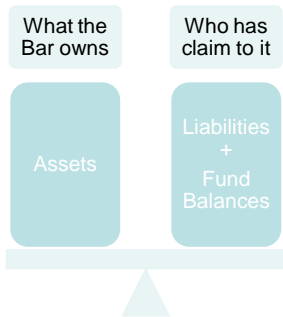
Where should your Board focus its energy?

- How much does a pencil cost?
- How many pencils do we buy?
- Are all these pencils in the budget?
- How will we pay for the pencils?
- Will we be able to afford pencils in 5 years?

Comparative Data

- Provides context for better understanding
 - Current performance to prior year
 - Current performance to plan (budget)
 - Your association to similar organizations

Statement of Financial Position



Balance Sheet				
As of				
	12/31/2008	% of Total Assets	12/31/2007	% of Total Assets
Assets				
Current Assets				
Cash	60,611	7.3%	21,294	2.8%
Accounts Receivable	75,820	9.2%	80,144	10.4%
Short-Term Investments	33,461	4.0%	7,239	0.9%
Total Current Assets	169,892	20.6%	108,677	14.1%
Long-Term Investments	634,536	76.8%	638,203	82.6%
Fixed Assets				
Building & Equipment	39,141	4.7%	39,141	5.1%
Less Accumulated Depreciation	(17,065)	-2.1%	(13,150)	-1.7%
Total Fixed Assets	22,077	2.7%	25,991	3.4%
Total Assets	826,505	100.0%	772,871	100.0%
Liabilities and Fund Balance				
Current Liabilities				
Accounts Payable	7,029	0.9%	10,183	1.3%
Amounts Held for Others	1,350	0.2%	1,350	0.2%
Total Current Liabilities	8,379	1.0%	11,513	1.5%
Long-Term Debt	131,488	15.9%	180,108	23.3%
Total Liabilities	139,867	16.9%	191,621	24.8%
Fund Balances				
General Fund Balance	496,186	60.0%	496,186	64.2%
Designated Fund Balance	83,139	10.1%	52,030	6.7%
Current Net Surplus (Deficit)	107,312	13.0%	33,034	4.3%
Total Fund Balances	686,637	83.1%	581,250	75.2%
Total Liabilities & Fund Balance	826,505	100.0%	772,871	100.0%

Statement of Activities

Revenues:		
Sales		417,545
Cost of Products Sold		57,670
Net Margin		359,876
Expenses:		
Personnel & Related Overhead		280,784
Marketing Expense		29,775
Printing Expense		319
Honoraria/Royalties/Speakers		24,748
Research & Development Exp		0
Other Expenses		16,194
Total Expenses		351,821
Net Surplus (Deficit)		8,055

	Current Year-to-Date				Prior Year-to-Date	
	Actual	% of	Budget	% of	Actual	% of
		Sales		Sales		Sales
Revenues:						
Sales	417,545	100.00%	389,149	100.00%	369,283	100.00%
Cost of Products Sold	57,670	13.81%	81,699	20.99%	57,292	15.95%
Net Margin	359,876	86.19%	307,450	79.01%	301,991	84.05%
Expenses:						
Personnel & Related Overhead	280,784	67.25%	289,746	74.46%	236,040	65.70%
Marketing Expense	29,775	7.13%	38,610	9.92%	19,110	5.32%
Printing Expense	319	0.08%	916	0.24%	1,592	0.44%
Honoraria/Royalties/Speakers	24,748	5.93%	16,458	4.23%	15,258	4.25%
Research & Development Exp	0	0.00%	4,464	1.15%	9,328	2.60%
Other Expenses	16,194	3.88%	17,802	4.57%	15,214	4.23%
Total Expenses	351,821	84.26%	367,996	94.56%	296,541	82.54%
Net Surplus (Deficit)	8,055	1.93%	(60,546)	(15.56%)	5,450	1.52%

Cash Flow Statement

- Show sources of funding
 - Are operations self-funded
 - Capital asset purchases
 - Investment purchase & sales
 - Debt transactions
 - Change in cash position since beginning of period

Explanatory memo

- Highlights (or lowlights) on each of the three statements
- Identify trends
- Explain variances
- Projection of future performance
- Explanation of how management is addressing/reacting to financial status

Live presentation to the Board

- Learning styles
 - Visual
 - Auditory
 - Kinesthetic (Active)
- Opportunity for two-way communication

“Individual board members have a duty to speak up and demand clearer reports if they can’t understand the ones they’re provided.”

Pamela Wilcox - Bar Leader/January-February 2009

Financial Ratios

- Quick Ratio
- Current Ratio
- Debt to Worth
- Return on Assets
- Return on Investment
- Accounts Receivable Turnover

Good governance

- Transparency
- Knowledgeable board
- Training
- Promote tough questioning
- Periodic program reviews

Balance Sheet

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Projecting the impact of the economy on your finances

- Phased budget – by month or quarter
- Current results – is it reasonable to assume they represent the future?
- Industry trends
- Regional trends
- Market trends

Criteria for saving programs:

- CLE credit provided/expense
- Member served/expense
- Create current or future efficiencies
- Net revenue generated
- Contracted services
- Mandatory activity
- Essential for future service/growth

Electronic Delivery

- Technological capacity to deliver
- Increased bandwidth costs
- Higher response rates
- Expectation of greater currency
- Overflowing inboxes

Reducing Staff Costs

- Layoffs and furloughs
 - Impact on morale
 - Impact on delivery of programs and service
 - Notification to local and state agencies
- Benefit reductions
- Training

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For more information. . .