

Legal Counsel

for Churches

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Corporate Governance for Churches & Their Leaders

M SMITH | LAW PLLC



Beware of Vendors' Untrue Claims



Churches routinely rely on vendors to provide products and services that support ministry operations. From copiers and sound systems to roofing projects, software platforms, security systems, and construction services, outside vendors play an important role in helping churches fulfill their mission.

While most vendors operate honestly and professionally, church leaders should be cautious when evaluating claims made during the sales process. Unfortunately, some vendors make promises that are exaggerated, misleading, or simply untrue in an effort to secure a deal.

Sometimes, church leaders are disappointed with a vendor's performance. This often occurs when the promise of a bargain is not upheld. These situations remind us of the importance of carefully vetting vendors' claims at the outset.

When clients call us to complain about a vendor, the problem can often be traced back to the guarantees made during the sales process. A company may have asserted a product feature that turns out to be missing. The vendor could have exaggerated the quality of their customer service.

Untrue vendor claims need not be due to fraud. Vendors may mistakenly mislead customers. In a hurry to close a deal, salespeople may omit details important to the church. Church leaders may believe they are getting certain features only to learn

afterwards the product does not perform as promised or expected.

Church leaders should consider every aspect of each new product or service. It is important to weigh the importance of the benefits the church needs the most. Must-have features deserve the most attention. If church leaders know a certain characteristic is crucial, they should be careful to include those terms in the final writing.

Some contracts include a clause that excludes oral claims from the transaction. This means handshake promises are unenforceable in a dispute. Church clients may be disappointed when they learn certain verbal claims are unenforceable.

Church officers should ask themselves why they chose a particular vendor over other providers. The difference could be the very qualities that deserve preserving in the service agreement. These features may be added to the contract or supplemented by attaching an addendum.

Many vendors use boilerplate sales agreements for each transaction. The terms of the deal are standardized and apply to all customers. If a customer asks for special features or services, the regular forms may not be sufficient. This is when church leaders should insist on seeing where the special terms are mentioned in the contract.

Sometimes, a vendor's claims are made in the sales materials. Sales materials include

brochures, samples, and marketing stock. The assertions in sales materials may not carry over to the final agreement. Church leaders may insist these claims be added as enforceable parts of the contract.

We advise our clients to read the entire agreement when doing business with a vendor. Some agreements include technical words that have a particular legal meaning. If in doubt, church leaders should seek legal counsel to ensure the terms are understood.

Vendor claims may be observed in different parts of the contract. The part of the agreement that spells out the scope of work may list the promises made. This is the section that details the quantity, descriptions, and particulars of the transaction. Vendor claims may also be included in the terms of the agreement. The terms are often provided as a long list of legal clauses.

Church leaders should be watchful for contracts that reference the existence of another form. This may appear when the sales agreement mentions that "other terms apply". The other terms could be listed on the vendor's website or provided upon request only. Other terms could change the meaning of the agreement by taking away promises made or shift liability to the church.

Vendor services can sometimes be disappointing. To avoid legal troubles, be sure all the church's expectations and vendor promises are part of the written deal. ■

Churches Should Stress Test Their Ministry



Church leaders should examine how their ministry would perform during times of disruption, crisis, or unexpected changes. Church boards should periodically stress test their ministries to identify vulnerabilities and strengthen their ability to fulfill their mission regardless of circumstances.

A ministry stress test is a systematic process of evaluating how a church would respond if a crisis were to occur. The goal is not to anticipate every possible crisis but to assess whether the church could continue carrying out its mission in a disruption.

The COVID-19 pandemic provided a vivid example of why such planning is necessary. Many congregations discovered that they lacked the technology, leadership systems, financial reserves, or communication infrastructure needed to adapt quickly to changing conditions.

One of the most important areas to stress test is leadership continuity. Churches should ask whether ministry operations would continue effectively if the senior pastor, executive pastor, board chair, or other key leaders were suddenly unavailable due to illness, retirement, resignation, or death.

Healthy churches develop succession plans, document critical procedures, and train emerging leaders long before a transition becomes necessary. If a ministry depends heavily on one individual, the church may be more vulnerable than it realizes.

Financial resilience is another critical area for evaluation. Church leaders should

examine how the ministry would respond if giving declined by ten, twenty-five, or even fifty percent over a sustained period. Could essential operations continue? How long would reserve funds last?

Churches should also assess their operational and technological readiness. Many ministries now rely on digital tools for worship, communication, giving, and administration. Leaders should evaluate what would happen if key technology systems failed or if access to church facilities became limited.

A stress test will ask questions like can the church communicate effectively with members during an emergency? Are critical records securely backed up? Can worship, discipleship, and outreach continue through alternative methods if the physical campus becomes unavailable? The answers to these questions reveal the church's level of operational resilience.

Volunteer capacity presents another potential vulnerability. Many churches depend heavily on a relatively small group of dedicated volunteers. A useful stress test involves evaluating what would happen if twenty-five percent of active volunteers became unavailable.

Church leaders should evaluate individual ministry leadership. Are there sufficient backups and cross-trained volunteers to sustain critical programs? Churches that intentionally develop broader volunteer pipelines often prove more resilient during periods of transition and fatigue.

Membership and demographic trends should also be examined carefully. Church leaders should analyze attendance patterns, age, demographics, community changes, and member engagement levels. A congregation heavily concentrated on one age group may face long-term sustainability challenges.

Church boards should periodically evaluate whether their bylaws, policies, decision-making processes, and authority structures remain effective during times of uncertainty. Questions such as who has authority to act during emergencies, how meetings can be conducted remotely, and how critical decisions are communicated should be clearly addressed.

Churches should stress test their mission alignment. During difficult seasons, organizations sometimes discover that programs and activities have multiplied beyond their capacity to sustain them. Leaders should evaluate whether each ministry activity directly advances the church's mission and vision.

Leaders should ask which programs may be reduced or eliminated without compromising the church's core calling. Clarifying priorities before a crisis helps make difficult decisions more effectively.

Ministry stress testing should not be viewed as an exercise in fear or pessimism. Rather, it is an act of faithful stewardship. Churches that regularly assess their vulnerabilities and strengthen their systems position themselves to continue serving their communities regardless of disruptions. ■



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Former Church Officials Notices Recommended

When a church has a turnover in its official ranks, it is important to notify all stakeholders and parties of the change. This announcement is more than a mere courtesy. Letting others know there has been a change in church leadership has important legal implications.

Church officials are agents of the institution. As such, agents have powers to represent the church in limited ways. An agent's authority should be specified in a policy, job description, and/or procedures. Agents who rely on word-of-mouth risk exceeding their authority when making decisions.

Parties outside the church often rely on the understanding that certain church officials with whom they are dealing have the proper authority to make decisions. In some cases, the authority is expressed by the church in a written agreement. Some parties rely on what is called the *Apparent Authority* of the official. For instance, the financial secretary might appear to have the authority to approve invoices.

A legal issue arises when a former church official is mistakenly believed to have remained in their previous position. In many instances, this occurs because individuals get comfortable handling transactions and continues so for convenience. This becomes

a problem when the decisions made for the church are executed by former officials.

Agency power arises in situations such as who has the authority to purchase goods, hire vendors, and obligate the church in contracts. An existing vendor hired by a former official may have the impression that person continues to hold such authority. If the former official enters into an agreement with a vendor, the vendor may have a claim to hold the church responsible.

Some private contracts have a notification provision embedded in the terms. Depending on who the church official is, the contract may require that the other party be made aware that a change in the person who holds the position has taken place.

Churches that have bank accounts must notify the institution when the authorized signors for the account have changed. Many banks will require a board resolution or some other documentation to validate the authority of the new signors. Notifying financial institutions removes the liability of former officers having unapproved access to church accounts.

Some insurance companies require notification when church offices change hands. The coverage for a fidelity bond and liability insurance shelters specific officers

from certain risks. Former officers who remain on the insurance policy as covered persons could send mixed signals to a plaintiff that an individual remained in office.

From a vendors' point of view, a general notification of a change in office is beneficial. This signals to the vendor or supplier that this individual no longer has the responsibility previously held. As such, any statements made by the former official is a personal opinion that should have no effect on the church.

Church leaders should make a list of critical stakeholders who are impacted when officers change positions and roles. One can start by having the outgoing officer list all his outside contacts. This group of companies should be notified of the change. The Church may also go through its roster of creditors, vendors, and outside accounts to create a list of companies to contact. A simple form letter should be sufficient.

An important audience for notification includes church members. Individuals who are responsible for ministries and functions owe a duty to the church. Members rely on these agents as official church representatives when engaging with the ministries. Notice of changes in officials will help alleviate the risks that members will unknowingly depend on the wrong person.

Ensuring the public and church members know of changes in officials is an important governance step. This process will help ensure everyone knows who has the required authority to make decisions. ■

Legal Counsel for Churches is a service provided by M Smith Law, PLLC for members of the religious community. This periodical is intended to help churches and their officials become better prepared to address important legal and governance issues. We hope you find *Legal Counsel for Churches* a valuable resource. For each issue, we try to raise relevant issues and offer some practical alternatives. We welcome your comments and input.

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